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Contents

Federal Register
Vol. 60, No. 203
Friday, October 20, 1995

Agriculture Department
See Forest Service

Army Department
NOTICES
Environmental statements; availability, etc.:
Base realignment and closure—
Jefferson Proving Ground, IN, 54217–54218
Meetings:
Science Board, 54218

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
New Mexico, 54212

Commerce Department
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration

Committee for Purchase From People Who Are Blind or Severely Disabled
RULES
Contracting requirements:
Mandatory source requirement; revision, 54199–54200
NOTICES
Procurement list; additions and deletions, 54216–54217

Customs Service
RULES
Customs inspectional services; baggage examination, 54187–54188

Defense Department
See Army Department
See Navy Department
RULES
Privacy Act; implementation, 54197–54198
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 54219–54221
Meetings:
Government-Industry Advisory Committee, 54217

Employment and Training Administration
NOTICES
Adjustment assistance:
Brown Shoe Co. et al., 54256–54257
FHF Apparel et al., 54257
Pine Shirt Co., 54258–54259
Portac Inc. of Tacoma, 54259
Adjustment assistance and NAFTA transitional adjustment assistance:
Liz Claiborne et al., 54257–54258
NAFTA transitional adjustment assistance:
Farah Manufacturing Co., 54259

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 54259–54260

Energy Department
See Federal Energy Regulatory Commission
See Western Area Power Administration
NOTICES
Environmental statements; availability, etc.:
Hanford Site, WA—
Tank wastes; safe interim storage, 54221–54223

Environmental Protection Agency
PROPOSED RULES
Hazardous waste:
Identification and listing—
Dye and pigment production, 54207–54208
NOTICES
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 54226
Weekly receipts, 54226–54227

Equal Employment Opportunity Commission
PROPOSED RULES
Older Workers Benefit Protection Act Negotiated Rulemaking Advisory Committee:
Establishment, 54207

Executive Office of the President
See Trade Representative, Office of United States

Farm Credit Administration
NOTICES
Meetings; Sunshine Act, 54285

Federal Aviation Administration
PROPOSED RULES
Airworthiness directives:
Airbus, 54202–54203
Pratt & Whitney, 54203–54205
Class E airspace, 54205–54207
NOTICES
Airport rates and charges; policy statement
Comment period extension, 54282

Federal Communications Commission
NOTICES
Agency information collection activities under OMB review:
Proposed agency information collection activities; comment request, 54227–54230

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Green Mountain Power Corp. et al., 54223–54224
Environmental statements; availability, etc.:
Lake Junaluska, NC, 54224
New Martinsville, WV, 54224

Applications, hearings, determinations, etc.:
Florida Gas Transmission Co., 54225
National Fuel Gas Supply Corp., 54224–54225
PacifiCorp, 54225–54226

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Oneida County, NY, 54281–54282

Federal Maritime Commission
NOTICES
Agreements filed, etc., 54230
Casualty and nonperformance certificates:
Kloster Cruise Ltd. et al., 54230
Freight forwarder licenses:
Hussain, Monwar, et al., 54230

Federal Mine Safety and Health Review Commission
NOTICES
Meetings; Sunshine Act, 54285

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 54285

Federal Trade Commission
RULES
Trade regulation rules:
Cooling-off period for door-to-door sales; amendments, 54180–54187
NOTICES
Meetings; Sunshine Act, 54285
Premerger notification waiting periods; early terminations, 54231–54232
Prohibited trade practices:
Haren, James H., et al., 54232

Fish and Wildlife Service
PROPOSED RULES
Importation, exportation, and transportation of wildlife:
Polar bear trophies importation from Canada—
Legal and scientific findings, 54210

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Lasalocid, 54193–54194
Sponsor name and address changes—
Bayer Corp., Agriculture Division, Animal Health, 54193
Food additives:
Polymers—
Ethylene-maleic anhydride copolymers, 54188–54190
GRAS or prior-sanctioned ingredients:
Aminopeptidase enzyme preparation derived from lactococcus lactis, 54190–54193
NOTICES
Color additive petitions:
Gist-brocades NV, 54232–54233
Meetings:
Advisory committees, panels, etc., 54233–54237

Foreign Assets Control Office
RULES
Cuban assets control regulations:
Travel transactions, reciprocal establishment of news organization offices, etc., 54194–54197

Forest Service
NOTICES
Meetings:
Southwest Washington Provincial Advisory Committee, 54212

General Services Administration
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 54219–54221

Health and Human Services Department
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Health Resources and Services Administration
NOTICES
Advisory committees; annual reports; availability, 54237
Agency information collection activities under OMB review
Proposed agency information collection activities; comment request, 54237–54238
Grants and cooperative agreements; availability, etc.:
Dentistry general practice; residency training and advanced education; public health traineeships; interdisciplinary training for rural areas health care, 54238–54241
General internal medicine and pediatrics programs, 54241–54243
Nurse practitioner, midwifery, anesthetist programs, 54243–54246

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 54247–54250

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service

International Trade Administration
NOTICES
North American Free Trade Agreement; binational panel reviews:
Machine-tufted carpeting from—
United States, 54212
Scope rulings; list, 54213–54215

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
Orange Point Terminal Railway, 54253
Peterson, Russell A., 54253
Railroad services abandonment:
CSX Transportation, Inc., 54252–54253

Justice Department
See National Institute of Corrections
See Prisons Bureau
NOTICES
Pollution control; consent judgments:
Able Marine, Inc., et al., 54253–54254

Amtel, Inc., et al., 54254
Chevron U.S.A., Inc., et al., 54254–54255
F&H Manufacturing Corp., 54255
Thomas, Kenneth L., et al., 54255
TMG Enterprises, Inc., et al., 54255–54256
Watertown, SD, et al., 54256

Labor Department
See Employment and Training Administration
See Employment Standards Administration

Land Management Bureau
NOTICES
Meetings:
Bakersfield Resource Advisory Council, 54250
Wyoming Resource Advisory Council, 54250–54251
Realty actions; sales, leases, etc.:
California, 54251
Resource management plans, etc.:
Pocatello Resource Area, ID, 54251

Mine Safety and Health Federal Review Commission
See Federal Mine Safety and Health Review Commission

National Aeronautics and Space Administration
PROPOSED RULES
Acquisition regulations:
Shared savings clause, 54208–54210
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 54219–54221

National Institute of Corrections
NOTICES
Meetings:
Advisory Board, 54256

National Institute of Standards and Technology
NOTICES
Meetings:
Open architecture Enhanced Machine Controller (EMC); cooperative research and development consortium, 54215–54216

National Institutes of Health
NOTICES
Meetings:
National Institute of Mental Health, 54246
National Institute on Aging, 54246–54247
National Institute on Deafness and Other Communication Disorders, 54246

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Gulf of Alaska groundfish, 54200–54201
PROPOSED RULES
Atlantic surf clam and ocean quahog; paralytic shellfish poisoning testing protocol; public meeting, 54211
Fishery conservation and management:
Northeast multispecies, etc.; public meetings, 54210–54211
NOTICES
Meetings:
Marine Fisheries Advisory Committee, 54216

National Park Service
NOTICES
Environmental statements; availability, etc.:
Channel Islands National Park, CA, 54251–54252
Strategic plan (1996); preparation; public consultation workshops, 54252

Navy Department
RULES
Navigation, COLREGS compliance exemptions:
USS Stout, 54198–54199
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Santa Fe Laser Co., 54218
Sterling, William D., et al., 54218

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Sequoyah Fuels Corp. Uranium Conversion Facility, OK, 54260–54264
Meetings:
Reactor Safeguards Advisory Committee, 54264–54265
Operating licenses, amendments; no significant hazards considerations; biweekly notices; correction, 54265

Office of United States Trade Representative
See Trade Representative, Office of United States

Postal Service
NOTICES
Environmental statements; availability, etc.:
Priority mail processing system, 54265

Prisons Bureau
PROPOSED RULES
Inmate control, custody, care, etc.:
Inmate organizations; fund-raising activities; prohibition, 54289–54290
Plastic surgery, 54288

Public Health Service
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Railroad Retirement Board
NOTICES
Agency information collection activities under OMB review:
Proposed agency information collection activities; comment request, 54265–54266

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 54266–54268
Chicago Board Options Exchange, Inc., 54269–54273
Chicago Stock Exchange, Inc., 54268–54269
Depository Trust Co., 54273
Pacific Stock Exchange, Inc., 54273–54274
Philadelphia Stock Exchange, Inc., 54274–54279
Applications, hearings, determinations, etc.:
Public utility holding company filings, 54279–54280
Sunburst Funds, 54280
Triple A and Government Series-1995, Inc., 54280–54281

Small Business Administration
NOTICES
Interest rates; quarterly determinations, 54281

Substance Abuse and Mental Health Services Administration
NOTICES
Meetings:
Drug Testing Advisory Board, 54247

Thrift Supervision Office
NOTICES
Applications, hearings, determinations, etc.:
Flushing Savings Bank, FSB, 54282–54283
Patriot Savings Bank, 54283

Trade Representative, Office of United States
NOTICES
Japan:
Deregulation measures, 54283–54284

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration

Treasury Department
See Customs Service
See Foreign Assets Control Office
See Thrift Supervision Office

United States Information Agency
NOTICES
Senior Executive Service:
Performance Review Board; membership, 54283

Veterans Affairs Department
NOTICES
Meetings:
Cemeteries and Memorials Advisory Committee, 54284

Western Area Power Administration
RULES
Energy Policy Act of 1992:
Energy planning and management program; implementation, 54151–54180

Separate Parts In This Issue

Part II
Department of Justice, Bureau of Prisons, 54288–54290

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.

10 CFR
905.....54151

14 CFR

Proposed Rules:
39 (2 documents) 54202, 54203
71 (2 documents) 54205, 54206

16 CFR
429.....54180

19 CFR
123.....54187
148.....54187

21 CFR
177.....54188
184.....54190
510.....54193
558.....54193

28 CFR

Proposed Rules:
549.....54288
551.....54289

29 CFR

Proposed Rules:
Ch. XIV 54207

31 CFR
515.....54194

32 CFR
311.....54197
706.....54198

40 CFR

Proposed Rules:
261.....54207
271.....54207
302.....54207

45 CFR
51–5.....54199

48 CFR

Proposed Rules:
1816.....54208
1852.....54208

50 CFR
672.....54200

Proposed Rules:
18.....54210
649.....54210
650.....54210
651.....54210
652.....54211

Rules and Regulations

Federal Register
Vol. 60, No. 203
Friday, October 20, 1995

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

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

DEPARTMENT OF ENERGY

Western Area Power Administration

10 CFR Part 905

Energy Planning and Management Program

AGENCY: Western Area Power Administration, DOE.

ACTION: Final rule.

SUMMARY: The Western Area Power Administration is publishing this final rule to adopt an Energy Planning and Management Program. The Program is being developed in part to implement section 114 of the Energy Policy Act of 1992. The Program requires the preparation of integrated resource plans by Western's customers and establishes a framework for extension of existing firm power resource commitments.

EFFECTIVE DATE: These regulations will become effective November 20, 1995.

FOR FURTHER INFORMATION CONTACT: For additional information, please contact: Robert C. Fullerton, Western Area Power Administration, P.O. Box 3402, A3100, Golden, CO 80401–0098, (303) 275–1610.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. Discussion of comments
A. Energy Planning and Management Program-Overview
1. General
B. Integrated Resource Planning
1. Specificity of Regulations
2. IRP Content
3. IRP Review and Approval
4. Member-Based Associations
5. Economic Feasibility and Administrative Burden
6. IRP Cooperatives
7. Technical Assistance
8. Submittal Timing
9. Irrigator Issues
10. Future Program Review
11. Penalty
C. Power Marketing Initiative
1. Applicability
2. Contract Term
3. Extension Percentage
4. Resource Pool Creation
5. Resource Pool Uses
6. Resource Adjustment
7. Notice
8. Native American Issues
9. Resource Acquisition by Western
10. Implementation
11. Other Marketing Issues
D. Other Issues
1. Support of Renewables
2. Project Use
III. Summary of Changes from the Proposed Program
IV. Supplemental Explanation of the Rule
V. Regulatory Review
VI. Review under the Regulatory Flexibility Act
VII. Review under the Paperwork Reduction Act
VIII. Review under the National Environmental Policy Act
IX. Review under Executive Order 12612
X. Review under Executive Order 12778

I. Background

On April 19, 1991, the Western Area Power Administration (Western) proposed an Energy Planning and Management Program (Program) (56 FR 16093). The goal of the Program was to require planning and efficient electric energy use by Western's long-term firm power customers and to extend Western's firm power resource commitments. On May 1, 1991, Western announced its intention to prepare an environmental impact statement (EIS) on the Program due to potentially significant environmental and economic issues that may be of interest to the public (56 FR 19995). Combined public information/environmental scoping meetings on the Program were held in seven States in June of 1991. Based on the feedback received from these meetings, Western developed alternatives to be analyzed in the EIS. Alternatives workshops were held in eight cities during March and April 1992. Based on further public input received during these workshops, as well as comments previously received, Western announced a tentative preferred alternative for the EIS in a Program newsletter in June of 1992.

On October 24, 1992, the President signed the Energy Policy Act of 1992 (EPAct), Public Law 102–486, into law. Section 114 of that legislation requires the preparation of integrated resource plans (IRP) by Western's customers and amends Title II of the Hoover Power Plant Act of 1984. Western has adjusted its Program to reflect fully the provisions of this law.

On March 31, 1994, a notice of public availability of the draft EIS was published in the Federal Register (59 FR 15198). The Environmental Protection Agency also published a notice of availability of the draft EIS on April 1, 1994, officially starting a 45-day public comment period. Eight hearings were held throughout Western's service territory, with more than 130 members of the public in attendance. About 200 written comments were received on the draft EIS.

The Program goal is to promote the efficient use of electric energy by Western's customers and to extend Western's long-term firm power resource commitments in support of customer IRPs. A major purpose of this action is to assure the customers which purchase Federal power greater stability in planning for future resources than would exist in the absence of the Program. The Program has two major components: (1) An integrated resource planning provision conforming to the requirements of EPAct and (2) a Power Marketing Initiative (PMI). The IRP provision, formerly known as the Energy Management Program, would require most long-term firm power customers to (1) develop and implement an IRP, (2) submit an updated IRP every 5 years, and (3) submit an annual progress report. A different requirement for small customers with an annual load or usage of 25 GWh or less is established, as allowed in the EPAct. This IRP provision and small customer provision will amend Western's Final Amended Guidelines and Acceptance Criteria (G&AC) for Customer Conservation and Renewable Energy (C&RE) Programs of August 21, 1985 (50 FR 33892). Western will continue to provide a wide range of technical assistance to customers. As provided by EPAct, 42 U.S.C. (7276b(e)), a penalty provision for noncompliance with the IRP provision will consist of a 10-percent surcharge for the first 12 months of noncompliance, 20 percent for the next 12 months of noncompliance, and 30 percent thereafter for as long as noncompliance persists. In lieu of a surcharge after the first 12 months of noncompliance, Western may impose a 10-percent resource reduction penalty if

such an approach is more effective in assuring compliance or is more cost-effective for Western. The penalties in this Program will be incorporated into the contracts that extend resources and will be effective upon contract execution. Penalties in existing contracts will continue to be in effect until changed.

The PMI establishes a framework for extending a major portion of the power currently under contract with existing customers. Western will extend its existing long-term firm resource commitments, subject to the outcome of project-specific environmental analysis as appropriate. Initially, the Pick-Sloan Missouri Basin Program-Eastern Division and the Loveland Area Projects are covered by the PMI. The term of the extension would be 20 years from the date that existing contracts expire. The level of the commitment to existing customers would be a project-specific percentage of the marketable resource determined to be available when future resource extensions begin, as described in section 905.33 of the regulations, with two withdrawals at 5-year intervals after the new contracts become effective. Unextended resources would be available for allocation to new customers and other purposes as determined by Western. In addition, marketable resources placed under contract could be adjusted on 5 years' notice, and then only in response to changes in hydrology and river operations.

II. Discussion of Comments

On August 9, 1994, a notice of the proposed Program and request for public comments was published in the Federal Register (59 FR 40543). Seven combined public information/comment forums were held throughout Western's service territory in September 1994. The original comment period of 60 days was extended in response to a public request. 59 FR 53976 (October 27, 1994). The comment period closed 90 days after publication of the notice of the proposed Program.

Western has received numerous comments as a result of publication of the proposed Program in the Federal Register on August 9, 1994. The following section responds to those comments. Each issue is presented in a format featuring background, public comments and discussion. Responses to all comments on Native American issues are in section C.8. Comments pertaining to the environmental impact statement are addressed in Appendix G of the final EIS.

A. Energy Planning and Management Program—Overview

1. General

a. Background

Western initially proposed the Program in April of 1991, and has devoted over 4 years to public process and Program development. The publication of the proposed program on August 9, 1994, included comprehensive responses to public comments received as of that date. This response to comments section includes only those comments received since that date.

b. Comments and Discussion

Comments were received in favor of finishing the public process quickly. Public comment was received in support of the spirit of compromise that is reflected in the Power Marketing Initiative. Western was asked to keep the hydroelectric resource reliable and cost-based. Others commended Western for the time and attention it has devoted to produce an improved Program proposal. The proposed rule was viewed as a substantial improvement over the alternatives presented in the draft EIS. This Federal Register notice represents the final step in the development of the Program. The Power Marketing Initiative and the Integrated Resource Planning Provision will become effective 30 days after publication of this rule in the Federal Register. Western is appreciative of the widespread participation in the public process by customers, Indian tribes, environmental groups and other interested parties. This extensive participation has resulted in an improved Program that is responsive to the comments of the public.

Western was asked to publish the final Program as a rule within the Code of Federal Regulations. Western agrees with this comment. The Program regulations will appear in Title 10, which deals with energy-related subjects. Explanatory text and the detailed description of the future application of the PMI have been moved to the preamble.

Another comment suggested that Western adopt the section of the Federal Register publication entitled ''Response to Comments on the Energy Planning and Management Program,'' specifically found at 59 FR 40552–40562, as interpretative guidelines to accompany the IRP rules. Western concurs that the responses to comments contained in the August 9, 1994, Federal Register notice are useful in providing insight and guidance to assist the public in understanding Western's rationale for the proposed Program. The responses to comments in this notice of final rulemaking play a similar role. Although Western's responses to comments will not be published in the Code of Federal Regulations, they serve the purpose of interpretative guidelines and are available to clarify the intent of Western in promulgating the final Program.

Western received a request for an additional 120 day extension of the comment period. Western initially provided for a 60 day comment period, and later extended the comment period by 30 days in response to a public request. The total comment period of 90 days presented ample opportunity for the public to understand and comment on the proposed Program.

B. Integrated Resource Planning

1. Specificity of Regulations

a. Background

Section 114 of the EPAct provides the framework for the IRP requirement. It sets forth IRP criteria as well as administrative principles and requirements. As set forth by section 114, Western shall approve an IRP if, in developing the plan, the customer has addressed the criteria provided.

b. Comments and Discussion

A number of customers commented that the distinction between customers and purchasers should be dropped because the terms are defined differently but used synonymously, so the term ''purchaser'' has been deleted from the rule to avoid confusion.

A commenter asked for clarification of the relationship between the IRPs required under section 114 of EPAct and the requirement to consider integrated resource planning under Section 111. Section 111(a)(7) of EPAct is an amendment to the Public Utility Regulatory Policies Act. If a Western long-term firm power customer falls under this regulatory authority, only one IRP will be required as long as the IRP submitted to the State regulatory authority and to Western also meets the approval criteria addressed in the IRP regulations and section 114 of EPAct.

A few customers requested a refinement of IRP regulations to make them ''more suitable for non-generating and end-use customers.'' Most end-use customers will qualify for small customer status, which requires that they submit a plan that (1) considers all reasonable opportunities to meet future energy service requirements using demand-side management (DSM) techniques, new renewable resources,

and other programs that are cost-effective, and (2) minimizes adverse environmental effects to the extent practicable. For those that do not qualify, Western will review IRPs based on the customer size, type, resource needs, geographic area, and competitive situation. There is no need to tailor these regulations further as the capabilities of non-generating end-use customers are adequately recognized under the ''reasonableness'' review standard in 905.13.

Western was requested to delete the word ''new'' from the definition of IRP, based on the viewpoint that integrated resource planning is a planning process that can be applied to all resources. Western has not removed the word ''new'' from the definition of IRP because Congress included this adjective in section 114 of EPAct. However, analysis of all resource options would allow the customer to incorporate cost-effectiveness of current resources into utility decision-making which in turn provides for sound long-term decisions based on least-cost resource planning. To remain competitive in a dynamic utility industry, Western's customers may find value in evaluating continuously all costs, including those from both existing and potential future resources.

2. IRP Content

a. Background

Section 114 of EPAct defines the elements and content that must be addressed in an IRP. Although these requirements must be addressed, Western understands the importance of balancing needs for flexibility and equity among a diverse customer base. Western's primary interest is in providing an adequate framework for customer use of the IRP process as a tool for meeting resource needs.

b. Comments and Discussion

Many commenters requested that Western remove the ''Other Criteria'' because it is overly broad. Western included element 8, ''Met such other criteria as the Administrator shall require,'' in the proposed rules primarily to track the language and format of EPAct, and to give the flexibility to add other requirements as might later become necessary. In order to give customers reassurance that Western will not arbitrarily change or add requirements without the proper public review and comment process, this element has been dropped.

A stakeholder suggested that each IRP or small customer plan submitted to Western should describe the formal and informal service relationships the customer has with trade allies that can provide DSM sales and service delivery to the utility and its customers if the IRP or small customer action plan includes DSM resources. If a customer chooses, partnerships can be formed with trade allies that can provide DSM sales and services in support of IRP implementation plans. However, it is not the intent of EPAct nor appropriate for Western to require IRP or small customer plan submittals to describe the service relationships that Western's customers have with trade allies. A trade ally has the opportunity to participate in a customer's IRP process and DSM pursuits through the customer's public process, and pursue a voluntary partnership with Western's customers.

Western was asked to define practicable. EPAct states that IRPs must identify and accurately compare all practicable energy efficiency and energy supply resource options available to the customer. Using the reasonableness test set forth in section 905.13(a), practicable in this case means those energy efficiency and energy supply resource options which are appropriate for the customer's size, type, resource needs, geographic area, and competitive situation. Practicable resource options are both economically and technically feasible. Western will not dictate resource choices.

One customer noted that there is no option in the action plan to report that there is nothing further that a customer can do than it is already doing, and that this language needs to be added. Language has been added in section 905.11 so that there is an option for customers to report in an action plan that they are not experiencing or anticipating load growth. Even when customers are not experiencing load growth, action plans may describe how otherwise ''lost opportunities'' have been pursued, such as encouraging energy efficiency in new housing to avoid the expense of retrofitting in the future.

Comment was received on the criteria for determining that customers have complied with the requirements for minimizing adverse environmental impacts associated with resource choices. The criteria for assessing whether customers have complied with the requirements for minimizing adverse environmental impacts of new resource acquisitions are stated in EPAct and supplemented by this rule. In addition, Western cannot exempt any organization from complying with existing environmental laws and regulations due to customer size. Western will not determine for its customers the level of environmental compliance appropriate for each action.

A number of customers and stakeholders submitted comments regarding environmental externalities. Western will not require customers to include a quantitative analysis of environmental externalities in their IRPs for the following reasons: (1) EPAct, which did not use the term ''externalities,'' created a different ''minimization to the extent practicable'' review standard for IRPs; (2) the externality issue continues to be subject to public debate and scientific analysis, with no consensus being reached; (3) there is no consensus on the numbers that should be used to value certain emissions and pollutants; (4) quantification of externalities is a policy question that appears to fall under state jurisdiction at the present time. Establishment of a Western standard would not appropriately reflect comity between the states within Western's service territory and the Federal government. Complicating the issue is the fact, as described in more detail in the EIS, that the Western states have widely varying policies on quantification of externalities; (5) it would be impossible to reconcile a common externality standard with the heterogeneous approaches of the states; and (6) if Western were to require quantification of externalities, Western's customers could find themselves at a inappropriate competitive disadvantage as compared to noncustomer utilities not bound by such a stringent standard under state laws and regulations.

Customers asked what Western considers public involvement for a rural electric cooperative. Additionally, customers and stakeholders stated that Western should allow flexibility in interpreting the public process requirements; outside entities should have the opportunity to review and comment on submitted IRPs once Western receives them; and Western should require that customer utilities meet minimum standards for public participation, including the creation of public advisory groups. Given the diversity of customers Western serves, Western intentionally defined the term ''public participation'' in general terms so as to allow customers the flexibility they need to comply with this requirement. Full public participation will be interpreted to mean that ample opportunity was provided for the public to participate in or influence the preparation and development of an IRP, as required by 905.11. The summary of the public participation process in the IRP should describe how the customer

(1) gathered information from the public, (2) identified public concerns, (3) shared information with the public, and (4) responded to public comments. Additionally, Western feels that public participation at the local/regional level is adequate and that it is not necessary to provide another opportunity for public comment once the IRP has been filed with Western.

One customer commented that the load forecasting examples in the rule ''make no sense'' for Federal load. No load forecasting examples are given in the Rule except as referred to for a methodology (i.e., time series method, end-use method, econometric method). These are the three methods most used for load forecasting, but they are not required by Western. The customer should determine the method(s) best suited for its own needs, though that method should use an accepted methodology such as one or more of the three listed above. Customers should develop forecasts upon which to base their IRPs. EPAct requires that, with the exceptions addressed in section 905.11(b)(3), least-cost options must be adopted by customers under the IRP.

Many customers commented on quantification and resource tests. The following questions were asked: Is Western prescribing that a levelized cost method be used? If renewable resources are not cost-effective, how can they be included in the least-cost plan? If they are cost-effective, why should they be given priority if they will be in the least-cost plan? Additionally, customers stated that they preferred that Western not prescribe a method. There is concern about how utilities will deal with the least-cost provisions or whether they can still use supply- and demand-side projects in the IRP process and still do their planning in order to minimize rates and remain competitive. Comment was also received that Western needs to address the additional exemptions to least-cost based decision-making related to state law requirements; and that Western's IRP requirement should impose no standard stricter than the standard used by the state public utility regulatory agency in which a given customer does business. Western is not prescribing that a levelized cost method be used. Instead, the final rule requires that evaluation of demand and supply resource cost effectiveness for larger customers be done on a comparable basis. Examples of types of methods Western expects from a larger customer are given, but no specific method is required. The least-cost provisions, as part of the IRP, are meant to allow utilities to be more competitive. Analyses of a variety of situations—including possible exceptions to least-cost based decisions—will promote competitiveness as well as rate minimization. Renewables do not have to be given priority, but must be fully evaluated alongside demand- and other supply-side resources. EPAct states that to the extent practicable, energy efficiency and renewables *may* be given priority in any least-cost option. Language has been added, under section 905.11, stating that exceptions to least-cost-based decisions may be made where Federal or State requirements mandate other than a least-cost based decision. EPAct allows the choices in this area to be made at the reasonable discretion of the customer as long as supply- and demand-side resources are compared using a consistent economic analysis. As long as the customer meets the criteria as defined in EPAct and these regulations, Western will not impose any standard stricter than the standard used by the state public utility regulatory agency in which a given customer does business.

Western received comment that the rule needs to better define economic tests and more clearly describe the economic evaluations made. Comment was received that Western should require customers to use the total resource test to screen demand-side measures and the societal test to evaluate demand-side programs; and that customers should be required to use minimization of revenue requirements as the standard to choose least-cost options. Western will not mandate the use of a particular test to screen resource options or as a standard in the resource selection process. While examples of analyses are set forth elsewhere in this Federal Register notice, EPAct does not require the use of any particular tests. There is no compelling reason to force customers to take the same approach when a number of different tests are currently used in IRP preparation by utilities and utility commission review throughout the United States. Western will review the approach chosen by its customers for reasonableness, taking into account each customer's size, type, resource needs, geographic area, and competitive situation.

A few customers commented that they are opposed to quantification of savings. Western is not requiring unreasonable efforts by customers to quantify savings. Section 905.11 describes the need for customers to establish methods of validating predicted performance.

3. IRP Review and Approval

a. Background

Western has proposed that the required elements of an IRP or a small customer plan must be addressed in a reasonable manner by a customer before Western approves the IRP or small customer plan.

b. Comments and Discussion

Customers commented that the flexibility to amend IRPs at any time should be incorporated into the regulations. Western was asked to clarify the difference between good faith efforts and mitigating circumstances. Comment was received regarding an apparent conflict between the time tables for requesting small customer status and the general time line when activities need to be accomplished. One customer stated that the size of the Western allocation should be a factor in IRP review. Western will apply a reasonableness test in its review and approval of customer IRPs and small customer plans which asks the following two questions:

1. Is the customer's application of the IRP or small customer criteria consistent with the intent of EPAct and these regulations?

2. Is such application appropriate for the customer's size, type, resource needs, geographic area, and competitive situation?

Western will use the reasonableness test, as applied to the criteria in Subpart B, as a basis for plan review and approval. Western will not use the size of the Western allocation as a factor in review, as EPAct does not allow for such an approach.

In using this reasonableness test as the basis for approval of plans, other language has been incorporated into the regulations which clarifies the review and approval process. Specifically, language has been added which: allows amendments and revisions to IRPs to be submitted at any time (under section 905.12(c)(5)); delineates ''good faith effort'' and deletes the term ''mitigating circumstances'' (under section 905.17(b)); and amends the originally proposed time table for IRPs and small customer plans (under section 905.12(c)), so that requests for IRP cooperative and small customer status must be made to Western within 30 days (not 60) of the effective date of the Program, allowing the time tables to match and allowing for a more expedient process. Additionally, there is no longer a requirement for customers to submit a notification of intent to prepare an individual or MBA IRP.

One customer asked how customers should act when preparing their IRPs which are dependent on time-limited offers of power from third parties. When preparing plans dependent upon time-limited resource offers, a customer should develop the plan based upon the best information available. The customer determines its own resource needs, so it should accept the time-limited offer if that is in its best interests, and then let Western know through its annual progress report or an amended action plan. Western will not disapprove such a decision if it is in the best interests of the customer, was evaluated alongside supply- and demand-side resources, and was a ''least-cost option'' (or is an adequate cost-effective exception as addressed in section 905.11).

4. Member-Based Associations

a. Background

There is considerable variety in the contractual arrangements among Western's member-based association (MBA) customers. Some MBAs are the sole supplemental power supplier for the members and have load growth responsibility, others act as a representative for the members and have no generation or transmission capabilities, and others act as agents for or subcontract with but do not assume power supply responsibility for their principals or subcontractors.

b. Comments and Discussion

Concerns were raised over the role of the MBA and its members. Comment was received that the submittal requirements need to be defined for an MBA and its members. One customer stated that Western needs to broaden the definition of MBA to cover both parent-type entities and their user members and entities which act as agents for, or subcontract with but do not assume power supply responsibility for, their principals or subcontractors. The definition of MBA has been broadened to include both parent-type entities and their user members and entities which act as agents for or subcontract with but do not assume power supply responsibility for their principals or subcontractors so that the wide variety of Western customers which are MBAs under the revised definition can submit IRPs on behalf of one, some, or all of their customers. In adding this definition, the submittal requirements have been further delineated.

Two additional questions were asked: (1) To what extent must members of an MBA be identified in the IRP and action plans? (2) What is the responsibility of an MBA with members outside of its marketing area for an IRP? While Western agrees that members should support the IRP process with data and during the decision making process, it is the responsibility of each MBA to work with its affected membership on these issues. Each member receiving the benefit of long-term firm power from Western will be required to sign the IRP or a resolution accepting the IRP prior to submittal to Western. Additionally, for IRPs developed and submitted on behalf of the MBA's members, the IRPs must clearly show how each of the seven approval criteria is addressed for each member. MBA members outside of Western's service territory need not be included in the MBA's IRP, but the benefits of joint planning may be diminished by such an approach.

5. Economic Feasibility and Administrative Burden

a. Background

A number of Western's customers are small or medium-sized utilities. Western is not proposing to define how much time and money a customer should invest in IRP and small customer plan development and implementation. Rather, Western's review will be focused on the end-product IRP or small customer plan.

EPAct requires that customers develop and submit annual progress reports to Western, which Western will in turn use in developing its own annual report.

b. Comments and Discussion

Many customers asked what criteria will be used to determine that a small customer has ''limited economic, managerial, and resource capability'' to conduct an IRP. Three criteria will be used in determining small customer status: (1) Does the customer have total annual energy sales or usage of 25 GWh or less averaged over the previous 5 year period? (2) Is the customer *not* a member of a joint action agency or a generation and transmission cooperative with power supply responsibilities? (3) Does the customer have limited economic, managerial and resource capability to conduct integrated resource planning? Prior experience with customers under the 25 GWh threshold that are not members of a joint action agency or a generation and transmission cooperative with power supply responsibility has shown that many of these customers possess limited economic, managerial and resource capability to conduct integrated resource planning. If the customer meets all of these criteria, it will then be granted small customer status if requested.

Other customers also suggested that small customers be able to normalize or average over a period of time their energy use or sales in order to qualify for the 25 GWh threshold for small customer status which might otherwise not be met due to extreme circumstances such as weather. In order to account for weather-related or other circumstances which might put the small customer over the 25 GWh threshold, customers will be responsible for documenting average annual energy sales and usage for the 5 years prior to the initial request. Subsequent annual letters documenting energy sales and use will be averaged thereafter on a rolling basis to determine the under 25 GWh threshold. If the customer exceeds 25 GWh average sales and usage after already receiving small customer status, an IRP will be required.

Comments on annual progress reports included statements that the reports should not be required, to statements that they only be required every 2 or 3 years. Customers also commented that the requirements for the annual progress reports are excessive, especially the obligation to perform post mortem analysis to quantify the energy capacity and dollars saved under an IRP. EPAct requires that annual progress reports be submitted by customers to Western. The requirement can be satisfied by customers as long as the annual progress reports contain information describing the customer's progress towards the goals established in the plan submitted, including a report of the measured or estimated energy savings and renewable resource benefits achieved. Western is required by law to report to Congress annually ''an estimate of the energy savings and renewable resource benefits achieved as a result'' of customer IRP. Western cannot develop a credible estimate without customer input. In the absence of credible data, the accomplishments of Western's customers cannot be fairly described.

In lieu of a separate annual progress report, all information may be combined with any other report that the customer submits to Western, at the customer's discretion, as long as that report is submitted within 30 days of the IRP approval anniversary date.

6. IRP Cooperatives

a. Background

Customers may form IRP cooperatives under EPAct and request Western's approval to submit IRPs for those cooperatives. Approved cooperatives

shall have 18 months from the date of approval to submit their IRPs.

b. Comments and Discussion

Comments on IRP cooperatives concerned limitations to forming an IRP cooperative, and clarification of the formation of an IRP cooperative as being a matter solely between those potential members and Western. Comment was also received that IRP cooperative status should be based only on the determination that an appropriate resource planning decision block exists; and the ''power supply chain'' example be removed so that it is not read as an exhaustive sample. An IRP cooperative allows customers with common interests, such as where a resource decision block exists, to form an IRP cooperative for the purpose of jointly developing and implementing an IRP. Individual member responsibilities and participation levels, as with MBA IRPs, must be identified in the IRP. A resource planning decision block includes a situation such as if all entities covered by an IRP are contained within a power supply chain, or regional entities covered by an IRP will plan for joint supply-side, demand-side, and/or renewable resources above and beyond the Western resource. It is permissible for a customer to prepare an IRP jointly with an investor-owned utility. These are examples and are not all-encompassing definitions.

Section IV of this supplementary information section gives examples of entities that would be favorably considered for IRP cooperative status.

7. Technical Assistance

a. Background

Western has provided technical assistance to customers, which includes workshops, equipment loan programs, technical studies and analyses, peer-match evaluations, and other support, since 1980. EPAct authorizes Western to continue to provide technical assistance to help customers with integrated resource planning.

b. Comments and Discussion

One customer commented that Western should charge for technical assistance based on its use. At present, Western feels that technical assistance, offered through its energy services program, is more effective if offered to all customers without a use-based charge. Western realizes the greatest need for technical assistance often falls on the smallest customers which may not be able to pay for direct technical assistance. Western will make every effort to cost-share technical assistance activities to leverage costs so that many parties benefit.

Some customers requested that Western develop sample IRP formats for customers. Because of the great diversity of its customers, Western will not develop sample IRP formats. A customer can, however, obtain technical assistance from the appropriate Area Office to help it prepare an IRP. Additionally, a customer's Area Office may already have a collection of sample IRPs.

8. Submittal Timing

a. Background

Customers must submit their plans to the Area Manager of the area in which they are located within 12 months of the effective date of this rule for individual IRPs, within 12 months of the approval of a request for small customer status for small customer plans, and within 18 months of the approval of a request for IRP cooperative status for IRPs from IRP cooperatives. Additionally, EPAct requires updated IRPs and small customer plans to be submitted to Western for review every 5 years.

b. Comment and Discussion

A comment was received that suggested that Western stagger IRP submittals over 120 days, with small customer submittals processed first. Western will not take additional steps to stagger the approval of IRPs because the submittal time frame already is staged, and EPAct offers Western limited ability to depart from defined submittal time frames. Western expects that although many customers will submit IRPs and small customer plans when due, others will submit them before the plans are due. In addition, IRP cooperatives may submit IRPs 6 months after individual IRPs and small customer plans are due.

9. Irrigator Issues

a. Background

The IRP provisions apply to all customers, including irrigators, with the exception of those qualifying for small customer status. Irrigation districts and other irrigation entities may qualify for small customer status. Western shall consider water planning, water efficiency improvements, and water conservation in evaluating an IRP or small customer plan. Customers that provide water utility services and customers that service irrigation load as part of their overall load may include water conservation activities in the IRP.

b. Comments and Discussion

It was suggested that the irrigation provision language include entities which are not necessarily irrigation districts but which have irrigation loads. Language has been added to section 905.13, which has the effect of expanding the term ''irrigation district'' to include electrical districts, power and water conservation districts, and other comparable entities. Therefore, entities with similar functions are eligible for this provision.

It was also suggested that water efficiency should equate to electrical savings for all customers that manage water utilities, not just irrigators. Western agrees that customers with water utility responsibility face the same issues as irrigators. In recognition of the need for equity, new language has been added to section 905.13 to cover customers that provide both energy and water utility services and customers that serve irrigation load as part of their overall load. Western requests that all types of customers covered by this section convert their water savings to energy values to the extent practical.

10. Future Program Review

a. Background

EPAct requires that within 1 year after January 1, 1999, and at appropriate intervals thereafter, Western shall initiate a public process to review the Integrated Resource Planning provision established by this rule.

b. Comments and Discussion

A customer commented that 1999 is too late to revise the Program, given the increasingly competitive nature of the utility industry. 1999 is the date set forth by EPAct for review and revision, as appropriate, of these regulations, and the point at which, using a public process to review the program, Western has some ability to revise the criteria set forth in EPAct to reflect any changes in technology, needs, or other developments. However, IRPs may be amended or revised at any time, and updated IRPs are required every 5 years. This flexibility allows Western's customers to remain competitive.

11. Penalty

a. Background

As required by EPAct, penalties for noncompliance with these regulations shall be imposed for failure to submit or resubmit an IRP or small customer plan in accordance with these regulations and/or when Western finds that the customer's activities are not consistent with the applicable IRP or small customer plan unless a good faith effort has been made to comply with the approved IRP or small customer plan.

b. Comments and Discussion

The public commented that Western should not impose the same penalties for being late or not submitting an annual report as for not submitting an IRP; that the time frame between receiving a notice of noncompliance and the imposition of the penalty needs to be lengthened; and that the phrase ''it is found that there are no mitigating circumstances which justify those reactions'' should be removed. The noncompliance section of this rule, section 905.17, has been revised substantially in response to public comments. In recognition of the severity of the proposal, Western has dropped the provision for imposing penalties for failure to submit or for late submittal of annual progress reports. Section 905.17 also has been revised to provide that any penalties will be imposed beginning with the first full billing period following the notice of noncompliance, allowing customers 30 days to provide evidence of a good faith effort to comply. A customer must still show evidence of a good faith effort to comply which justifies its deficiency, but the term ''mitigating circumstances'' has been deleted.

Customers also commented that customers should be able to choose their own penalties (surcharge or allocation) and that penalties should apply directly to the MBA member and not to or through the MBA. Comment was also received that if a member of an MBA is not in compliance, notice should be sent to both the member and the MBA. Customers will not be allowed to choose the type of penalty that will be imposed for noncompliance. Western will determine which penalty is most appropriate for the situation in accordance with the criteria in section 905.17(d). Language has been added to clarify the imposition of penalties on MBAs and IRP cooperatives and their members. Members of MBAs and IRP cooperatives which are found to be in noncompliance will be directly penalized if they have a firm power contract with Western. For those members which do not, the penalty will be imposed upon the member's MBA or parent-type entity on a pro rata basis in proportion to that member's share of the total MBA's power received from Western. Assessment of penalties against MBAs is necessary in this situation to ensure that MBA members comply with the IRP requirements in this rule. The MBA or parent-type entity will be notified of a penalty assessment on a member.

A comment was received that stated that the administrative appeal process should allow a customer to appeal a decision about an IRP to the Department of Energy's Deputy Secretary to ensure customers and Western have an opportunity to seek an impartial ruling. A customer may request reconsideration of an initial noncompliance determination by filing a written appeal with the appropriate Area Manager. If the customer disagrees with the Area Manager's decision, an appeal may be filed with the Administrator. The Administrator's decision will be the final agency decision for purposes of judicial review. Western will use mutually agreeable alternative dispute resolution procedures, upon the customer's request, to attempt resolution of any appeal. No penalty will be imposed during the appeal, but if the dispute resolution is unsuccessful for the customer, Western will impose the penalty retroactively from the date the penalty would have been assessed without an appeal.

One customer commented that resource withdrawal penalties should not be imposed retroactively, as the impact on the annual ratchet clause in supplemental power supply contracts is overly burdensome. Western agrees that certain supplemental power supply contracts have ratchets that could magnify the burden of a retroactive resource penalty caused by an administrative appeal. However, Western will not amend the regulations to address this unlikely event. This situation would not arise under the final regulations until 12 months after the initial 10 percent surcharge had been imposed. The customer can avoid the impact of a ratchet by submitting an acceptable and timely IRP to Western.

Finally, a customer asked why, if IRPs are not required of nonfirm purchasers of Western energy, the penalty extends to nonfirm interruptible/diversity contracts with customers. A penalty will be assessed on the total charges for all power obtained by a customer from Western and will not be limited to firm power charges. If a customer has more than one long-term firm power contract with Western, the penalty will be imposed under each contract. Under EPAct, 42 U.S.C. 7276b(e), these penalties apply to ''all power'' purchased from Western by a customer which is in non-compliance; the penalty is not limited to firm power.

C. POWER MARKETING INITIATIVE

1. Applicability

a. Background

In the proposed Program, the Pick-Sloan Missouri Basin Program-Eastern Division and the Loveland Area Projects were proposed for initial coverage under the Power Marketing Initiative. Western proposed to defer making any decision about applying the PMI to the Central Valley Project, which is the subject of a project-specific marketing plan and associated EIS for the post-2004 time period. Western further proposed to evaluate application of the PMI to the Salt Lake City Area/Integrated Projects after its power marketing EIS is completed and the associated marketing criteria and contract changes are implemented. Finally, Western also proposed to evaluate application of the PMI to the Parker-Davis Project and the Boulder Canyon Project no sooner than 10 years before existing contracts expire.

b. Comments and Discussion

A comment was received concerning Western's statement that its customers have no equity position in Western's facilities, and that no right exists to power in the absence of a contract. The comment further states that this is not precisely true for the Boulder Canyon Project, where there is a statutory allocation of power and upratings funded by certain customers. The first of two other comments received on this subject suggests that Hoover should be excluded from PMI applicability in the final rule due to the statutory nature of the Hoover allocation. The second states that the customers do not understand Western's intentions on application of the Power Marketing Initiative to Hoover and that Western needs to conduct workshops and hearings before implementation takes place. Western has not proposed to apply the Power Marketing Initiative to the Boulder Canyon Project at the present time. The Boulder Canyon Project long-term firm sales contracts do not expire until 2014. Western cannot make sound decisions today about how this power might be marketed starting 20 years into the future. Western will evaluate the applicability of the PMI to the Boulder Canyon Project no sooner than the year 2004. No decision to apply the PMI will take place until an appropriate public process takes place. At that time, statutory interpretation issues can be addressed.

Comments were received suggesting that the Central Valley Project should recognize the Sacramento Municipal Utility District's right to 31 percent of CVP power through the year 2014 and that the first preference customers under the 1962 Flood Control Act should be exempt from any loss of allocation under the Power Marketing Initiative. Western does not intend to abrogate the statutory right of CVP first preference customers pursuant to the Flood Control

Act of 1962. Nor does the Power Marketing Initiative impact the contractual right of the Sacramento Municipal Utility District to receive a defined share of CVP resources between 2004 and 2014. Section 905.30(b) of the final rule accommodates these concerns by stating that the PMI will apply ''if consistent with other contractual and legal rights.'' This broad statement of applicability protects the interests of the commenters.

Western received several comments that favored applying the PMI to the CVP. The comments had a common theme that the stability and certainty of the CVP resource is critically important and that Western should apply the PMI to the CVP now, and not wait until the 2004 marketing plan to make a decision on resource levels or contract term. Western was also asked if the application of the PMI to the CVP would take place with or without a public process. These comments also state that applying the PMI to the CVP will assure consistency across all of Western, and allow the 2004 process and the customers to focus on other issues. The commenters believe that a definite level of commitment and contract term, known now, is worth trading for larger percentage allocations and longer contract terms in a more uncertain future and that applying the PMI to the CVP will streamline the CVP EIS process, and integrate the planning process between the two programs. Western is impressed by the comments favoring an immediate but limited application of the PMI to the Central Valley Project, subject to the findings of the project-specific EIS currently underway. However, Western wants to protect the integrity of the ongoing project-specific marketing process. Application of the PMI to the CVP is best addressed in the separate public process.

One comment expressed appreciation for the decision not to propose application of the PMI to CVP and the SLCA/IP at this time, as large adjustments of marketable resources will be needed to meet environmental concerns for these projects. This comment expressed concern that the Program will create a precedent for these two projects. Western sees no reason to change its initial proposal to evaluate applicability of the PMI after the Salt Lake City Area/Integrated Projects Electric Power Marketing EIS is completed and the associated marketing criteria and contract changes are implemented. These steps are scheduled for completion in the near future. Western expects to start the evaluation process soon thereafter.

A comment was received questioning the decision to apply the Power Marketing Initiative to the LAP given that existing contracts do not expire for another 10 years. Other comment received supports application of the PMI to the Loveland Area Projects after the 1999 resource adjustments are complete. Western did not change its proposal regarding application of the Power Marketing Initiative to the Loveland Area Projects. No resource extension offer will take place until the analysis of potential LAP resource adjustments in 1999 has been completed. The analysis and implementation of any 1999 resource adjustments will take place no later than 1996. Given the time period that it takes to develop alternative resources to replace unextended LAP power, application of the PMI to LAP now is prudent. The resource certainty that results will assist Western's customers in developing effective integrated resource plans.

2. Contract Term

a. Background

In the proposed Program, an 18-year contract term was proposed, with the contract term to start from the date existing contracts expire.

b. Comments and Discussion

Western received many comments supporting extending the contract term from 18 to 20 or 25 years. The reasons customers overwhelmingly supported extending the contract term follow: a longer term would help short and long range planning; a longer term would add resource and rate stability; a longer term would benefit the environment by customers being more willing to make financial commitments to environmentally sound project enhancements; a 20 year term would be consistent with the IRP submittal cycle of 5 years; a longer term would be comparable to the amortization of long term investments in base load power plants and renewable resources; a longer term would correspond to existing all requirements contracts; an eighteen year term may jeopardize Western's obligations under an existing exchange arrangement; an eighteen year term would require existing customers that contracted for Federal power when it was not economical to give up too much of their existing benefits without equitable treatment; a longer term conforms to the Tennessee Valley Authority practices; and a longer term would allow customers to make commitments to demand side management programs and capital-intensive renewables. Western is persuaded by the comments supportive of a longer contract term. Section 905.31 of this final rule establishes a 20-year extension of resources.

In developing a proposal for the length of the resource extensions, Western has considerable discretion. One of the limits on that discretion is the prohibition, as set forth in the Reclamation Project Act of 1939, on power sales contracts with terms in excess of 40 years. Western may legally consider commitments of power up to, but not beyond, this 40-year maximum.

Western adopts a resource extension period of 20 years for several reasons. This time period is long enough to maintain a sufficient customer planning horizon. Long-term project financing, whether for supply-side, demand-side, or renewables, would be feasible with such an extension. Western agrees that financing of renewable resources is particularly sensitive to Federal hydropower resource uncertainty. Twenty years will maintain the resource and rate stability necessary for effective integrated resource planning. At the same time, 20 years is not so long that Western cannot reasonably guarantee the availability of the extended resource. The proposal of a graduated resource pool available to new customers gives Western the flexibility to allocate power equitably over the term of the contract.

Western's goal is to provide a sufficient incentive for new customer preparation of IRPs and to offer a contract term compatible with the time horizon for other resources evaluated in IRPs. Another goal is to reduce the amount of Western, customer, and public time and resources spent on marketing plan development. An extension of resource commitments for 20 years beyond the expiration date of contracts with existing customers would mean that new contracts would be in place until at least 2020. In other words, initial extensions would be about 25 years from the date that extension commitments are offered to customers of the Pick-Sloan Missouri Basin Program—Eastern Division; this time period approaches the average useful life of thermal generation.

Western agrees that a 20-year contract term is more comparable to those existing between the Tennessee Valley Authority and its customers. Western also agrees with the comments suggesting that a 20 to 25 year contract term is consistent with industry standards for firm sales. Recently issued RFPs have also entertained resource acquisition options on a long-term basis. Western also concurs with the comment

that a 20-year contract term fits better with the 5 year IRP preparation and approval cycle.

The selection of a 20-year extension contract term helps to answer the comment that the proposed Program asked existing customers to give up too much. The additional 2 years helps to provide an appropriate balance between existing customers, who in many cases chose to enter into hydropower contracts with the United States before the economic benefits of such a choice were clear, and other needs reflected in the Program.

Western believes that adoption of a relatively short contract term could impact the resource stability required to meet Western's obligations under the exchange arrangement with the Salt River Project. In particular, the pattern of power allocations over time could change the use of Colorado River Storage Project transmission, which could in turn impact the exchange arrangement. Twenty year contracts support the resource stability that in turn impacts usage of Western's transmission system.

A comment was received that stated eighteen year contracts are 3 years too long. According to this comment, most of the power contracts that Western has signed have been for 15-year terms, and a 15-year extension strikes the right balance between the customer's need for certainty and the Federal government's desire for flexibility so the changing needs of the West can be addressed. Western agrees that many of its historic contract terms have been 15 years in length. Currently effective contracts for the sale of power from the Pick-Sloan Missouri Basin Program—Eastern Division, the Loveland Area Projects and the Salt Lake City Area/Integrated Projects are all 15 years in length. However, a significant number of contracts have been in excess of this time period. Power sales contracts for the Parker-Davis Projects are 20 years in length, while the currently effective Boulder Canyon Project contracts are 30 years. Contracts for the sale of Central Valley Project power have variable terms, with the longest contracts approaching 40 years in length. The historic precedent for contract length is not confined to 15-year commitments, and is consistent with the 20-year term adopted in the final Program regulations.

A comment received suggested rollover 18-year extensions every 5 years upon submittal of an updated IRP. A rolling extension of contracts on a long-term basis at the customer's option, upon submittal of future IRPs to Western, would cause hydropower resources to be extended too far into the future for Western to respond to changing circumstances over time.

Western has provided for resource adjustment capability as part of the PMI. Initial extensions would be based on the resource available at the time existing contracts expire. This allows Western to respond to changes in operations at Corps of Engineers (Corps) and Bureau of Reclamation (Reclamation) hydroelectric plants before the term of contract starts for extended resources. In addition, Western can make further adjustments in its marketable resources in response to changes in hydrology and operations upon 5 years' notice. Because of this capability, no need exists to extend resources for a minimal time period to protect fish and wildlife resources. The impact of the PMI can be summarized as an extension of existing commitments, with the recognition that adjustments to the marketable resource as a result of operational accommodations for fish and other wildlife resources can be accomplished within the extension framework.

Western realizes that the draft EIS predicted relatively greater environmental benefits for contract terms in excess of 20 years. Western's proposal balances environmental benefits associated with resource certainty against the need for flexibility to respond to changing circumstances over time.

Some of Western's customers suggest that since they have paid for projects in the past, they should have first call on resources in the future. Western agrees that the resource choices made by customers in the past have led to the construction or purchase of certain supplemental generating resources, as well as investment in transmission resources or negotiation of transmission service contracts. Western does not want to disrupt regional power supply and transmission arrangements at considerable economic and environmental cost to the area. At the same time, Western's existing customers have no equity position in Western's facilities, and they have no right to receive power from Western in the absence of a contract. Western believes the public interest is served by having the flexibility to meet a fair share of the needs of new customers from the publicly owned and financed hydroelectric facilities in the West.

Western agrees with a comment received that states the Program does not provide its customers with absolute resource certainty. Instead, the Program attempts to provide as much certainty as possible to facilitate the development of integrated resource plans, while retaining the flexibility to respond to changing conditions and evolving needs.

A comment received stated Western should consider a longer contract term, such as the 35-year term associated with FERC relicenses. This comment recognized how virtually all access to hydropower is controlled by Federal policy, either through FERC or the power marketing administrations, but the costs for that power differ. FERC licensees pay only for capital costs and O&M, while CVP customers must subsidize other project purposes such as those under the Central Valley Project Improvement Act. Differences in commitment lengths between FERC licensees and CVP power sales contracts only compound the inequity in a competitive and price-sensitive market. These comparability factors should be an additional basis for extending contracts for the longest possible term.

In response to these comments, Western notes that the holder of a FERC license typically plans, funds, and constructs the hydropower resource itself. A long-term license is appropriate in such a case, given the length of the construction debt service and the responsibilities of the licensee. With Western's resources, the planning, construction, financing, operation, and maintenance of the hydroelectric generation and high-voltage transmission is usually the responsibility of the United States. Since the two situations are not strictly comparable, Western feels that a proposal of a 20-year term of contract is appropriate.

Western agrees with the comment that the utility industry is increasingly dynamic, and that utilities must be flexible and forward-looking in order to be successful. The IRP requirement in this Program will provide Western's customers with the tools necessary to succeed in a changing utility climate.

Many comments were received from the public indicating that an extension of resources would assist IRP and not hinder future resource planning.

Western does not agree with the comment that long-term contracts will be a disincentive to improving energy efficiency. Short-term contracts cause customers to focus on the uncertainty surrounding the Western resource, rather than looking to implementation of cost-effective energy efficiency and DSM to meet future needs. Western only provides a portion of the resource needs of its customers, about 30 percent on average Western-wide. The cost of supplemental resources, whether supply-side or demand-side, is usually significantly higher than the cost of

Western's resources. Supplemental resource prices provide a significant incentive to implementation of cost-effective energy efficiency improvements.

Some customers indicated that their willingness to fund environmental improvements would be impacted by short-term contracts. Western agrees that short-term contracts could be a disincentive to the implementation of environmentally beneficial project improvements in support of the Clinton Administration's climate control action plan.

Several comments were received stating that Western power preserves the competitive balance in the utility industry. Western's hydropower commitments provide a yardstick that enhances competition in the utility industry within Western's marketing area. Twenty-year contracts help preserve the competitive balance in the regional utility industry.

3. Extension Percentage

a. Background

Western proposed to extend a major percentage of the power currently under contract with long-term firm power customers. The exact percentage to be extended would be determined on a project-specific basis, based on the amount of power needed to meet a fair share of the needs of potential new customers within the marketing area.

b. Comments and Discussion

Western received numerous comments that support a contract rate of delivery extension of 97 or 98 percent. One comment did not support a resource pool. Some comments were specific and suggested that current allocations should be the basis for application of the extension percentage or that the percentage withdrawal should be based on customer allocations existing in the year 2000 for Pick-Sloan Missouri Basin Program—Eastern Division customers and that withdrawals after that time should be based on the resource available to the customer at the time. One comment received stated that a 100 percent extension was preferred and another comment suggested that existing customers should receive maximum allocations.

The amount of unextended resource was determined on a project-specific basis by assessing the amount of power that must be reserved in order to meet a fair share of the needs of potential new customers. In deriving the size of the initial resource pool for each project, Western reviewed letters of interest from potential new allottees, potential new customer load information and analysis of any hydropower benefits currently being received by a potential new customer. Due to significant expressions of interest by Native Americans, Western has increased the size of the initial resource pool for those projects initially subject to the PMI. Subsequent resource pool increments have been reduced to compensate for the increase in the initial pool. Section 905.32 provides that for the Pick-Sloan Missouri Basin Program—Eastern Division and the Loveland Area Projects, Western will reserve 4 percent of the marketable resource determined to be available at the beginning of future resource extensions. Subsequent increments of the resource pool have been reduced to no more than 1 percent.

The final rule recognizes that power reserved for new customers but not allocated and resources offered but not placed under contract may become available. Section 905.32 (e) provides that this power will be offered on a pro rata basis to existing customers that contributed to the resource pool through application of the extension formula. No firm power is expected to go unmarketed at any time.

The Program provides for the creation of two additional resource pool increments in the future for all of Western's projects covered by the PMI. At two intervals of 5 years after the effective date of the extension to existing customers, Western will create a project-specific resource pool increment of up to an additional 1 percent of the resource under contract at the time. The actual size of the additional resource pool increment will reflect the actual fair share needs of new customers and other purposes as determined by Western.

Western believes that the final Program provides an appropriate balance that recognizes the importance of certainty in customer planning efforts. An extension of Pick-Sloan Missouri Basin Program—Eastern Division and Loveland Area Project resources at a 96 percent level is substantial enough so existing customers will not have to build new generation or enter into large purchases of thermal generation. A lesser level of extension could cause customer pursuit of other resources, with potential associated economic and environmental impacts. The resource planning of auxiliary suppliers would be disrupted by the nonextension of a significant percentage of Federal power.

One comment stated that the percentage reduction should be applied to the allocation existing at the time, not the resource existing at the time of the contract extension. The current allocations to the customers will not be adopted as the basis for application of the resource percentage, as this approach could limit Western's short-term capability to adjust its marketable resources in response to changed operations and hydrology. Western believes a more flexible approach would be to apply the percentage to the marketable resource that is determined to be available at the beginning of future resource extensions. In this way, changes in operations or hydrology between today and the time existing contracts expire can be readily accommodated.

One of two comments received concerning the resource pool stated that given the great sacrifice of an initial 3 percent resource pool, the 1.5 percent additional increments should be based on the resource available at the time, while the other comment said there was no need for two additional resource pool increments. Another comment stated that they support a 2 percent resource pool. In the case of creation of resource pool increments subsequent to the initial pool, Western agrees with the comments that the percentage should be applied to the resource available at the time. The proposed Program, which suggested application of all percentages to the resource available at the time existing contracts expire, had some disadvantages. Application of the percentage to the resource available when existing contracts expire could create administrative confusion if the actual resource under contract was different. If the resource available several years into an extension contract was less than the marketable hydropower at the beginning of extension contracts, application of a percentage to the earlier, larger amount would create a higher effective percentage as applied to the existing resource. Western agrees with the comments recommending a change in the proposed approach. The final rule reflects this more simplified method.

One commenter points out that Western has not shown any reason for increasing the Pick-Sloan resource pool above 3 percent. The initial Pick-Sloan resource pool has been increased to 4 percent in the final rule, to assure that a fair share of the needs of Native Americans can be met. The rationale for creating two future resource pool increments of up to 1 percent each is to meet future needs that Western cannot currently identify. This flexibility is necessary to support a 20 year contract term.

Western understands the comment expressing concern about tying future allocations to a percentage of an amount to be determined, especially when Western may not know what it has to market from the Missouri River Basin generation until after the year 2000. Although Western appreciates the suggestion that a percentage of today's contractual amount be extended with an option to adjust the extended resource, others have expressed the concern that such an approach would create unwarranted power availability expectations on the part of firm power customers. Western believes that either adoption of this comment or retention of the approach of the proposed Program will lead to the same resource commitment. Western chooses to retain the approach of the proposed regulations.

One customer commented that a 97 percent initial extension level asks existing Pick-Sloan customers to give up too much, especially when coupled with the additional resource pool increments, exposure to adjustments due to changes in hydrology and operations, and withdrawals for project use. In contrast, another comment was received that the resource pool percentages should be increased to a 6 percent initial level, followed by two additional increments at 5 percent each. For the reasons stated earlier, Western believes the final rule strikes an appropriate balance among the relevant considerations.

Western recognizes that existing customers made an historic choice to pursue Federal hydropower and that some customers elected to purchase this resource before the economic advantages were clear. However, Western does not believe that the historic enjoyment of the benefits of Federal hydropower means that a customer has a perpetual right that cannot be diminished. Western's policy of promoting widespread use and the potential allocation of power to new preference customers must be balanced against the fact that existing customers have developed contractual relationships with supplemental suppliers, transmission arrangements with Western or third parties, and in some instances have constructed transmission facilities to receive Federal power. Western believes that this final rule provides for a proper balance among these policy considerations.

Comments concerning the marketable resources or the loss thereof for the Salt Lake City Area/Integrated Projects and the Central Valley Project were received that suggest that an additional 2 percent resource pool seems inappropriate for the Salt Lake City Area/Integrated Projects; that the resource pool for the Central Valley Project may be premature and too restrictive; that extensions for CVP resources should be in the 90–95 percent range and CVP unbundled services should be offered pro rata in 2004 in line with these percentages; that there is support for limiting the CVP resource pool to no more than 6 percent of the available resource which would minimize any disruption of customer planning efforts and avoids confusion between allocation issues and resource availability, yet allows Western to distribute the benefits of Federal power to new customer; that a 3–5 percent initial CVP resource pool is reasonable given the changes that are taking place within the industry; and that the initial CVP pool should not be larger than 2 percent given the two additional increments.

In the final rule, Western has not defined the size of the initial resource pool for the Central Valley Project and the Salt Lake City Area/Integrated Projects. The actual size of resource pools for these projects will be determined at a later date through project-specific public processes. Comments relating to these resource pools should be advanced at that time.

Western received a comment that stated that the Master Operating Manual process and the adverse impact of Corps of Engineers operations on wetlands, fish and wildlife and endangered species will likely affect electricity production on the Missouri River. Similar changes are possible on the Platte, Arkansas and Rio Grande rivers. Western's proposal will create an expectation that 94 percent of existing allocations will be reserved for existing customers. This will make it difficult to modify dam operations in the future. Evidence from the comments received on the draft EIS suggest that 6 percent is not enough to meet the needs of new customers and to respond to changing environmental concerns.

Western does not agree that the resource pools for the Eastern Division of Pick-Sloan and the Loveland Area Projects should be increased in size to enhance the ability to modify dam operations. Ample opportunity exists under the Program to adjust marketable resources in response to changes in reservoir operations. In the short-term, Western can accommodate such changes by applying the extension percentages to the marketable resource determined to be available at the beginning of future resource extensions. Operational decisions by the generating agencies in the shorter term will be reflected in the initial commitment to customers, as the extension percentage will be applied to the resource available at the time current contracts expire. Over the longer term, Western can adjust its commitments on 5 years' notice due to changes in operations and hydrology. Western is not creating a customer expectation that a percentage of existing allocations will be reserved for existing customers. Considerable flexibility exists in the final regulations to address the concerns raised in this comment.

No evidence has been produced to show that 6 percent is not enough to meet the needs of new customers. Environmental concerns will be addressed through the extension approach and withdrawal opportunities explained above, and not through use of the resource pools. Six percent should be more than is needed to meet a fair share of the needs of potential new customers. Western sees no reason to create a resource pool larger than that needed to meet a fair share of the needs of potential new customers.

4. Resource Pool Creation

a. Background

In the August 1994 Federal Register notice, Western proposed the creation of project-specific resources pools through a reservation of power not extended to existing customers. Existing customers with an allocation of one MW or less were not subject to the reservation. New customers receiving an allocation from an initial resource pool were not subject to withdrawal to form subsequent resource pool increments. The possibility of extending resources on a graduated scale, weighted towards some customer characteristic, was suggested early in the public process.

b. Comments and Discussion

Western received many comments on the issue of equity in the proposed creation of the resource pool. The majority of the comments on the issue objected to special treatment for customers with an allocation of one MW or less. Specific comments are that Western has provided no justification for exempting entities with a contract rate of delivery of one MW or less from resource pool creation, that the administrative burden of withdrawing power from entities with small allocations is not great; that it is inequitable to have an exemption from contributing to resource pools for customers with allocations of one MW or less; and that all resource reductions should be shared pro rata, with no exceptions for certain customers.

Western's rationale for exempting small entities from a contribution to the

resource pool was threefold. First, Western felt that the benefits associated with small allocations of hydropower would be diluted if all customers contributed to the resource pool. Second, the administrative issues of applying resource extension percentages to small allocations influenced Western's proposal. Third, there were not many entities with allocations of one MW or less, so the impact of the proposal on other customers was not large.

Upon further consideration, Western withdraws the proposal to exempt entities with allocations of one MW or less from contributing to the resource pool. For some small customers, an allocation of one MW represents a high percentage of their total load. Exempting an entity because of the size of their allocation is inequitable if that customer has a high percentage of its needs met by Western. The administrative issues underlying the original proposal are manageable. In fact, creating separate classes of customers leads to its own set of administrative issues. The fact that a small amount of power is involved is not dispositive, as the issue is more one of equity and fairness than one which hinges on the amount of power involved.

Western agrees that the proposed Program was not consistent in its treatment of customers with small allocations. For example, Western did not propose to insulate customers with small allocations from withdrawals for project use or from withdrawals of marketable resources due to changes in operations and hydrology. The final rule eliminates this inconsistency by treating all customers alike.

Several comments suggested that the one MW limit on withdrawals should apply even if the entity is a member of a member-based association or an IRP cooperative. With the elimination of the one MW exception, these comments are no longer relevant and need not be addressed.

Other comments were that withdrawals should apply to all customers with no exception for new customers; that allocations to new customers should be allowed to increase rather than automatically be reduced in their infancy through use of the extension formula; and that power reserved for project use should be used for new customers instead of taking it away from existing customers. This is another issue that received a number of equity-based comments—Western's proposal to exempt new customers receiving allocations out of the initial resource pool from withdrawals to create future resource pool increments. The rationale for this proposal was to avoid the dilution of recently-received hydropower benefits.

After considering these comments, Western has decided to abandon this aspect of its Program proposal. There is no strong policy reason to depart from equitable treatment for all customers. A new customer contribution to future resource pool increments would not be a large amount of power, so the benefits of the Western allocation out of the initial resource pool would not be diluted significantly. The administrative complications that arise from creating more than one class of firm power customer for withdrawal purposes are avoided by treating all customers the same.

Customers also commented that Western should only create a resource pool if there are set time periods, restrictions as to amount, and defined customer demands; more consideration must be given to how resource pool power will be priced and marketed; and subsequent increments of the resource pool are inconsistent with Western's stated goal of resource stability. Western concurs with the comment that a resource pool should only be created if there are set time periods and restrictions as to amount. However, it is difficult to define precisely the demands of new customers prior to creation of the resource pool. That can only be done after a call for applications is published in the Federal Register, and applications are actually received. Western cannot precisely define the needs of new customers at this time. Instead, Western has promoted the widespread use of its hydropower resources through establishment of a resource pool based upon a fair share of estimated needs. If the pool size is too large, the unallocated power or power not placed under contract is returned to the customers who contributed power towards the initial resource pool on a pro rata basis.

Western intends to charge new customers the same rate for power as that charged to existing customers. Western will not purchase resources for new but not yet identified customers, as the appropriate level of Western's marketable resources should be determined through a project-specific analysis of hydrology, project use load, losses and reserves. Committing resources beyond this level would increase the risk of purchasing firming resources.

Comment was received that the proposed Program does not recognize that some customers get a high percentage of power from Western while others do not. On the whole, little support was received for the concept of extending resources on a graduated-scale basis. The issue here is whether extensions should be offered on a pro rata basis to all existing customers or if extensions should take place on some other basis, such as the percentage of the total customer load that is served by Western. Given the lack of significant public support for the graduated scale concept and the associated administrative complexities, Western has adopted a pro rata policy under which existing customers will receive the same treatment in the application of the extension.

Comment was received that the wide variation in percentage of customer load served from the Central Valley Project should be addressed through the PMI. While Western will not depart from the general policy of a pro rata extension of resources, Western's Sacramento Area Office reserves the right to achieve more parity among allocations to existing CVP customers. Allocations to existing customers may be made out of the CVP resource pool to assure that each customer has some minimum percentage of its needs met by Western. This will be considered during the public process on the CVP power marketing plan.

According to some commenters, the creation of subsequent increments of the resource pools are inconsistent with Western's stated goal of resource stability. To a limited extent, this comment is correct. The final Program strikes a balance between the need for resource stability and the need for flexibility to meet changing circumstances.

One customer commented that Western should use energy efficiency improvements rather than withdrawals from existing customers to create the initial resource pool, while another stated that savings opportunities recognized in Western's use of IRP principles can be used to develop resource pools, reducing the need to withdraw from existing customers. To the extent that cost-effective energy efficiency improvements can be captured, Western will take steps to make such improvements a reality. Potential for such improvements could be identified through the use of principles of integrated resource planning. Flexibility has been retained in the Program to allocate power available due to implementation of such efficiencies. If adopted on a project-specific basis, Western could use efficiency improvements to offset the need to form a resource pool through withdrawal of power from existing customers.

Some of Western's projects have reserved power for future project use loads, but have not marketed this resource as firm power on a withdrawable basis. As an example, this marketing approach is used by the SLCA/IP. If proposed and adopted on a project-specific basis, Western could use project use power, marketed on a withdrawable basis, to offset the need to form a resource pool through withdrawal of power from existing customers.

5. Resource Pool Uses

a. Background

In the proposed Program, Western advanced a concept to allocate power out of project-specific resource pools to new preference customers within the marketing area, and to meet other purposes as determined by Western. The specific terms and conditions associated with allocations out of each resource pool would be determined during future, project-specific public processes.

Western said it expected to make allocations to Native Americans for use on the reservation, and would consider making allocations to national parks, public mass transit agencies, in support of renewable resources and fish and wildlife habitat.

b. Comments and Discussion

Comment was received that new customers don't need resources and that they just want cheaper resources at the expense of those who made wise long-term decisions many years ago. Western does not necessarily agree that new customers don't need resources. Load growth could create such a need, as could expiration of a purchase power contract or the retirement of generation. One of Western's goals in the PMI is to achieve widespread use of Western's resources. Reservation of a modest percentage of resources to create a resource pool is consistent with a policy of encouraging widespread use of Federal hydroelectric power.

One customer commented that the resource pool should be first used to make adjustments in response to changes in operations/hydrology. Western does not agree. In response to public comments in favor of equity among all customers, Western has adopted in this final rule a policy of treating new customers and existing customers alike. Making the resource pool subject first to adjustments would discriminate against new customers when allocations are made from the pool before adjustments take place. Given the adoption of a separate resource adjustment mechanism in these regulations, there is no need to make the resource pool subject to resource adjustment.

It was suggested that all resources be marketed, and that resource pools should have a maximum ceiling, but should only be allocated to meet new loads that actually develop. Western agrees that all available resources should be marketed. The intent underlying the PMI is to market as much firm resource as would have been marketed in the absence of the PMI. Allocations out of each resource pool will be completed before the term of the extension contract begins. Power reserved in a resource pool but not allocated and resources offered but not placed under contract will be offered to existing customers that contributed to the resource pool, in accordance with the final rule. The comment which asks that resource pools have a maximum ceiling has been adopted in the final rule.

Comment was received that under the current proposal an existing customer will not be eligible to receive power out of a resource pool; an existing customer receiving power from only one Federal project would be precluded from applying for power from another project's resource pool; and that this is a clear departure from Reclamation Law. In the past, Western has allowed preference entities to receive power from more than one project when marketing areas overlap. Given the significant new customer load that exists in portions of Western's service territory, Western is not willing to continue this policy on a Western-wide basis. On this issue, Western will retain the flexibility set forth in the proposed Program. An existing customer will not be eligible to receive power from a resource pool unless Western provides otherwise on a project-specific basis. Comments on the eligibility of existing customers to receive resource pool power will be accepted as part of the project-specific public process.

Comment was received favoring use of the Central Valley Project resource pool to achieve a fairer distribution of power. Western reserves the right to use the CVP resource pool in this manner, subject to public input received during a project-specific public process.

Several comments advocated allocations of resource pool power to customers with renewable resources in their mix and customers that have documented efficiency improvements through IRP. Other comments suggest that new customers represent emerging markets for Western, or that allocations to the Federal government have national benefits. Since the specific criteria associated with allocations to new customers will be determined during future, project-specific public processes, these comments are more appropriately raised and addressed at that time.

Customers commented that sales from the pool should be on the same terms and conditions as with other contractors. Western also received comment that a definition of ''fair share'' is needed. Western agrees that sales from the pool should be on the same terms and conditions as with other contractors. No definition of ''fair share'' will be adopted as part of these regulations due to the difficulty of developing a meaningful definition on a Western-wide basis. A specific determination of ''fair share'' will be developed during the project-specific allocation processes, which will take place during a time period closer to the expiration date of existing contracts.

6. Resource Adjustment

a. Background

In the August 9 Federal Register notice, Western proposed to adjust its long-term firm resources only in response to changes in hydrology and river operations. Existing customers would receive at least 5 years' notice before adjustments are made.

b. Comments and Discussion

Comment was received that Western should change its marketable resource in response to changes in operations after the extension term begins only if such a change adversely impacts Western's ability to meet its contractual obligations. Under the PMI resource adjustment provision, section 905.34, however, Western retains the flexibility needed to react to either changes that are adverse or beneficial to Western's marketable resource. Western will not limit the exercise of this adjustment provision to circumstances that adversely impact our ability to meet contractual obligations.

A customer commented that any changes to marketable resources—not just significant changes—should be subject to a public process, and that adjustments in resources should be triggered only by changes in river hydrology or mandated operating adjustments such as new legislation and that if other factors affect determination of the allocated resource, Western should conduct public proceedings. Western agrees that any changes in our long-term marketable resource should be subject to a public process. Western also agrees to limit the exercise of this

resource adjustment provision to changes in hydrology and operations.

It was suggested that adjustments to contract rates of delivery be limited to no more than 5 percent. Some customers also commented that they support the 5 year window to make changes in resources based upon changes in operations/hydrology. A 5 percent limitation on contract rate of delivery adjustments would enhance the stability of Western's hydropower commitment, but would not give Western the flexibility it needs to react to changing circumstances such as generating agency adjustments to operations.

Western has experienced adjustments in operations that have impacted long-term firm power in excess of 5 percent in the past. Western needs the ability to react to these situations, even though they may be infrequent in nature.

Finally, comment was received concerning the withdrawal opportunities not likely being large enough to manage future environmental problems, encourage renewables, or meet the needs of new customers. Comment was also received that the added flexibility that Western has proposed on resource withdrawals is good. The more open-ended approach in the final rule should satisfy the concern that the withdrawal opportunities are not likely to be large enough to manage future environmental problems. Other provisions of the Program, or separate Western initiatives, will encourage renewables and meet the needs of new customers.

7. Notice

a. Background

Western has proposed the creation of an incremental resource pool that makes power available for potential new customers over time, without the disruptive influence of creating a large pool all at once, before the need exists. At two intervals of 5 years after the effective date of the extension to existing customers, Western proposed to create a project-specific resource pool increment of up to an additional 1.5 percent of the marketable resource. No provision for the timing of any advance notice was proposed.

b. Comments and Discussion

Comments were received that Western needs to better define the conditions and the notice provisions for future withdrawals of power, and that advance notice of incremental resource pool reductions should range from 2 to 5 years. Western agrees that customers need to have advance notice of the amount of future withdrawals of power. Five years' notice appears to be too long given the relatively low ceiling of 1 percent of the marketable resource available at the time, and the 5 year intervals between the initial resource pool and the two subsequent pool increments. Instead, Western has added a notice provision that gives customers at least a 2 year notice on withdrawals to create subsequent resource pool increments. The conditions for future withdrawals of power will be defined on a project-specific basis.

Comment was received that Western needs to clarify how it will notify customers about the availability of power due to penalty imposition. Other comment suggested that such power should be marketed in the same Area Office region first, and that Western needs to reconcile the reinstatement of power proposal with the notice to be given to those purchasing the penalty power. Western plans to provide notice to all long-term firm power customers within the project's marketing area. Of these customers, only those not currently being penalized for non-compliance with the IRP/small customer plan provision of these regulations may be offered an opportunity to place the penalty power under contract. The comment regarding the need to reconcile the reinstatement of power with the withdrawal notice timing is valid. The regulations have been changed to avoid any conflict.

8. Native American Issues

a. Background

In the proposed Program, Western expressed an expectation that resource pool power would be made available to Indians for use on the reservation. No utility status was required as a prerequisite to receipt of an allocation.

b. Comments and Discussion

Western has taken several steps toward assisting Native Americans in meeting their needs for cost-based hydroelectric power. In the past, the benefits of hydropower have been realized by Indians through allocations to cooperatives that serve tribal load. In the future, Western expects to make allocations directly to the tribes.

A number of comments were received on Native American utility status, ranging from strong objections to eliminating the utility responsibility requirement to strong support for eliminating it. Interested parties commented that the definition of preference customers should remain fixed, or otherwise the maximum will be taken from existing customers in later resource pool increments. Western has always considered tribes to be preference entities, but has not historically allocated power to Native Americans in the absence of utility status, eligible irrigation load or special legislation enacted by Congress. Western's change in policy, through removal of the utility status requirement, is in keeping with the spirit of DOE's Indian policy, and recognizes the special and unique relationship between the United States and tribal governments.

This limited and narrow policy change does not subvert the preference clause set forth in section 9(c) of the Reclamation Project Act of 1939. An overview of the range of preference customers Western currently serves helps put this issue in perspective. Western has marketed power historically both to preference utilities, such as municipal utilities and cooperatives, and non-utilities, such as irrigation districts, Federal installations, universities and prisons. Utility status is required for cities to be eligible to receive Western power under the preference clause. *Salt Lake City et al.* v. *Western Area Power Administration, et al.* 926 F.2d 974 (10th Cir. 1991). This precedent is not disturbed or overturned by these regulations. Western has discretion to determine the eligibility of Indian tribes and other entities entitled to preference in the allocation of Federal power. This policy change is limited in scope, in accordance with the policy underpinning described above, and is not a precedent for future erosion of the preference clause.

Comments were received favoring a 3 percent resource pool going to Native Americans if there is no disruption to the preference customer currently serving those loads. Comment was also received that new customers should be accommodated from new/expanded resources instead of taking power from existing customers that already have rates higher than the regional average; and expressing the view that it is not in the public's best interest to extend preference beyond the requirement of utility status.

No disruption to the preference customers currently serving tribal loads need occur. Proposals for providing allocations directly to the tribes will be developed on a project-by-project basis during the allocation of power from project-specific resource pools. Many of the more detailed comments Western has received on the issue of delivery of power to Native Americans cannot be answered at this time. However, some basic approaches have been set forth in this rule in section 905.35 and in

section IV of this supplementary information section. Western will consider arrangements for the delivery of the benefits of cost-based Federal power to non-utility Native American tribes, such as through credits on power bills.

Customers commented that preference and cost-based pricing must be observed and there should be no disruption to preference entities currently serving Native Americans. Customers and stakeholders commented that most Indian tribes already get 50 percent of their needs through coops; the arrangements should not result in financial hardship or additional responsibilities for the cooperative; the distribution cooperative should be kept as part of the transaction—possibly through the use of bill credits; the existing service territories of cooperatives must be protected; rural electric cooperation has been pledged to assure that delivery of power allocated to the tribes takes place and that a monthly billing credit approach is evolving in the Eastern Division of Pick-Sloan; and Western's allocations to tribal members should be based on usage within the servicing cooperative's territory. Western was also asked to put provisions in firm power contracts with cooperatives requiring distribution of power to the tribes at fair and reasonable costs.

Entities providing delivery services, such as rural electric cooperatives, should be fairly compensated for services provided. No additional responsibility will be required without appropriate financial compensation. Preference and cost-based pricing will be observed. Due to the decision to allocate power directly to tribes, without regard to utility status, there should not be any threat to the existing service territories of cooperatives because of these regulations. Western understands that some tribes are considering utility formation, but this action would not be required to receive a firm power allocation from Western.

It is true that many Indian tribes currently served by rural electric cooperatives already receive a portion of their needs from Western through the cooperative's blended rate. The amount varies from tribe to tribe. The magnitude of the benefit already received, among other factors, could influence Western's development of proposed criteria for future allocations of power from project-specific resource pools.

There was a question as to how tribes being served by investor-owned utilities will be handled. Western has not decided how tribes being served by investor-owned utilities might be handled. While Western's rural electric cooperative customers have been cooperative in working with Western and the tribes on workable delivery arrangements, investor-owned utilities serving reservation load have not been similarly involved to this point. A potential exists for the investor-owned utility community to resist comparable delivery arrangements based upon retail wheeling concerns. This issue will be addressed during Program implementation.

Diverse comments were received on the Pick-Sloan marketing area, with some comments favoring expansion; other comments favoring reduction; with most arguing for maintenance of the current Pick-Sloan marketing area. Western does not believe that equity or the public interest is served by adjusting the Pick-Sloan Missouri Basin Program-Eastern Division marketing area in the Power Marketing Initiative. Existing customers outside of the Missouri River Basin, principally in Minnesota and Iowa, have developed contractual arrangements with supplemental suppliers, have transmission arrangements with Western or third parties, or in some cases constructed transmission facilities to receive Federal power. Changing the marketing area to exclude these customers would create unnecessary disruption in regional power supply arrangements and lead to resource uncertainty that could hinder quality integrated resource planning. For these same reasons, Western will not require a larger withdrawal from customers located outside the Missouri River basin.

A comment was received that the Blackfeet Nation should be included in the marketing area for the Eastern Division of Pick-Sloan. The marketing area of the Pick-Sloan Missouri Basin Program-Eastern Division need not be expanded to include the reservation of the Blackfeet Nation. As the reservation is east of the Continental Divide in Montana, it is currently within the marketing area.

It was suggested that there is a potential for cooperation between a tribe and a rural electric cooperative on integrated resource planning. Western agrees that there is potential for cooperation between a tribe and a rural electric cooperative on an integrated resource plan. In addition to the benefits of joint planning and avoiding duplication, the tribe and the cooperative could apply for IRP cooperative status and receive an additional 6 months to submit an initial IRP.

The intent of the Program is for the benefits of hydropower allocations to go directly to individual tribal consumers. This is consistent with treatment of other Western customers. Tribal councils will be involved in the process of accomplishing this goal.

There were many comments concerning power allocations. Questions received were: (1) Will the tribes be able to act with complete independence in determining who receives the benefits? (2) What types of loads are appropriate targets for Western power? (3) Who will hold the allocation? (4) How will transmission compensation be handled? (5) How will the closed/open reservation issue be addressed? (6) Who must approve the agreement? (7) Who will be responsible for paying Western? Comments stated that a tribe should be required to demonstrate the existence of an agreement with a viable utility capable of delivering power and that the allocation should be made to the tribe and the utility that will transfer the resource; Western must be willing to reduce allocations to cooperatives that would otherwise benefit from allocations to tribes; the benefit of the allocation should be reflected on the power bills of the tribes; and allocations for tribes should be based on ''usage by tribal members within the preference customer's service territory.'' Western sees no need to reduce allocations to cooperatives that would otherwise benefit from allocations to tribes. In the Eastern Division of Pick-Sloan, most of the discussion with tribes and customers regarding delivery of power has focused on the use of a bill crediting mechanism that could avoid this issue of undue benefits.

Concerns have been raised over Western providing power to tribes ''for free.'' Western will not provide power to tribes free of charge. Native Americans will pay the same rate for power as any other customer.

Additional comments state that a resource pool of 25 percent is needed to meet the needs of tribes in the Missouri Basin today and into the future; the benefits of hydropower allocations must go directly to individual tribal consumers; tribes should get all new Pick-Sloan power resources due to changes in operations; the tribal councils should determine how the benefits of hydroelectric power are distributed to tribal members; Western should support a congressional super-preference for the tribes; and Western should serve all Native American existing load and meet all load growth with Federal power. Resale of Western's allocations should be allowed pending a need for the power. In response, Western maintains that the tribes should

receive their fair share of the marketable resources available. A power reservation for Native Americans of 25 percent of the current commitments from the Eastern Division of the Pick-Sloan Missouri Basin Program is far greater than that needed to meet a fair share of the power needs of the requesting tribes. A 25 percent resource pool would equal 500 MW of firm power, a resource far in excess of the loads of all potential new preference customers in the region. As documented in the EIS, there are increased environmental impacts associated with progressively larger resource pool sizes. Western believes that an extension of less than 90 percent of the resource to existing customers may lead to unnecessary power supply dislocations and potential development of new, but largely unneeded, supply-side resources, lessening the efficiency of the integrated system and defeating the purpose of the Program. Western sees no reason to allocate power to an entity in amounts greater than its loads, as this would deny a valuable renewable resource to existing customers. It is contrary to Western's policy and undermines Federal law to allow a customer to resell hydropower to third parties. Neither equity nor environmental quality is served by withdrawing power from existing customers to meet the load growth of new customers. Western intends to allocate power to Native Americans for use on the reservation out of project-specific resource pools, but will determine the size of the allocation based upon the need to meet an appropriate share of the load for eligible new customers.

Comment was received that the resource pool be enlarged to 4.5 percent to assure the pool is not so small that it limits a tribe's ''fair share'' or that the expectations of existing customers are not fixed too high. Over the last several months, Western has developed an estimate of the loads that exist on reservations within the marketing area of the Pick-Sloan Missouri Basin Program-Eastern Division. Information on the hydropower benefits currently being received by reservations has also been compiled. Based upon this information, and information from customers relating to Native American loads, a 3 percent initial resource pool was proposed. Comment was received that the proposed 3 percent initial reservation of Pick-Sloan Eastern Division power was not enough to meet a fair share of the needs of tribes, and should be increased to 4.5 percent. To assure that a fair share of the load of Native Americans is met, Western has increased the size of the initial resource pool to 4 percent.

Comments were received regarding the size of the resource pool. At present, Western supplies about 26 percent on average of the total load of firm power customers in the Eastern Division of Pick-Sloan. The size of the initial pool is large enough to meet a considerably higher percentage of tribal load than many existing customers enjoy.

Comments on the ''fair share'' concept were that Western has not addressed the tribal arguments in support of a greater than ''fair share'' allocation; Western's estimate that 45 MW of Pick-Sloan power is enough to meet a fair share of the needs of the tribes is flawed because it assumes a ''fair share'' would not exceed 70 percent and the load analysis was based on 1990 census data when the delivery of power would actually begin in the year 2000; and the term ''fair share'' should be discontinued because it is ambiguous and promotes misunderstanding and mistrust. Western regrets that tribes oppose the use of the term ''fair share'' due to its ambiguity. Western will not define ''fair share'' in this final rule, as this determination can be made better during the future project-specific allocation process for new customers within the Eastern Division marketing area.

During the comment period, it was suggested that tribes should receive all ''new'' power resources resulting from operational changes or upgrades. In contrast, another comment asked Western to accommodate new customer needs exclusively from new resources and not from a resource pool. According to this commenter, if needy groups need assistance, it should be in the form of subsidies borne by all taxpayers and not through actions that will increase power costs for rural America.

Equity is not served by dedicating future increases in resources, whether due to operational changes favorable to power production or upratings at existing powerplants, to one class of customers. The Power Marketing Initiative provides tribes with significant new benefits. Nor will Western limit new customer access to power to new power resources only. The creation of a resource pool serves the policy of promoting widespread use of hydropower. Limiting new customer allocations to potential new power resources would create additional uncertainty for new customers, as there is no assurance of the availability of such resources during any defined time period.

To date, Western has received full cooperation from Eastern Division cooperatives on the issue of delivery of hydropower benefits to reservations. Even if unanticipated obstacles to the delivery of hydropower benefits arise, Western retains the right to provide the economic benefits of its resources to Native Americans directly. Given this flexibility, Western sees no reason to include language that makes delivery of power/power benefits to tribes a condition of firm power sales contracts for cooperatives. Western, Native Americans and Western's Eastern Division customers will continue to work together to assure that the tribes receive the benefit of their allocation. Western has responded positively to requests for assistance in negotiations.

One comment suggested that Western evaluate tribal irrigation potential and integrate that irrigation into the Pick-Sloan similar to the Standing Rock Sioux and the Three Affiliated Tribes under the Water Resources Development Act of 1992. Another comment asked that more tribes receive compensation like that received by the Fort Berthoud, Standing Rock Sioux and Three Affiliated tribes. Special legislation would be required to accomplish these suggestions. Western will consider allocation of power to eligible irrigation districts in a future, project-specific resource pool allocation process.

Western has no authority to adjudicate Indian water rights and negotiate such rights with the states. This activity is outside the scope of Western's mission, and should be addressed through direct discussions with the responsible agencies.

Western will not adopt the comment that only short-term commitments of firm power should be made pending resolution of Missouri River Basin tribal issues. Significant resource uncertainty would continue for existing customers in the Eastern Division if this comment were adopted, as contracts currently in place expire in the year 2000. Instead, Western will continue to work with tribes in the upper Midwest in parallel with Program implementation.

Several comments were received advocating flexibility in the allocation of Western power to Indian tribes. Instead of limiting allocations to use on the reservation, these commenters asked that tribal members living adjacent to the reservation and within the servicing cooperative's service territory also be allowed to receive the benefits of cost-based Eastern Division power. Another comment asked how Western intended to address the closed/open reservation issue. In order to retain the flexibility to address these situations, this Federal Register notice states that Western

expects to make allocations to Native American tribes for use on the reservation and potentially off the reservation under certain circumstances as determined by Western. Western wants to reserve the flexibility to tailor the allocation of power from project-specific resource pools to meet regional circumstances.

Western was requested to advise whether the Mni Wiconi special allocation of 6 MW is part of the proposed 3 percent resource pool. The Mni Wiconi special allocation of 6 MW is statutory, and is not part of the Eastern Division proposed 3 percent initial resource pool.

An objection was raised regarding the distribution of power within the Department of Defense where the total military electrical load is being reduced, with comment being received that a higher Federal purpose would be served by reallocating the power to the tribes. Western does not have the contractual right to withdraw power from the Department of Defense to meet Native American needs. Under an existing contract that is effective through the year 2000, Western has agreed to allow the Department of Defense to shift its allocation among Air Force bases under circumstances such as a base closure. Western cannot allocate this power to tribes, as it is already contractually committed.

One comment stated that the tribes lost over 160,000 acres of land without just compensation when Oahe was constructed, and that the tribes have never received the power benefits from Pick-Sloan despite the loss of land. Just compensation for the taking of lands to construct the Pick-Sloan Program is not an issue that is appropriately addressed through an allocation of power by Western. When the taking of lands took place, compensation was given to tribes. If the compensation was inadequate, redress is available through the courts, through special legislation, or through the agencies that took the property.

It was suggested that a special tribal nation allocation be established from power revenues to provide just compensation. Western has no authority to use power revenues deposited in the Treasury to create a special tribal allocation to provide just compensation. Only Congress can direct the use of revenues in such a manner.

Western declines to create a special class of power exclusively for tribes. In the absence of direction from Congress to the contrary, Western believes it is inequitable to create administratively a special, preferential classification for Indians. Instead, Western intends to meet the needs of tribes through allocations from project-specific resource pools.

Nor will Western create a special IRP provision for Indians. Under section 114 of the Energy Policy Act of 1992, Western does not have the discretion to develop special provisions for tribes. However, Western intends to provide integrated resource planning technical assistance to Native American tribes upon tribal request. We are committed to assisting the tribes to successfully develop and implement IRPs.

Comment was received that the tribe must recapture capital ownership rights in RUS plant equipment based on the Consumer Price Index, and that Indians should be provided technical and financial assistance in developing a utility on a par with the rural electric cooperatives and investor-owned utilities. No authority exists for Western to adopt the comment that a tribe must recapture capital ownership rights in RUS plant equipment based on the Consumer Price Index. Nor does Western have any role with respect to disconnection of service policies. Western will remain neutral on the issue of tribal utility formation. Technical and financial assistance to a tribe or any other group in support of utility formation will not be provided, as this cost is the responsibility of the entity seeking utility status and should not be a project cost borne by all project ratepayers.

Western was asked whether it is implementing retail wheeling. Western is not imposing retail wheeling on its Eastern Division rural electric cooperative customers under the Power Marketing Initiative. The cooperatives have been supportive of the delivery of the benefits of power allocations to tribes, and are supportive of a bill crediting approach to accomplish Western's goals in a manner that avoids the need for a separate transmission service arrangement.

Comment was received asking why Western was expanding its resource allocations to tribes when the overall SLCA/IP resource was declining. No decision has been made on the size of the resource pool for potential new customers within the SLCA/IP marketing area. The size of this project-specific pool will be determined at a later date. Western is working with the Ute Mountain Utes to determine if project use power might be made available for certain irrigation pumping loads before existing firm power contracts expire in the year 2004.

Comments were received by customers and stakeholders that the efforts of Western to work with the tribes on implementing the Program is appreciated; that the United States should abandon the policy of decimating Indian water rights through court adjudication and negotiation with the states; the relationship between Western and Indian tribes is expected to be one of government to government; and Western must follow DOE's commitment to the trust responsibility reflected in DOE's Indian Policy and ''redo'' the Program to reflect tribes' unique relationships with the Federal government. Western supports the Department of Energy's American Indian policy which stresses the need for a government-to-government, trust-based relationship. The key theme throughout the Department's policy is consultation with tribal governments so that tribal rights and concerns are considered prior to action being taken. Western has met with Indian tribes and tribal representatives throughout the Program public process, and is currently meeting with tribes located in the Missouri River Basin on a monthly basis. To mitigate the economic conditions on reservations within Western's marketing area, Western has responded favorably to the comment that tribal utility status should not be required before a power sales contract can be offered, and has also adopted tribal comment by agreeing to enter into contracts with the tribe directly. These policy decisions show how Western has been responsive to the needs of tribal nations, and that the consultation has been meaningful and substantive.

9. Resource Acquisition by Western

a. Background

In the proposed Program, Western committed to the use of IRP principles in its resource acquisition and transmission planning principles. This commitment has been pursued through a separate public process, commencing with a Federal Register notice published on December 6, 1994, 59 FR 62724.

b. Comments and Discussion

The following are comments received which were addressed in the separate public process on the use of IRP principles by Western, or are more appropriately addressed in the project-specific implementation of the IRP principles: (1) Western should not develop non-hydro resources, as this would have a negative impact on our IRP. (2) Western's resource acquisitions should be limited to meeting contract rates of delivery. (3) Western should identify current and future transmission development in its IRP, as this information is critical to our IRP. (4)

How will Western acquire DSM? Western should not conserve its hydroelectric power, but should market all of the available resource. (5) Western should emphasize the purchase of energy efficiency and renewable energy from Western customers over other resources. (6) Western should purchase efficiency and renewables, because cost-based rates discourage the installation of energy efficiency measures. (7) We support IRP by Western. It would be appropriate for the Bureau of Reclamation to use IRP principles in its pump replacements, generator rewinds or other project enhancements and system improvements. (8) Any reduction in Western's costs will enhance our competitive position. (9) We do not support the concept of Western reducing customer demand through Western's adoption of IRP principles. (10) We are unclear whether Western could free up power resources by funding energy efficiency and demand-side management projects. (11) We are unsure if Western's commitment to IRP principles will apply to investments Western is considering in the very short term. (12) We are concerned about the timing of the adoption of IRP principles by Western—it should apply to Navajo transmission and Glen Canyon replacement power and to resources that have not yet been acquired as of January 1, 1995. (13) Western should use IRP principles immediately, without waiting for completion of the public process.

Several relevant comments will be addressed briefly here.

One customer commented that Western's use of IRP principles could impact customer resource planning, and that Western should implement its commitment before requiring its customers to complete their IRPs. Additionally, Western should be sensitive to the timing of customer IRPs and Western's use of IRP principles, especially if Western's actions impact the amount or the price of the Federal resource. Western agrees that its use of IRP principles could impact customer planning. Every attempt was made to conclude the parallel public process quickly, to provide customers with more certainty as they prepare their individual integrated resource plans. The implementation of Western's commitment to use principles of integrated resource planning is described in a Federal Register notice published on June 9, 1995 (60 FR 30533).

A customer commented that it supports future contracts that allow customers the flexibility to acquire firming resources, and urges Western to enter into contracts to purchase customer-owned renewable resources. Additionally, customers should be given the opportunity to refuse Western purchase of firming energy, and should be given a priority to purchase surpluses. Western concurs that customers be given the opportunity to refuse Western purchase of firming energy. For all projects receiving resource extensions under the PMI, Western will develop contractual language which would allow the customer to assume the responsibility of acquiring resources to firm up Western's hydroelectric commitments if the customer so chooses.

Another customer commented that adoption of IRP principles by Western should not mean abandonment of lowest possible cost consistent with sound business principles; and that Western's role is one of a marketer of power from Federal generation, and not acquiring non-Federal power through the use of power revenues. Adoption of IRP principles does not mean abandonment of lowest possible costs consistent with sound business principles. To the contrary, use of IRP principles will be a tool that will assist Western in keeping costs low.

10. Implementation

a. Background

Western proposed to offer extension contracts to existing Pick-Sloan Missouri Basin Program-Eastern Division and Loveland Area Project customers upon submittal of their IRPs to Western. Western also proposed to extend to existing customers a pro rata percentage of marketable resources available at the time current contracts expire.

b. Comments and Discussion

Comments were received stating that actual contract rate of delivery values need to be in the contracts extending resources because a percentage of a resource available at the end of the term of existing contracts does not offer customers the certainty needed to prepare a quality integrated resource plan; that it would be extremely beneficial to know the marketable capacity and the resources to be committed as soon as possible—when the Corps of Engineers operating procedures are known, the marketable capacity should be determined; that contract rate of delivery values must be specified in the contract; and that there should be minimum resource values set forth in the post-2000 contracts. While Western understands the concern that actual contract rate of delivery values need to be in contracts extending resources, or that some minimum resource values be established, there remains a need to retain the flexibility to respond to changing circumstances in the short term. The development and completion of the Missouri River Master Operating Manual EIS is one of those changing circumstances. Western will work with customers to determine the resources and marketable capacity to be committed as soon as possible after the Corps operating procedures are known. If no better information is available, for initial IRP planning purposes, Western will provide existing customers with estimated resource commitments (based upon application of the percentages set forth in this final rule to the resources currently under contract).

Customers commented that contracts should be offered upon publication of the final rule, as the added certainty would promote quality integrated resource planning; that customers are already required to prepare and implement IRPs under the Energy Policy Act and there is no need for a further incentive to encourage IRP; that contracts should be offered upon issuance of the EIS Record of Decision subject to the submission of the customer's initial IRP; that customers will find it difficult to develop IRPs without knowing Western's exact commitment; and that it may be necessary to delay the signing of Eastern Division contracts if appropriate delivery arrangements to Native Americans cannot be worked out. Western agrees with the comments that individual customer contract offers for those projects initially covered under the Power Marketing Initiative should be made before individual customers are required by Western to submit an IRP. By adopting this approach, the new penalty provisions under the extension contracts will be effective and available if an IRP or small customer plan is unsatisfactory. In 905.37 of this final rule, Western has adopted the approach that Pick-Sloan Missouri Basin Program-Eastern Division extension contracts may be offered 30 days after publication of this Federal Register notice. This approach provides more certainty to customers by advancing the date of the contract offer, but retains a powerful incentive for quality and timely integrated resource planning by making the penalties mandated by EPAct immediately applicable pursuant to the terms of the extension contract. Contracts for extensions of resources for the Loveland Area Projects will not be offered until the analysis of potential resource adjustments in 1999 has been

completed and any adjustments are implemented. Existing power sales contracts require that this analysis be completed by 1996.

It was also suggested that the Salt Lake City Area/Integrated Projects marketing plan, Glen Canyon EIS and replacement power study should be expedited, with contract extensions accomplished concurrent with the Record of Decision on the SLCA/IP marketing plan EIS. Western agrees that customer resource certainty is promoted by expediting the Salt Lake City Area/Integrated Projects marketing plan, the Glen Canyon EIS and the replacement power study. Western is making every effort to complete the processes we are managing, and is working with the Bureau of Reclamation to help complete the Glen Canyon EIS as well. Western will evaluate application of the PMI to the SLCA/IP after its electric power marketing EIS is completed and the associated marketing criteria and contract changes are implemented.

11. Other Marketing Issues

a. Background

Historically, Western has marketed firm power at a level defined in project-specific marketing criteria. During periods of drought, Western has purchased firming power to meet the obligations defined in the marketing criteria. When water conditions are good, surplus energy (and occasionally surplus capacity) may be available for sale on a short-term basis. Typically, these surpluses are sold to regional utilities. These regional utilities may or may not be long-term firm power customers; these sales are often made to both preference entities and investor owned utilities.

Historically, Western's project-specific marketing approach has been based upon public comment and policy decisions made during the development of specific marketing criteria. Some resources are marketed on a resource pattern basis, while others are based on the load pattern of the customer.

Western proposed to extend a major percentage of the power currently committed to existing customers beyond the expiration date of existing contracts. Western is not proposing to acquire new resources to meet customer load growth.

b. Comments and Discussion

A number of commenters supported the current definition of Pick-Sloan Missouri Basin Program-Eastern Division marketable resources and the marketing criteria. Any change should take place under a separate public process after consultation with customers. Several commenters suggested that existing preference entities should have a right of first refusal to all non-firm power at the price of production and transmission and that non-firm energy should be sold to customers that demonstrate feasibility of purchase in their IRP, and when that customer can firm the hydroelectric energy. They also suggested that resources made available as a result of penalty impositions should be marketed to customers of the same Area Office.

There were numerous comments on how to establish the marketable capacity. Some suggested that a separate approach may help maximize the capacity Western has available to market. Several of Western's customers are power suppliers that have energy flexibility with their own resources. If that flexibility can be utilized by Western to minimize their risk in high or low water years, the Western capacity could be based on something other than a lower decile water year such as a higher percentage of average hydrology. This would be a departure from the load pattern type resource. In bad water years, the deliveries would be lower, and the deliveries would be higher in good water years. This would minimize the purchase and sale of firming energy. Marketable capacity might be based on average water conditions if the customers could handle some of the swings.

Changes to Western's project-specific marketing policies are not appropriate in a Western-wide initiative such as the Energy Planning and Management Program. Adjustments in Western's current marketing approach for a specific project can be appropriately addressed in a separate project-specific proceeding at a later date. The extension formula provides for a pro rata commitment to existing customers, based upon the resource available at the end of the term of existing contracts. Changes in marketing approaches are best addressed at that time on a project-specific basis and not during the Western-wide development of the PMI. Marketing issues that might be appropriate for discussion at that time include policies for sale of non-firm energy, departure from a load pattern resource and adjusting the firm power risk level to a different percentage.

Several comments were received on the proposal to restrict transfers of Pick-Sloan Missouri Basin Program—Eastern Division allocations held by the State of South Dakota and the Department of Defense. Under existing contracts, these two customers have enjoyed the flexibility to transfer Western's hydropower and concentrate allocations in specific locations with the goal of maximizing the benefits of Federal hydropower. This contractual right exposes supplemental power suppliers to load variations, undermining the resource stability which promotes quality integrated resource planning. By proposing some restrictions in the final rule on this flexibility in the contracts extending resources, Western intends to create a more stable resource commitment to customers that would benefit regional planning, and make future firm power customer contracts more consistent and equitable.

Contrary to the comments of the Air Force, the final rule does not require that an entire allocation be lost upon base closure after 2000. Movements of allocations are allowed when the contract rate of delivery exceeds the load at a particular site; this would be the case when a base closes.

The final rule does not impose unfair or unusual constraints on government customers. If anything, the regulations treat Federal and state government the same as other Eastern Division customers by removing an advantage other customers do not enjoy. While this provision may impact power costs for the Air Force and the state of South Dakota, broader regional advantages are also realized from the increase in power supply stability.

The seasonal proportional share concept does not violate least-cost principles. This same approach has been used in allocations to new customers in many historic project-specific marketing plans.

Several commenters recommended that Western maximize the stability of the planning environment, and do everything possible to control costs and identify the costs of other agencies that adversely impact the cost of power. They also suggested that Western recognize the potential structural changes in the electric utility industry by beginning a meaningful dialogue on unbundling of services and must avoid new subsidies or perpetuating old ones. A further suggestion was that Western should further unbundle services to expand Western's customer base and those receiving project benefits.

Western is committed to enhancing resource stability through control of costs. Many positive steps have been taken to reduce Western's expenses, and more are planned for the future. Western intends to be responsive to customer needs and utility industry changes. This responsiveness includes a willingness to enter into a meaningful dialogue on unbundling of services. Most recently, a dialogue on this subject has taken place among Western and

Central Valley Project customers. Western agrees with the comment that new subsidies must be avoided and old subsidies must be eliminated. Western will take advantage of consultation opportunities with customers to maximize communication.

One commenter was concerned that in the responses to comments that were part of the proposed rule, Western makes the statement that it has no general legal obligation to acquire additional resources to meet the load growth of its customers. They felt that this statement is unnecessary and constrains the considerable authority given to Western by the Tenth Circuit Court of Appeals.

Western does not intend the publication of the proposed Program or this final rule to limit Western's legal authorities recognized by the Tenth Circuit Court of Appeals in *Salt Lake City et al* v. *Western Area Power Administration, et al.*, 926 F.2nd 974 (10th Cir. 1991). However, Western does not have the legal authority to acquire resources to meet customer load growth.

Several commenters supported efficiency improvements to existing project facilities, and asked that customers have a right of first refusal to participate. Any increases in capacity/energy should be made available to the financing customer, or as a substitute for other firming resources. Western should commence a process along the lines of NCPA's 1992 proposal to the House Interior Committee.

On the issue of customer financing of improvements to project facilities, Western has decided to retain its flexibility to address unique opportunities in a tailored manner as opposed to establishing a Western-wide policy. In the past, Western has made increases in capacity/energy available to the financing customer. Western continues to believe this concept makes sense, and will likely apply it in the future under most circumstances.

Commenters applauded Western's decision to continue to provide transmission access for renewables and endorsed Western marketing a variety of products out of the Central Valley Project. Western appreciates this supportive feedback.

One commenter remarked that access to Western hydropower should be based on customer adoption of a mix of conventional, renewable, and demand-side resources. This commenter believes that contract renewals should be a reward for DSM implementation. Western declines to allocate power based on customer adoption of a mix of conventional, renewable and demand-side resources. Nor will contract renewals be a reward for DSM implementation. Resource extensions should be the foundation for customer IRP, and not a carrot to induce the selection of some preconceived resource ideal. Integrated resource planning should lead to the selection of resources based on their individual merits as determined through the IRP process. Western addressed at length the issue of incentives in the responses to comments that were part of the Federal Register notice of August 9, 1994. That discussion is still valid and is incorporated as a response to these comments.

Allocations from project-specific resource pools will be completed before contracts with existing customers expire. Power that is reserved for new customers but not allocated and resources offered but not placed under contract will be offered to existing customers that contributed to the resource pool. Western expects that all firm power will be marketed. Withdrawal mechanisms will exist for purposes described in the final regulations.

D. Other Issues

1. Support of Renewables

a. Background

In the proposed rule, Western stated that consideration would be given to the allocation of power from project-specific resource pools to firm up renewable resources.

b. Comments and Discussion

Western received several comments that strongly support the concept of making power available to preference entities to firm up renewable resources. Those comments stated that firming renewables would expand that marketplace for renewables and facilitate the further development and commercialization of this technology; that the initial pools for the Pick-Sloan Missouri Basin Program—Eastern Division and the Loveland Area Projects be increased to 6 percent of the available resource, with half of the increased pool being dedicated to help firm up renewables; and that the increased experience and economies of scale would make renewables more attractive and cost-effective and renewable investments would help utilities diversify against future fuel price and environmental risks. However, one commenter stated that funding renewable or nontraditional power supply may be a worthy social objective, but this is not Western's role and incentives to encourage non-traditional resources should be developed at the community level through the customer IRP process.

Western has a strong desire to support the development of renewables. Western has in the past and plans in the future to assure the continued progress of renewable resources as an important national resource. The following examples demonstrate Western's commitment.

In the Eastern Division of the Pick-Sloan Missouri Basin Program, the Mid-Continent Area Power Pool (MAPP) has in place a means to accredit capacity for renewable resources based on historical performance. Accreditation relieves the renewable resource owner from the cost of purchasing power reserves due to the intermittent nature of power production by this type of resource. If a Western customer is not a MAPP member, Western may act as an agent for the customer to gain MAPP accreditation of capacity for the renewable resource.

Recently, Western has committed to undertake a market assessment of the potential for solar power in the southwestern United States as part of the Solar Enterprise Zone (SEZ) initiative. Western has offered its marketing, transmission and power system operations expertise to the SEZ.

Western has been active in promoting renewable energy in partnership with Native American Indians. Western, in coordination with the Navajo Nation, the Department of Energy and Sandia National Laboratory, has supplied forty photovoltaic units to the Navajo Tribal Utility Authority for installation at remote homes on the Navajo reservation. As extensions of distribution lines to these remote locations would be prohibitively expensive, installation of photovoltaic technology is a commercially viable alternative. Western has contributed to an assessment of the wood fuel supply on the White Mountain Apache tribe reservation to determine the quantity of this fuel available for power cogeneration. To promote Indian health, Western is contributing to the Navajo Rootfuel Promotion project, which will evaluate the feasibility of growing and harvesting rootfuels to replace coal as a fuel in Indian homes. Another example of a partnership between Western and Native Americans is an assessment of the feasibility of producing biogas fuel from solid wastes to meet the needs of remote Navajo villages and cluster homes.

In addition to sponsoring many workshops and publishing numerous publications on IRP, Western has created the Resource Planning Guide, a technical assistance tool that will help customers to prepare integrated resource

plans as required by section 114 of the Energy Policy Act of 1992. The RPG is a personal computer-based piece of software that will allow customers to evaluate renewable resources as a future resource.

Western's Sacramento Area Office has provided technical assistance for a feasibility analysis of using wind-generated energy at Lawrence Livermore National Laboratory. If the analysis is favorable, Western will work with the laboratory to develop the use of wind energy. Western has also made its transmission system available to wheel power from wind generation to load.

Most recently, Western has taken steps to implement its commitment to use principles of integrated resource planning for its resource acquisition and transmission planning activities. Demand-side and renewable resource options will be considered side-by-side with thermal generation purchase opportunities. The implementation of the commitment to use principles of integrated resource planning is described in a Federal Register notice published on June 9, 1995 (60 FR 30533). Although strongly supportive of renewable resources, Western believes that the concept of setting aside a portion of Western's purchase power appropriations exclusively to acquire renewables is best addressed through project-specific implementation of IRP principles.

While Western wants the ability to support renewable resources through allocations from project-specific resource pools, it is premature to designate a portion of the pool exclusively for the support of renewable resources. Western's resource pool reservations are for use beginning in the year 2000 for the Eastern Division of Pick-Sloan. Western does not want to commit a block of power today for the benefit of renewable technologies, when the targeting of resource pool power can take place more effectively nearer the date that existing contracts expire and regional needs are better known. Devotion of a block of power today to a single use, such as fostering renewables, could work to the disadvantage of other pool uses, such as allocation of power to American Indians. Western reserves the right to allocate resource pool power in support of renewables, but will not now exercise that right.

2. Project Use

a. Background

Project use power is that power reserved to meet project needs pursuant to law, such as pumping irrigation water. Power in excess of that needed for project use is available to Western for allocation. Western made no proposal to change the definition of project use power in the proposed Program.

b. Comments and Discussion

One comment stated that Western should maintain the current definition of project use and that an allocation of Pick-Sloan power to the Garrison Diversion Conservancy District is important to them under present operations and absolutely essential for future requirements. Given the Garrison Diversion Unit reformulation legislation passed by Congress in 1986, the commenter thought consideration should be given to a specific power allocation on reserve in their name for operation of facilities authorized in the 1986 legislation. Any change in the suballocation of costs should take into account the interests of the irrigation districts. This commenter also stated that all long-term contracts should have provisions for withdrawal to meet the pumping power needs of the Garrison Diversion Unit, as farmers need reasonably priced electricity for use on the farm.

Project use power is not allocated but is reserved pursuant to the authorizing legislation for each project. Since Western does not allocate project use power for water pumping, this type of power is not a part of the PMI. Western's firm power contracts for the Eastern Division presently contain withdrawal provisions to meet project use load as it develops. Future contracts will contain similar withdrawal language for project use.

Since these regulations do not address any changes in the definition or scope of project use power for pumping purposes, the suballocation of costs is similarly not a part of the PMI.

III. Summary of Changes From the Proposed Program

Western has made several revisions to the proposed Program in response to public comments on the Federal Register notice of August 9, 1994. All references to Program ''procedures'' have been deleted, and replaced with ''final rule'' or ''regulations'' to better reflect section 114 of the EPAct and the fact that the final rule will be published in the Code of Federal Regulations. The final rule clearly separates the Program's provisions from the explanatory text which has been shifted to the supplemental explanation section. To eliminate confusion, the definition and use of the word ''purchaser'' was eliminated and replaced with ''customer.''

In the IRP subpart (subpart B), Western broadened language relating to member-based associations in recognition of our wide variety of customers. Determination of the small customer threshold of 25 gigawatthours (GWh) was changed to a 5 year average, instead of the proposed annual measurement. A customer's competitive situation was added as a factor in the determination of the reasonableness of an IRP. Provisions relating to irrigation districts were extended to other customers that serve water pumps and comparable equipment as part of their load. The section dealing with the use of IRP principles by Western was deleted, in recognition of the completion of a separate public process (60 FR 30533 (June 9, 1995)) on this subject. Finally, clarifying changes were made in a variety of areas, including penalties, IRP action plans and progress reports, public participation and small customer plans.

With regard to the Power Marketing Initiative (PMI) provision (subpart C), the term of contract has been extended from 18 to 20 years. For any project initially covered by the PMI, offers of extension contracts will take place upon no sooner than the effective date of the final rule. For the Pick-Sloan Missouri Basin Program—Eastern Division and the Loveland Area Projects, the initial resource pool was increased to 4 percent, while the two subsequent pool increments were reduced to 1 percent each. Application of the percentage extension for subsequent resource pool increments was changed to the resource that is under contract at the time. The proposal to exempt customers with contract rates of delivery of one MW or less from contributions to the resource pool was deleted, as was the proposed new customer exemption from withdrawals to form later resource pool increments. Delivery of the benefits of cost-based Federal power to Indian tribes is now directly allowed. Various clarifying changes were also made in the PMI.

IV. Supplemental Explanation of the Rule

This section includes an explanation of certain IRP provisions, and it also sets forth Western's policy regarding the future application of the Power Marketing Initiative. Section 905.11(b)(3) addresses the concept of cost-effectiveness. Cost-effectiveness is basic to a resource evaluation and therefore must be pursued. Western recognizes the criteria for determination of least-cost options in each IRP will

vary among Western's customers because of differences in their size, type, resource needs, geographic area and competitive situation. For Western's smaller customers, Western may approve an IRP that is a generalized analysis which describes the cost comparison processes utilized and economic assumptions used. These may be limited to, for example, the total resource cost test for demand-side resources and may involve use of simplified methods and procedures to analyze important variations in supply-side characteristics such as service lives, construction periods, and price inflation influences. However, Western would expect its larger customers to prepare a more in-depth evaluation of demand and supply resource cost effectiveness, on a comparable basis. This may include evaluation of demand-side resources under some combination of the total resource cost, participant, rate impact measure, utility, or societal tests; life-cycle screening and screening curve analyses for the supply-side resources; production costing analysis; rate impact analysis; risk analysis; and impacts to the power supply chain as applicable.

Full public participation is the subject of section 905.11(b)(5). Western will not require a customer to take any action inconsistent with existing sunshine laws and other open meeting requirements. Given the wide diversity of customers that Western serves and the variety of resource planning circumstances that they face, Western will not mandate that customers hold a specific number of public meetings.

Section 905.12 describes how customers may be allowed to form an IRP cooperative. Western believes the benefits of joint integrated resource planning can be significant and encourages customer consideration of this approach when an appropriate resource planning ''decision block'' exists. Examples of such a ''decision block'' are when all the entities covered by an IRP are contained within a power supply chain or regional entities plan for joint supply-side, demand-side, and/or renewable resources above and beyond the Western resource, so long as individual member responsibilities and participation levels are identified.

Examples of entities likely to receive Western's approval include (1) existing first-level MBAs which were formed to meet the load growth of their members through supply-side resources, such as G&T cooperatives; (2) existing second-level MBAs, such as organizations with G&T cooperative members, which may be granted IRP cooperative status due to the magnitude and effort involved in development of such comprehensive IRPs; and (3) new associations where potential members have not previously evaluated supply-side and demand-side resources on a joint basis.

The criteria that will be used in evaluating IRPs are set forth in section 905.11(b). Customers will make their own choices regarding resource type, quantity, and timing in accordance with their IRP. Western will not dictate resource choices.

Section 905.13(d) contains special irrigation district and water planning provisions. Irrigation and water utility customers may use information available from an extension service or a university to judge the merits of a demand-side resource opportunity; there is no requirement to hire a consultant to independently verify this kind of information. The customer's knowledge and experience should be central in the integrated resource planning resource evaluation and selection process.

Small customer plan requirements are set forth in section 905.14. Western does not expect small customers to expend a significant amount of time and money to acquire expertise and data to prepare these plans. Western will be available to assist customers in developing an appropriate strategy for preparing the plans.

Section 905.30 deals with the applicability of the Power Marketing Initiative. It limits the initial application of the PMI to the Pick-Sloan Missouri Basin Program—Eastern Division and the Loveland Area Projects. Western's Program establishes an overall framework for the marketing of power, while recognizing that future determinations must be made on a project-specific basis. Many project-specific determinations are necessary before any final decisions can be made on marketing power. Such important issues as the resource available for marketing in the future, the size of a resource pool, any adjustments to the size of this pool, and allocation criteria for new customers must be decided on a project-specific basis, with public input and appropriate environmental documentation.

Application of the PMI to the Central Valley Project, Washoe Project and Salt Lake City Area/Integrated Projects shall not take place in the absence of a future, project-specific evaluation and decision.

For Central Valley Project and Washoe Project resources, all power contracts between Western and its long-term firm power customers expire in 2004, as do the Western-Pacific Gas & Electric Company contracts. Western is presently preparing an environmental impact statement (EIS) for the Sacramento Area Office (SAO) 2004 marketing plan. Western will not make any decision at this time about application of the PMI to SAO resources for the post-2004 time period. The provisions of the PMI will be within the range of alternatives in the SAO marketing plan EIS for purposes of impact assessment. As a result of further analysis in the 2004 power marketing plan process, Western may at a later date propose through the public process adoption of the PMI for SAO resources in the post-2004 time period. If the PMI provision is implemented, Western estimates that an initial extension level percentage would be similar to those of the Pick-Sloan Missouri Basin Program—Eastern Division and the Loveland Area Projects. The additional resource pool increments described in section 905.32 would also be applicable.

Application of the PMI to the Salt Lake City Area/Integrated Projects (SLCA/IP) resources will be evaluated after its electric power marketing EIS is completed and the associated marketing criteria and contract changes are implemented. Western's ongoing project-specific EIS for the SLCA/IP analyzes power marketing between now and the year 2004. If the PMI provision is implemented, Western estimates that an initial extension level percentage would be similar to those of the Pick-Sloan Missouri Basin Program—Eastern Division and the Loveland Area Projects. The additional resource pool increments described in section 905.32 would also be applicable.

The resource pool size for SAO and SLCA/IP resources will be determined during a project-specific public process to reflect the actual fair share needs of eligible new customers and other purposes, as determined by Western.

Western will evaluate application of this PMI to other Western firm power contracts that expire after January 1, 2005—principally the Parker-Davis and Boulder Canyon Projects. This evaluation will be published after a separate public process and will take place no more than 10 years before termination of these contracts.

Any adjustment shall only take place after an appropriate public process. Withdrawals to serve project use and other purposes provided for by contract shall continue to take place based on existing contract/marketing criteria principles.

Section 905.32 addresses both resource extensions and resource pool size. Western's policy on these subjects is as follows. For the projects initially covered under this PMI, the project-specific resource pools (including both the initial pool and future increments)

could be as large as 6 percent over the term of the contracts. These percentages are based on Western's judgment of the hydropower needed to meet a fair share of the projected power needs of potential new customers in the applicable marketing area at the time existing contracts expire.

Western will establish incremental resource pools that make power available for potential new customers over time, without the disruptive influence of creating a large pool all at once, before the need exists. Another purpose of incremental resource pools is to provide Western with the flexibility to meet new needs that is necessary when long-term contracts are offered to customers. The following table illustrates the timing and size of the resource pool creation, as applied to the Pick-Sloan Missouri Basin Program—Eastern Division and the Loveland Area Projects.

Year	P–SMBP–ED	LAP
2001	4%.	
2004		4%.
2006	Up to 1%.	
2009		Up to 1%.
2011	Up to 1%.	
2014		Up to 1%.

For the Pick-Sloan Missouri Basin Program—Eastern Division, both the State of South Dakota (State) and the Department of Defense (Defense) have been allowed to transfer Western power from one location to another. After existing contracts expire, Western will require that power commitments to specific State and Defense sites not be changed unless the contract rate of delivery exceeds the total load at that site. If the contract rate of delivery exceeds the total load at a State or Defense site, only the excess power at that site may be transferred to other State or Defense sites. Transfers are subject to negotiation of transmission service contracts for the delivery of transferred power. To be consistent with requirements for other firm power deliveries, Western will require the delivery of a proportional share of firm Pick-Sloan Missouri Basin Program—Eastern Division power at each State or Defense site in both the summer and winter seasons. If a Defense installation or facility is closed after the year 2000, the allocation may be affected by the report required in section 2929 of the 1993 National Defense Authorization Act, Pub. L. No. 103–160. Section 2929 requires the Secretary of Energy, in consultation with the Secretary of Defense, to submit a report to Congress that must contain recommendations regarding the disposition of hydroelectric power allocations to military installations closed or approved for closure outside of the marketing area of the Central Valley Project.

In section 905.33, the PMI extension formula is described. If no better information is available for initial IRP planning purposes, Western will provide existing customers with estimated resource commitments (based on application of the percentages set forth in these procedures to the resources currently under contract). Actual resource commitment numbers will be developed and included in contracts as soon as practicable.

New customer eligibility is addressed in section 905.35. Western's policy on allocation of power to new customers in the future is as follows. In order to increase widespread distribution of hydropower resources, Western will allocate a fair share of power to eligible new preference entities who do not have a contract with Western or are not a member of a parent entity that has a contract with Western.

The specific terms and conditions associated with allocations to new customers will be determined during future, project-specific public processes. All new applicants for power will be considered and be given an opportunity to receive an allocation in accordance with Reclamation law. For example, Western expects to make allocations to Native American tribes (as that term is defined in the Indian Self Determination Act of 1975, 25 U.S.C. 450b) for use on the reservation and potentially off the reservation under certain circumstances as determined by Western. Utility status will not be a prerequisite for an allocation to Native American tribes. Western will also consider making allocations to national parks and public mass transit agencies. Western will consider making power available to preference entities in support of fish and wildlife (such as power to pump water to increase or improve wildlife habitat) and to firm up renewable resources.

Proposals for providing allocations directly to Native American tribes will be developed on a project-by-project basis, during the allocation of project-specific resource pools.

Western will consider arrangements for the delivery of the benefits of cost-based Federal power to Native American tribes without utility status.

All potential new customers, both utilities and nonutilities, will be required to apply for power in a project-specific marketing plan by a date to be determined in the project-specific process. All potential new customers, except Native American tribes, must be ready, willing, and able to receive and distribute or use power from Western. Ready, willing, and able means that (1) the potential customer has the facilities needed for the receipt of power or has made the necessary arrangements for transmission and/or distribution service, (2) the potential customer's power supply contracts with third parties permit the delivery of Western's power, and (3) metering, scheduling, and billing arrangements are in place. Limits on the power received by any customer, as well as minimum load requirements, may be adopted. If required in project-specific marketing criteria, a potential new customer is responsible for transmission arrangements beyond Western's system/points of delivery necessary to receive power from Western.

An existing customer will not be eligible to receive power from a resource pool unless Western provides otherwise on a project-specific basis. A new customer receiving power from a project-specific resource pool will not be eligible to receive additional power from a subsequently available resource pool increment unless Western provides otherwise on a project-specific basis.

Existing power marketing criteria, which will remain in effect unless amended by the PMI, may be amended in the future if necessary. Section 905.36 addresses the relationship between existing marketing criteria and the PMI. Any necessary amendments to existing power marketing criteria could be pursued at the time Western determines the amount of resource available after existing contracts expire. For the Central Valley Project, Western plans to develop future marketing criteria during the 2004 Marketing Plan process.

The process of implementing the PMI is addressed in section 905.37. Modified contractual language will be required to place resource extensions under contract. For all projects receiving resource extensions under the PMI Western will develop alternative contractual language which would allow the customer to assume the responsibility of acquiring resources to firm up Western's hydroelectric commitments to a customer if the customer so chooses. The timing of any offers of power to existing Salt Lake City Area/Integrated Projects customers for the time period after 2004 may be affected by the replacement power process relating to loss of capacity due to changes in operations at Glen Canyon Dam. For the SLCA/IP, existing contracts provide for potential resource adjustments in 1999. No contracts will

be offered to existing customers for post-2004 SLCA/IP resources until the analysis of potential resources in 1999 has been completed and any adjustments are implemented. Existing power sales contracts require that this analysis be completed by 1996.

Western is committed to providing IRP technical assistance to customers. In section 905.40, Western will establish a program to assist customers with technical questions or concerns relating to the development and implementation of an IRP or small customer plan. Technical assistance, which may include publications, workshops, conferences, individual assistance, equipment loans, technology and resource assessment studies, marketing studies, and other mechanisms to transfer information on energy efficiency and renewable energy options and programs to customers, will be provided under Western's energy services functions. Customers will be kept informed of the technical assistance available to them in support of their development and implementation of IRPs through Western's energy services publications and other communications efforts.

V. Regulatory Review

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget (OMB) is required.

VI. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires federal agencies to perform a regulatory flexibility analysis if a proposed regulation is likely to have a significant economic impact on a substantial number of small entities. In the notice proposing the Program, Western's Administrator certified that this Program, if promulgated, would not have a significant adverse economic impact on a substantial number of small entities. Western did not receive any comments that addressed the certification.

VII. Review Under the Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520, Western has received approval from OMB for the collection of customer information in this rule, under control number 1910–1200.

VIII. Review Under the National Environmental Policy Act

Western has completed an environmental impact statement on the Program, pursuant to the National Environmental Policy Act of 1969. The Record of Decision was published in the Federal Register on October 12, 1995 (60 FR 53181).

IX. Review Under Executive Order 12612

Executive Order 12612 requires review of regulations or rules for any substantial direct effects on States, on the relationship between National Government and the States, or on the distribution of power and responsibilities among various levels of Government. This rule carries out the requirements of EPAct in a manner that reflects comity between the States and the United States Government. Western has assessed this rule in light of the criteria in Sections 2 through 5 of Executive Order 12612. Western has determined that the rule is consistent with those criteria, and that the rule will not impose significant costs or burdens on States or affect the States' ability to discharge traditional State functions.

X. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency to adhere to certain requirements in promulgating new regulations. These requirements, set forth in section 2(a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected legal conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that regulations define key terms and are clear on such matters as exhaustion of administrative remedies and preemption. The Department certifies that today's regulatory action meets the requirements of section 2(a) and (b)(2) of Executive Order 12778.

XI. List of Subjects in 10 CFR Part 905

Electric Power, Electric Utilities, Energy, Energy Conservation, Hydroelectric Power and Utilities.

Issued in Golden, Colorado, September 21, 1995.

J.M. Shafer,

Administrator.

For the reasons set forth in the preamble, Title 10 of the Code of Federal Regulations is amended by adding a new part 905 to read as set forth below.

PART 905—ENERGY PLANNING AND MANAGEMENT PROGRAM

Subpart A—General Provisions

905.1 Purpose.
905.2 Definitions.

Subpart B—Integrated Resource Planning

905.10 Applicability.
905.11 Integrated resource plan contents.
905.12 Submittal procedures.
905.13 Approval criteria.
905.14 Small customer plan.
905.15 Processing of IRPs and small customer plans.
905.16 Annual IRP progress reports.
905.17 Noncompliance.
905.18 Administrative appeal process.
905.19 Periodic review by Western.
905.20 Freedom of information Act.
905.21 Program review.

Subpart C—Power Marketing Initiative

905.30 Purpose and applicability.
905.31 Term.
905.32 Resource extensions and resource pool size.
905.33 Extension formula.
905.34 Adjustment provisions.
905.35 New customer eligibility.
905.36 Marketing criteria.
905.37 Process.

Subpart D—Energy Services

905.40 Technical assistance.

Authority: 42 U.S.C. §§ 7152 and 7191; 32 Stat. 388, as amended; and 42 U.S.C. §§ 7275–7276c.

PART 905—ENERGY PLANNING AND MANAGEMENT PROGRAM

Subpart A—General Provisions

§ 905.1 Purpose.

The purposes of the Energy Planning and Management Program (Program) are to implement section 114 of the Energy Policy Act of 1992 (EPAct) and to extend the Western Area Power Administration's (Western) long-term firm power resource commitments in support of customer integrated resource planning.

§ 905.2 Definitions.

Administrator means the Administrator of Western.

Applicable integrated resource plan or *applicable IRP*, when used with reference to a customer, means the integrated resource plan (IRP) approved by Western under these regulations for that customer.

Customer means any entity that purchases firm capacity, with or without energy, from Western under a long-term firm power contract. The term includes a member-based association (MBA) and its distribution or user members that receive direct benefit from Western's power.

Integrated resource planning means a planning process for new energy resources that evaluates the full range of alternatives, including new generating capacity, power purchases, energy conservation and efficiency, cogeneration and district heating and cooling applications, and renewable energy resources, in order to provide adequate and reliable service to a customer's electric consumers at the customer's or member's lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis.

Least-cost option means an option for providing reliable electric services to electric consumers which will, to the extent practicable, minimize life-cycle system costs, including adverse environmental effects, of providing such service. To the extent practicable, energy efficiency and renewable resources may be given priority in any least-cost option.

Long-term firm power contract means any contract with Western for the sale of firm capacity, with or without energy, which is to be delivered over a period of more than 1 year. This term includes contracts for the long-term sale of power from the Boulder Canyon Project.

Member-Based Association or *MBA* means:

(1) an entity composed of utilities or user members; or

(2) an entity which acts as an agent for, or subcontracts with, but does not assume power supply responsibility for its principals or subcontractors, who are its members.

Small customer means a customer with total annual sales or usage of 25 GWh or less, as averaged over the previous 5 years, which is not a member of a joint action agency or a generation and transmission (G&T) cooperative with power supply responsibility, and that Western finds has limited economic, managerial, and resource capability to conduct integrated resource planning.

Western means the Western Area Power Administration.

Subpart B—Integrated Resource Planning

§ 905.10 Applicability.

(a) Each customer of Western must address its power resource needs in an IRP prepared and submitted to Western as provided herein, except for:

(1) Those meeting the criteria for a small customer as detailed in § 905.14 this part; and

(2) State-regulated, investor-owned utilities.

(b) Nothing in these regulations shall require a customer to take any action inconsistent with a requirement imposed by the Rural Utilities Service or a state utility commission which receives IRP filings from that customer.

§ 905.11 Integrated resource plan contents.

(a) An integrated resource plan should support customer-developed goals and schedules. The plan should evaluate the full range of practicable alternatives for energy resources, and include:

(1) an assessment of resources on an equitable basis, where supply-side, demand-side, and renewable resources are compared on a fair and accurate basis to determine an appropriate low-cost resource portfolio, and

(2) an integration of all options in a comprehensive manner.

(b) IRPs must consider electrical energy resource needs and may consider, at the customer's option, water, natural gas, and other energy resources. Each IRP submitted to Western must satisfy the following requirements of section 114 of EPAct:

(1) Identification and Comparison of All Practicable Energy Efficiency and Energy Supply Resource Options. This is an assessment and comparison of existing and future supply- and demand-side resource options available to a customer based upon its size, type, resource needs, geographic area, and competitive situation. Identification of resource options evaluated by the specific customer, or members in the case of IRP cooperatives or MBAs, must be provided. The options evaluated should relate to the resource situation unique to each Western customer as determined by profile data (such as service area, geographical characteristics, customer mix, historical loads, projected growth, existing system data, rates, and financial information) and load forecasts.

(i) Supply-side options include, but are not limited to, purchased power contracts, conventional or renewable generation options.

(ii) Demand-side options alter the customer's use pattern in a manner that provides for an improved combination of energy services at least cost to the customer and the ultimate consumer.

(iii) Considerations that may be used to develop the potential options include cost, market potential, consumer preferences, environmental impacts, demand or energy impacts, implementation issues, revenue impacts, and commercial availability.

(iv) The IRP discussion comparing resource options must include:

(A) the method or rationale used to select the options to be compared,

(B) the options evaluated,

(C) the assumptions and costs related to the options, and

(D) the evaluation methods, including any quantitative and qualitative methods used to compare the resource options.

(2) An IRP must include an action plan covering a minimum period of 5 years describing specific actions the customer will take to implement its IRP. This plan must outline both short-term (2 years) and long-term (5 years) actions proposed for implementation during the period covered by the plan. The action plan must summarize the load profile data and address the results of the resource evaluation. Where a customer is implementing integrated resource planning in response to State, Federal, and other initiatives, Western will accept action plans of other than 2 and 5 years if they substantially comply with EPAct. For those customers not experiencing or anticipating load growth, the action plan requirement for the IRP may be satisfied by a discussion of current actions and procedures in place to reevaluate periodically the possible future need for new resources. The action plan must include the following four items:

(i) Actions the customer expects to take in accomplishing the goals identified in the IRP;

(ii) Milestones to be used to evaluate accomplishment of those actions during implementation;

(iii) Quantified estimated energy and capacity benefits for each action planned; and

(iv) Estimated or proposed costs for implementing each action.

(3) An IRP must designate least-cost options to be utilized by the customer. This requires a comparative evaluation of supply- and demand-side resources using a consistent economic evaluation method. This evaluation should identify the most cost-effective energy services to the consumer, taking into account reliability, economics, price, adverse environmental effects, risk, and all other factors influencing the quality of energy services. The analysis should consider impacts on suppliers, distribution entities, and end-use consumers, as applicable. The resource selection process and criteria must be explicit and identify the rationale for selection. An IRP may strike a reasonable balance

among the applicable evaluation factors, as opposed to a plan which seeks to optimize any single criterion. Exceptions to least-cost-based decisions may be made if the customer explains the basis for the decision and can show in the IRP that decisions were based on a reasonable analysis of resource options and environmental effects, were based on response to public input, or were required by Federal or State mandates.

(4) To the extent practicable, the customer shall minimize adverse environmental effects of new resource acquisitions and document these efforts in the IRP. Customers are neither precluded from nor required to include a quantitative analysis of environmental externalities as a part of their integrated resource planning process. Customers are required to include a qualitative analysis of environmental effects.

(5) In the preparation and development of an IRP (or any revision or amendment of an IRP), ample opportunity for full public participation shall be provided. The IRP shall describe how the customer: gathered information from the public, identified public concerns, shared information with the public, and responded to public comments.

(i) Member-based associations and their members must demonstrate public participation in the preparation and development, revision, or amendment of the IRP. No specific number of meetings is required.

(ii) As part of the public participation process, the governing body of an MBA and each MBA member (such as a board of directors or city council) must approve the IRP, confirming that all requirements have been met. MBA and member approvals must be indicated by signature of a responsible official in the IRP submitted to Western or by documentation of passage of an approval resolution by the appropriate governing body included or referred to in the IRP submitted to Western.

(iii) For Western customers that do not purchase for resale, such as Federal and State government agencies, the public participation requirement is satisfied if there is review and concurrence by a top management official with resource acquisition responsibility, and the concurrence is noted in the IRP submitted to Western.

(6) An IRP must include load forecasting. Load forecasting should include data which reflects the size, type, resource conditions, and demographic nature of the customer using an accepted load forecasting methodology, including but not limited to the time series, end-use, and econometric methods.

(7) Customers must provide methods of validating predicted performance in order to determine whether objectives in the IRP are being met. These validation methods must include identification of the baseline from which a customer will measure the benefits of its IRP implementation. Baseline data that is unavailable should be identified. A reasonable balance must be struck between the cost of data collection and the benefits resulting from obtaining exact information.

§ 905.12 Submittal procedures.

(a) An IRP submitted to Western for approval must have sufficient detail for Western to confirm it meets the requirements of these regulations. Only one IRP is required per customer, regardless of the number of long-term firm power contracts between the customer and Western.

(b) Customers may submit IRPs to Western under one of the following options:

(1) Customers may submit IRPs individually.

(2) MBAs may submit individual IRPs for each of their members or submit one IRP on behalf of all or some of their members, that specifies the responsibilities and participation levels of individual members and the MBA. Such IRP or IRPs shall constitute the MBA's IRP where the MBA subcontracts or acts as an agent but does not assume power supply responsibility. Any member of an MBA may submit an individual IRP to Western in lieu of inclusion in an MBA IRP.

(3) Integrated resource planning cooperatives approved by Western pursuant to paragraph (d) of this section must submit an IRP for its members.

(4) Customers that Western determines to be small customers pursuant to section 905.14 may submit a small customer plan in lieu of an IRP.

(c) Schedules.

(1) Except as provided in paragraph (c)(2) of this section, customers must submit their initial IRP to the appropriate Area Manager no later than 1 year after the effective date of this rule, or after becoming a customer, whichever is later. Approved IRP cooperatives shall be allowed 18 months from Western's approval of the IRP cooperative request to submit an initial IRP.

(2) Every customer must provide written notification to Western if it intends to seek approval for IRP cooperative or small customer status. This notification must be provided by the customer to the Western Area Manager of the Area in which the customer is located by December 19, 1995, or within 30 days from the time it becomes a customer, whichever is later.

(3) If an IRP submittal is found to be insufficient after Western review, a notice of deficiencies will be provided to the entity that submitted the IRP. Western, working together with the customer, will determine the time allowable for resubmitting the IRP. However, the time allowed for resubmittal will not be greater than 9 months after the date of the disapproval, unless otherwise provided by contract language in effect as of the effective date of these regulations.

(4) Updated IRPs must be submitted to the appropriate Area Manager every 5 years after Western's approval of the initial IRP.

(5) Amendments and revisions to IRPs may be submitted at any time.

(d) Western shall respond to IRP cooperative status requests within 30 days of receipt. If a request for IRP cooperative status is disapproved, the requesting customers must submit their initial IRPs no later than 1 year after the date of the letter of disapproval. Any subsequent requests by customers for IRP cooperative status will be responded to by Western within 30 days of receipt of the request. Western's approval of IRP cooperative status will not be based on any potential member's contractual status with Western.

§ 905.13 Approval criteria.

(a) IRP or small customer plan approval will be based upon:

(1) whether the IRP or small customer plan satisfactorily addresses the criteria in these regulations; and

(2) the reasonableness of the IRP or small customer plan given the size, type, resource needs, geographic area, and competitive situation of the customer.

(b) Western will review resource choices in accordance with section 114 of EPAct and these regulations. Western will disapprove IRPs if resource choices do not meet the reasonableness test set forth in (a)(2) of this section and the provisions of section 114 of EPAct.

(c) Where a customer or group of customers implements integrated resource planning under a program responding to other Federal, State, or other initiatives, Western shall accept and approve such a plan as long as the IRP substantially complies with the requirements of these regulations.

(d) In evaluating an IRP or small customer plan, Western shall consider water planning, efficiency improvements, and conservation in the

same manner it considers energy planning and efficiencies. Customers that provide water utility services and customers that service irrigation load as part of their overall load may include water conservation activities in the IRP. To the extent practical, customers should convert their water savings to energy values.

§ 905.14 Small customer plan.

(a) Small customers may submit a request to prepare a small customer plan in lieu of an IRP. Requests for small customer status must include data on total annual energy sales and usage for the 5 years prior to the request. This data will be averaged to determine overall annual energy sales and usage so that uncontrollable events, such as extreme weather, do not distort levelized energy sales and usage. Documentation of limited economic, managerial and resource capability must also be included in a request.

(b) Western shall respond to small customer status requests within 30 days of receipt of the request. If a request for small customer status is disapproved, the requesting customer must submit its initial IRP no later than 1 year after the date of the letter of disapproval. Any subsequent requests by customers for small customer status will be responded to by Western within 30 days of receipt of the request.

(c) Small Customer Plan Contents.

Small customer plans shall:

(1) consider all reasonable opportunities to meet future energy service requirements using demand-side management techniques, new renewable resources, and other programs that will provide retail consumers with electricity at the lowest possible cost;

(2) minimize, to the extent practicable, adverse environmental effects; and

(3) present in summary form the following information:

(i) customer name, address, phone number, and contact person;

(ii) type of customer;

(iii) current energy and demand profiles and data on total annual energy sales and usage for the previous 5 years;

(iv) future energy services projections;

(v) the manner in which paragraphs (c) (1) and (2) of this section were considered; and

(vi) actions to be implemented over the next 5 years.

(d) The first small customer plan must be submitted to the appropriate Western Area Manager within 1 year after Western's approval of the request for small customer status. Small customers must submit in writing a small customer plan every 5 years.

(e) Maintenance of Small Customer Status.

(1) Every year on the anniversary of submittal of the plan, small customers must submit a letter to Western verifying that their annual energy sales or usage is 25 GWh or less averaged over the previous 5 years, and identifying their achievements against their targeted action plans. The letter will be used for overall program evaluation and comparison with the customer's plan, and for verification of continued small customer status.

(2) A customer ceases to be a small customer if it:

(i) exceeds total annual energy sales or usage of 25 GWh, as averaged over the previous 5 years,

(ii) becomes a member of a joint action agency or G&T cooperative with power supply responsibility, or

(iii) no longer has a limited economic, managerial, and resource capability. Western will work with a customer who loses small customer status to develop an appropriate schedule, no longer than 1 year, for submittal of an IRP.

(3) Membership in or contracting with an MBA that does not have power supply responsibility shall not affect a customer's status as a small customer. A small customer plan or annual letter may be submitted by or through an MBA that does not have power supply responsibility.

§ 905.15 Processing of IRPs and small customer plans.

Western shall review all IRP and small customer plan submittals and notify the submitting entity of the plan's acceptability within 120 days after receipt.

§ 905.16 Annual IRP progress reports.

IRP progress reports must be submitted each year within 30 days of the anniversary date of the approval of the currently applicable IRP in such form and containing such information as to describe the customer's accomplishments achieved pursuant to the action plan, including projected goals, implementation schedules, and resource expenditures, and energy and capacity benefits and renewable energy developments achieved as compared to those anticipated. Measured values are preferred, but reasonable estimates are acceptable if measurement is infeasible or not cost-effective. In lieu of a separate progress report, all information from the progress report may be combined with any other report that the customer submits to Western, at the customer's discretion, if that report is submitted within 30 days of the approval anniversary date of the currently applicable IRP.

§ 905.17 Noncompliance.

(a) The penalty set forth in this section shall be imposed for failure to submit or resubmit an IRP or small customer plan in accordance with these regulations. The penalty also will be imposed when Western finds that the customer's activities are not consistent with the applicable IRP or small customer plan unless Western finds that a good faith effort has been made to comply with the approved IRP or small customer plan.

(b) If it appears that a customer's activities may be inconsistent with the applicable IRP or small customer plan, Western will so notify the customer and offer the customer 30 days in which to provide evidence of its good faith effort to comply. If the customer does not correct the specified deficiency or submit such evidence, or if Western finds, after receipt of information from the customer, that a good faith effort has not been made, a penalty shall be imposed.

(c) Western shall provide written notice of the imposition of a penalty to the customer, and to the MBA or IRP cooperative where applicable. The notice must specify the reasons for imposition of the penalty.

(d) Imposition of Penalty.

(1) Beginning with the first full billing period following the notice specified in paragraph (c) of this section a surcharge of 10 percent of the monthly power charges will be imposed until the deficiency specified in the notice is cured, or until 12 months pass, provided that no such penalty shall be immediately imposed if the customer or its MBA or IRP cooperative has requested reconsideration by filing a written appeal with the appropriate Area Manager, pursuant to 905.18.

(2) The surcharge imposed shall increase to 20 percent for the second 12 months and to 30 percent per year thereafter until the deficiency is cured.

(3) After the first 12 months of imposition of the surcharge and in lieu of imposition of any further surcharge, Western may impose a penalty which would reduce the resource delivered under a customer's long-term firm power contract(s) by 10 percent. The resource reduction may be imposed either

(i) when it appears to Western to be more effective to assure customer compliance, or

(ii) when such reduction may be more cost-effective for Western.

(4) The penalty provisions in existing contracts will continue to be in effect

and shall be administered and enforced in accordance with such contract provisions.

(e) The surcharge will be assessed on the total charges for all power obtained by a customer from Western and will not be limited to firm power charges. When a customer resolves the deficiencies, the imposed surcharge or power withdrawal will cease, beginning with the first full billing period after compliance is achieved.

(f) In situations involving an IRP submitted by a member-based association on behalf of its members where a single member does not comply, a penalty or withdrawal shall be imposed upon the MBA on a pro rata basis in proportion to that member's share of the total MBA's power received from Western. In situations involving noncompliance by a member of an IRP cooperative, any applicable penalty shall be imposed directly upon that member if it has a firm power contract with Western. If the IRP cooperative member does not have a firm power contract with Western then a penalty or withdrawal shall be imposed upon the member's MBA or parent-type entity on a pro rata basis in proportion to that member's share of the total MBA's power received from Western.

§ 905.18 Administrative appeal process.

(a) If a customer disagrees with Western's determination of the acceptability of its IRP submittal, its compliance with an approved IRP, or any other compliance issue, the customer may request reconsideration by filing a written appeal with the appropriate Area Manager. Appeals may be submitted any time such disagreements occur and should be specific as to the nature of the issue, the reasons for the disagreement, and any other pertinent facts which the customer believes should be brought to Western's attention. The Area Manager will respond within 45 days of receipt of the appeal. If resolution is not achieved at the Area Office level, a further appeal may then be made to the Administrator who will respond within 30 days of receipt.

(b) Upon request, Western will agree to use mutually agreeable alternative dispute resolution procedures, to the extent allowed by law, to resolve issues or disputes relating to compliance with IRP requirements.

(c) Western shall not impose a penalty while an appeal process is pending. However, if the appeal is unsuccessful for the customer, Western shall impose the penalty retroactively from the date the penalty would have been assessed if an appeal had not been filed.

(d) A written appeal or use of alternative dispute resolution procedures does not suspend other reporting and compliance requirements under these regulations.

§ 905.19 Periodic review by Western.

(a) Western will periodically review customer actions to determine whether they are consistent with the approved IRP. Small customer plans are not subject to this periodic review.

(b) Beginning 3 years after the effective date of these regulations, Western shall periodically review selected, representative IRPs and the customer's implementation of the applicable IRP. These reviews are in addition to, and separate and apart from, the review of initial IRP submittals and updated IRPs made under §§ 905.11 and 905.13 of these regulations.

(c) Western will review a representative sample of IRPs from each of its marketing areas. The representative samples will consist of IRPs that reflect the diverse characteristics and circumstances of the customers that purchase power from Western. At a minimum, Western will review a sample of IRPs from the following:

(1) IRPs indicating a need to acquire resources in the IRP study period;

(2) IRPs prepared by individual customers, IRP cooperatives, and member-based associations; and

(3) IRPs that do not show plans to implement DSM programs in the IRP study period.

(d) Periodic reviews may consist of any combination of review of the customer's annual IRP progress reports, telephone interviews, or on-site visits. Western will document these periodic reviews and shall report on the results of the reviews in Western's annual report.

§ 905.20 Freedom of Information Act.

IRPs and associated data submitted to Western will be made available to the public unless Western has determined, pursuant to 10 CFR Part 1004, that particular information is exempt from public access under the Freedom of Information Act (FOIA). Customers may request confidential treatment of all or part of a submitted document under FOIA's exemption for confidential business information. Materials so designated and which Western determines to meet the exemption criteria in the FOIA will be treated as confidential and will not be disclosed to the public.

§ 905.21 Program review.

Before January 1, 2000, and at appropriate intervals thereafter, Western shall initiate a public process to review these IRP regulations in order to determine whether the criteria for approval of IRPs should be revised to reflect changes in technology, needs, or other developments.

Subpart C—Power Marketing Initiative

§ 905.30 Purpose and applicability.

(a) The Power Marketing Initiative (PMI) provides a framework for marketing Western's long-term firm hydroelectric resources. For covered projects, Western will make a major portion of the resources currently under contract available to existing long-term firm power customers for a period of time beyond the expiration date of their current contracts.

(b) The Western projects covered by this subpart are the Pick-Sloan Missouri Basin Program—Eastern Division and the Loveland Area Projects (LAP). The PMI applies to covered projects to the extent it is consistent with other contractual and legal rights, and subject to any applicable project-specific environmental requirements.

§ 905.31 Term.

Western will extend resource commitments for 20 years from the date existing contracts expire to existing customers with long-term firm power contracts from projects identified in section 905.30(b).

§ 905.32 Resource extensions and resource pool size.

(a) Western will extend a project-specific percentage of the marketable resource, determined to be available at the time future resource extensions begin, to existing customers with long-term firm power contracts. The remaining unextended power will be used to establish project-specific resource pools. An initial level of 96 percent of the marketable resource will be extended for the Pick-Sloan Missouri Basin Program—Eastern Division and the Loveland Area Projects.

(b) At two 5-year intervals after the effective date of the extension to existing customers, Western shall create a project-specific resource pool increment of up to an additional 1 percent of the long-term marketable resource under contract at the time. The size of the additional resource pool increment shall be determined by Western based on consideration of the actual fair-share needs of eligible new customers and other appropriate purposes.

(c) The initial pool percentages shall be applied to the marketable resource determined to be available at the time future resource extensions begin. Subsequent percentages shall be applied to the resource under contract at the time.

(d) The additional resource pool increments shall be established by pro rata withdrawals, on 2 years' notice, from then-existing customers. Withdrawals could be mitigated or delayed if good water conditions exist.

(e) Once the extensions for existing customers and allocations to new customers from the resource pool have been made, additional power resources may become available for various reasons. Any additional available resources will be used as follows:

(1) If power is reserved for new customers but not allocated, or resources are offered but not placed under contract, this power will be offered on a pro rata basis to customers that contributed to the resource pool through application of the extension formula in § 905.33.

(2) If power resources become available as a result of the enhancement of existing generation, project-use load efficiency upgrades, the development of new resources, or resources turned back to Western, Western may elect to use this power to reduce the need to acquire firming resources, retain the power for operational flexibility, sell these resources on a short-term basis, or allocate the power.

(3) If resources become available due to imposition of penalties pursuant to § 905.17, Western may make such resources available within the marketing area to existing customers that are in compliance with Subpart B, subject to withdrawal.

§ 905.33 Extension formula.

(a) The amount of power to be extended to an existing customer shall be determined according to this formula:

Customer Contract Rate of Delivery (CROD) today/total project CROD under contract today x project-specific percentage x marketable resource determined to be available at the time future resource extensions begin = CROD extended.

(b) Where contract rates of delivery vary by season, the formula shall be used on a seasonal basis to determine the extended power resource. A similar pro rata approach shall be used for energy extensions.

(c) Determination of the amount of resource available after existing contracts expire, if significantly different from existing resource commitments, shall take place only after an appropriate public process.

(d) The formula set forth in paragraph (a) of this section also should be used to determine the amounts of firm power subject to withdrawal at 5-year intervals after the effective date of the extension to existing customers, except that the percentage used would be up to 1 percent for each of the two withdrawal opportunities, and the formula would use the customer CROD, project CROD and the resource under contract at the time.

§ 905.34 Adjustment provisions.

Western reserves the right to adjust marketable resources committed to all customers with long-term firm power contracts only as required to respond to changes in hydrology and river operations, except as otherwise expressly provided in these regulations. Under contracts that extend resources under this PMI, existing customers shall be given at least 5 years' notice before adjustments are made. New customers may receive less notice. The earliest that any notice under this section shall become effective is the date that existing contractual commitments expire. Any adjustment shall only take place after an appropriate public process. Withdrawals to serve project use and other purposes provided for by contract shall continue to take place based on existing contract/marketing criteria principles.

§ 905.35 New customer eligibility.

(a) Allocations to new customers from the project-specific resource pools established under § 905.32 shall be determined through separate public processes in each project's marketing area. New customers receiving an allocation must execute a long-term firm power contract to receive the allocated power and are required to comply with the IRP requirements in this part. Contracts with new customers shall expire on the same date as firm power contracts with all other customers of a project.

(b) To be eligible for an allocation, a potential new customer must be a preference entity, as defined in Reclamation law, within the currently established marketing area for a project.

(c) Entities that desire to purchase power from Western for resale to consumers, including municipalities, cooperatives, public utility districts and public power districts, must have utility status. Native American tribes are not subject to this requirement. Utility status means that the entity has responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase power from Western on a wholesale basis for resale to retail consumers. To be eligible to apply for power available from a project's initial resource pool, those entities that desire to purchase Western power for resale to consumers must have attained utility status by December 31, 1996, for the Pick-Sloan Missouri Basin Program—Eastern Division, and by September 30, 2000, for the Loveland Area Projects. To be eligible to apply for power from subsequent resource pool increments, these entities must have attained utility status no later than 3 years prior to availability of the incremental addition to the resource pool. Deadlines for attaining utility status for other projects will be established at a later date.

§ 905.36 Marketing criteria.

Western shall retain applicable provisions of existing marketing criteria for projects where resource commitments are extended beyond the current expiration date of long-term firm power sales contracts. Western must retain important marketing plan provisions such as classes of service, marketing area, and points of delivery, to the extent that these provisions are consistent with the PMI. The PMI, eligibility and allocation criteria for potential new customers, retained or amended provisions of existing marketing criteria, the project-specific resource definition, and the size of a project-specific resource pool shall constitute the future marketing plan for each project.

§ 905.37 Process.

Modified contractual language shall be required to place resource extensions under contract. Resource extensions and allocations to new customers from the initial resource pool will take effect when existing contracts expire. These dates are December 31, 2000, for the Pick-Sloan Missouri Basin Program—Eastern Division and September 30, 2004, for the Loveland Area Projects. For the Pick-Sloan Missouri Basin Program—Eastern Division, Western will offer contracts to existing customers for resource extensions no sooner than the effective date of the final regulations. For the Loveland Area Projects, existing contracts provide for potential adjustments to marketable resources in 1999. No contracts will be offered to existing customers for post-2004 Loveland Area Projects resources until the analysis of potential resource adjustments in 1999 has been completed and any adjustments are implemented. Existing power sales contracts require that this analysis be completed by 1996.

Subpart D—Energy Services

§ 905.40 Technical assistance.

Western shall establish a program that provides technical assistance to customers to conduct integrated resource planning, implement applicable IRPs and small customer plans, and otherwise comply with the requirements of these regulations.

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FEDERAL TRADE COMMISSION

16 CFR Part 429

Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations

AGENCY: Federal Trade Commission.

ACTION: Final non-substantive amendments to the rule.

SUMMARY: The Federal Trade Commission (''the Commission'') announces that it has concluded a review of its Trade Regulation Rule on Cooling-Off Period for Door-to-Door Sales (''Cooling-Off Rule'' or ''Rule''), and determined there is a continuing need for the Rule. This review was conducted as part of the Commission's ongoing program to review all of its rules and guides periodically. The Commission has also determined to issue non-substantive amendments to several Rule provisions. Specifically, the Commission is amending the Rule by renaming it so that it more clearly identifies the kinds of sales it covers and by inserting two notes, formerly at the end of the Rule, into the Rule itself. Moreover, the Commission is amending the Rule by adding a new section containing two exemptions to the Rule that the Commission granted, in November 1988, to certain sellers of arts and crafts and of automobiles. The Commission is also expanding the exemption for automobiles to include vans, trucks and other motor vehicles sold at temporary places of business by dealers having permanent places of business. Further, the Commission is amending the Rule by adding a parenthetical statement to the Rule's definition of the term ''Door-to-Door Sale.'' This new statement gives examples of kinds of sales locations covered by the Rule. The Commission is also amending the Rule's definition of ''Business Day'' to reflect changes in federal holidays. Finally, the Commission is amending the Rule to make the typeface used in the sample ''Notice of Cancellation'' more readable and to substitute the gender neutral words ''the buyer'' or ''the buyer's'' for the pronouns ''he,'' ''his,'' and ''him.''

EFFECTIVE DATE: December 19, 1995.

FOR FURTHER INFORMATION CONTACT: Lemuel W. Dowdy, Attorney, (202) 326–2981, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Cooling-Off Rule was promulgated by the Commission on October 26, 1972,[1] and subsequently amended on November 1, 1973,[2] November 19, 1973,[3], and November 10, 1988.[4] The Rule, as amended, declares it to be an unfair and deceptive act or practice for any seller in a door-to-door sale of consumer goods or services, with a purchase price of $25 or more, to fail to furnish the buyer with certain oral and written disclosures regarding the right of the buyer to cancel the contract within three business days from the date of the sales transaction. The Rule also requires a seller, within 10 business days after receipt of a valid cancellation notice from a buyer, to honor the buyer's cancellation by refunding all payments made under the contract, by returning any traded-in property, by cancelling and returning any security interests created in the transaction, and by notifying the buyer whether the seller intends to repossess or to abandon any shipped or delivered goods.

The Rule requires the seller in a door-to-door sale to furnish the buyer with a completed receipt, or a copy of the sales contract, containing a summary notice informing the buyer of the right to cancel the transaction. The Rule also requires a seller to furnish the buyer with a completed cancellation form, in duplicate, captioned either ''Notice of Right to Cancel'' or ''Notice of Cancellation,'' one copy of which can be returned by the buyer to the seller to effect cancellation.

In issuing the Rule, the Commission adopted a broad definition of ''Door-to-Door Sale'' to include any sale ''made at a place other than the place of business of the seller.'' In doing this, the Commission indicated that the Rule covers more than just at-home sales.[5] The Commission has on several occasions reiterated this position. For example, in a 1978 Advisory Opinion, the Commission stated:

In the opinion of the Commission, firms which temporarily or sporadically rent hotel rooms, motel rooms, public halls or other facilities and invite members of the general public to attend a presentation therein, the purpose of which is to sell them courses of training, are subject to the provisions of the Trade Regulation Rule concerning a Cooling-Off Period for Door-To-Door Sales (16 CFR 429).[6]

Moreover, pursuant to Section 18(g)(2) of the FTC Act,[7] the Commission on November 10, 1988, granted exemptions to the Rule to certain sellers of automobiles and of arts and crafts at temporary business locations.[8] In granting these exemptions, the Commission noted that, when it had issued the Rule in 1972, it was concerned not only with sales made at consumers' homes, but also with sales by ''itinerant salesmen who sell at restaurants, shops and other places.''[9]

II. Background

In 1983, the Commission began a review of the Cooling-Off Rule pursuant to the Regulatory Flexibility Act, 5 U.S.C. 603, and published a notice in the Federal Register soliciting comment on whether the Rule had a significant impact on small businesses and, if so, whether the Rule needed amendment to minimize its impact on small

[1] 37 FR 22933 (Oct. 26, 1972). The effective date of the Rule was later set as June 7, 1974. 38 FR 33766 (Dec. 7, 1973).

[2] 38 FR 30105 (Nov. 1, 1973). This amendment revised the fourth paragraph of the sample ''Notice of Cancellation'' set forth in section 429.1(b) of the Rule, 16 CFR 429.1(b), to make clearer what are the buyer's responsibilities for goods delivered under a contract the buyer has cancelled.

[3] 38 FR 31828 (Nov. 19, 1973). This amendment corrected a misstatement in the November 1, 1973, amendment concerning the amendment's effective date.

[4] 53 FR 45455 (Nov. 10, 1988). This amendment allowed alternative wording in certain parts of the Rule's required ''Notice of Cancellation.'' At the same time, the Federal Register notice announced the two exemptions the Commission was granting to sellers of arts and crafts and of automobiles sold at temporary places of business.

[5] 37 FR 22947 (Oct. 26, 1972).

[6] Advisory Opinion, dated July 14, 1978, in FTC File No. D.H. 70016.

[7] 15 U.S.C. 57a(g)(2). This section of the FTC Act provides that the Commission may, on its own or on the basis of a petition, exempt persons from a rule's application if their inclusion is not necessary to prevent a practice to which the rule relates. Exemptions are considered through notice and comment rulemaking.

[8] 53 FR 45455 (Nov. 10, 1988). The first exemption was for sellers of automobiles at auctions, tent sales and other temporary places of business, provided the seller has a permanent place of business elsewhere. The second exemption was for sellers of arts and crafts at fairs and other, similar locations. The Commission, when granting these exemptions, determined that, at least with regard to these transactions, the record indicated an absence of the kinds of problems (such as the high pressure sales tactics, the nuisance aspects, the equivalent of deceptive door-openers, or the misrepresentations as to the quality, price or characteristics of the product or services offered for sale) that are often generally associated with sales made in the home.

[9] *Id.* at 45458.

businesses.[10] After reviewing the comments received, the Commission determined that there was a continuing need for the Rule and that there was no basis to conclude that the Rule had a significant impact on small businesses.[11] At the same time, the Commission proposed and solicited comments on two limited exemptions and on non-substantive amendments permitting alternative methods of compliance with the Rule's notice requirements.[12] The Commission adopted these proposals on November 10, 1988.[13]

In 1992 the Commission determined, as part of its oversight responsibilities, to review periodically all of its rules and guides. The information obtained from such reviews assists the Commission in identifying those rules and guides that warrant modification or rescission.

On April 15, 1994, pursuant to the Commission's regulatory review project, the Commission published in the Federal Register a notice requesting public comments concerning the Rule's costs and benefits, its overall regulatory and economic impact, and the current need for the Rule.[14] The Federal Register notice specifically asked for comment on whether the Rule should continue to cover sales made at temporary and short-term places of business, such as hotel rooms, convention centers, fairgrounds and restaurants. Moreover, the Commission specifically requested comments on whether the two existing exemptions to the Rule for sellers of automobiles and of arts and crafts at temporary places of business should be continued or expanded. Specifically, the Commission asked if the exemption covering arts and crafts sold at fairs and other, similar places should be expanded to include garden equipment, fencing materials and other non-crafts. The Commission also asked if the current exemption for automobiles sold at auctions, tent sales and other temporary places of business (provided the seller has a permanent place of business) should be expanded to include pickup trucks, vans, trucks and campers. Last, the Commission sought comment on its proposal to eliminate the outdated list of federal holidays given in the Rule's definition of ''Business Day'' and to replace it with a general statement that federal holidays are excluded from the Rule's three-day cancellation period.

[10] 48 FR 9032–34 (Mar. 3, 1983).

[11] 52 FR 29539 (Aug. 10, 1987).

[12] *Id.*

[13] 53 FR 45455 (Nov. 10, 1988).

[14] 59 FR 18008 (Apr. 15, 1994).

III. Summary and Analysis of Comments

The April 15, 1994, Federal Register notice gave all interested persons 30 days to submit, in writing, their data, views and arguments concerning the existing Rule and any proposed amendments or exemptions to it. The Commission received comments from ten organizations, consisting of two door-to-door sellers, three trade associations representing door-to-door sellers, four associations representing consumer interests, and the Office of the Attorney General of the State of Iowa.[15]

(A) Responses to the Federal Register Notice's Regulatory Review Questions

1. Summary

The first six questions posed by the Federal Register notice were general ones, such as whether the Commission should retain the Rule and what are the Rule's costs and benefits. All ten commenters responded to the first two questions concerning retention and/or modification of the Rule by urging the Commission to keep the Rule. All commenters, however, either proposed or endorsed one or more of the amendments to the Rule described in subsections B, C and D *infra.* Only a few comments specifically addressed any of the four remaining questions concerning the costs and benefits of the Rule, its possible conflict with other laws, and recent changes in relevant technology or economic conditions.

DSA stated that the Rule benefits both consumers and sellers, that it imposes no costs on consumers and only minimal printing costs on sellers, and that it does not conflict with other federal or state and local laws because the Rule sets a minimum national standard, leaving the states free to enact greater consumer protections.[16] IA DOJ stated that the Rule benefits both consumers and sellers and imposes, at most, only negligible costs on consumers. It also stated the Rule imposes only negligible burdens on sellers, and that, although the Rule does overlap state laws, it does not thereby create any problems because it sets only minimum standards.[17] NACAA stated that the Rule imposes no significant costs or burdens on consumers and is not overly burdensome on businesses. NACAA also stated that, although the Rule overlaps many state cooling-off statutes, there is no conflict because the Rule rightly sets only a minimum standard and the states should be free to require greater buyers' cancellation rights if they choose.[18]

2. Analysis

The comments indicate that the Rule provides substantial benefits to consumers without imposing unreasonable costs on sellers or others. Although most commenters proposed specific amendments, they were unanimous in stating that the Commission should retain the Rule.

(B) Responses to the Federal Register Notice's Questions Concerning Sales at Places Other Than the Regular Place of Business of the Seller

1. Summary

The Federal Register notice contained four questions concerning the Rule's coverage of sales made at temporary places of business. The first asked whether sales at temporary business locations involve the kinds of problems associated generally with door-to-door sales. Comments from buyers' representatives stated that one or more of the problems described in the Federal Register notice as recurrent with in-home sales (*e.g.*, the prevalence of high pressure sales and failure to disclose the purpose of the contact) are frequently also associated with sales at temporary business locations. Several of these commenters noted that sellers using

[15] The list below includes the commenter's name, along with an acronym in parenthesis, the public record document number assigned to the comment by the Commission's Secretary, and a general description of the commenter. For the remainder of this Notice, each comment will be cited by the acronym and document number.

#001. Craftmatic Organization, Inc. (''CO''), a door-to-door seller of mattresses.

#002. American Association of Retired Persons (''AARP''), a representative of retired people throughout the country.

#003. International Hearing Society (''IHS''), a representative of hearing aid specialists located throughout the country and abroad.

#004. National Automobile Dealers Association (''NADA''), a representative of automobile and truck retailers located throughout the country.

#005. UAW–GM Legal Services Plan (''UAW–GM''), a representative of automobile workers and retirees through 70 law offices located throughout the country.

#006. Direct Selling Association (''DSA''), a representative of more than 150 companies that sell products by personal presentation, primarily at buyers' homes.

#007. State of Iowa Department of Justice (''IA DOJ''), the Consumer Protection Division of the Iowa Attorney General's office.

#008. Legal Aid Society of Dayton, Inc. (''LASOD''), a representative of consumer interests in Dayton, Ohio.

#009. National Association of Consumer Agency Administrators (''NACAA''), a representative of government consumer protection agencies at the municipal, county and state levels, with associate members in the consumer affairs departments of federal agencies.

#010. World Media International, Inc. (''WMI''), a door-to-door seller of various products.

[16] DSA, #006, pp. 2–4.

[17] IA DOJ, #007, pp. 2–4.

[18] NACAA, #009, pp. 2–4.

temporary business locations often pressure consumers into making immediate purchase decisions.[19] IA DOJ cited examples where direct sellers lure consumers to temporary locations with promises of ''free'' items or services only to surprise consumers with high-pressure sales pitches.[20]

IA DOJ and NACAA observed that consumer protection agencies frequently encounter direct sellers that use hotel conference rooms and banquet halls to sell expensive items of dubious value, such as books or tapes describing get-rich-quick schemes, multi-level marketing plans, business opportunities and overpriced rugs.[21] These sellers, according to these commenters, often draw consumers to the sites by advertising self-help seminars or other non-sales activities, and then use misrepresentations and high pressure tactics to sell their products or services.[22] IA DOJ also stated that it is a nuisance for consumers to be drawn out of their homes by promises of free merchandise or information, only to be faced with a high-pressure sales pitch touting goods or services that ultimately prove to be of little value.[23]

Another question asked whether certain types of temporary business locations (*e.g.*, fairgrounds, convention centers, restaurants or dormitories) are more or less likely to be associated with the problems found in door-to-door selling. IA DOJ stated that these problems occur just as frequently at temporary businesses located in retail settings as they do at other temporary business locations.[24] The commenter said, however, that problems found in door-to-door selling are less likely to occur when selling takes place at temporary sites set up at events where the primary focus is not on selling products to consumers.[25] NACAA expressed concern that, when direct sellers use convention centers, rented halls and college dormitory lounges, some consumers may believe that the seller has been approved or screened by the owners or operators of the facility.[26]

With respect to sales at auctions, IA DOJ and NACAA stated that there is a high potential for deception in such settings because consumers have little time to evaluate their purchases.[27] NACAA commented that ''shills'' are sometimes used at rug auctions to drive up bids to inflated prices.[28] NACAA commented further that consumers purchasing automobiles at auctions sometimes do not understand that they may not be protected by warranties applicable in sales made at dealers' lots.[29] On the other hand, IA DOJ believed that the surprise sale solicitations that are often associated with hotel seminars are not common at auction sales and that consumers who attend auctions are generally not pressured to buy.[30]

IA DOJ stated that problems with sales at temporary business locations are substantially mitigated if the seller has a permanent place of business in the consumer's area.[31] If, however, there is no permanent place of business near the consumer, IA DOJ believed that consumers derive no benefit from the fact that the seller has a permanent place of business elsewhere.[32]

The third question asked whether the Rule should continue to apply to sales solicited at temporary business locations. The five commenters that responded to this question stated that the Rule should continue to apply to such sales.[33] DSA stated that the Commission should not reduce the level of protection consumers now enjoy under the Rule.[34] IA DOJ offered the following reasons for applying the Rule to sales at temporary business locations:

> In our experience, door-to-door sales persons rarely offer to give the consumer a day to think about a purchase and return the next day to consummate the sale. They pressure the consumer to buy the day they stop at the consumer's home. Similarly, sellers from temporary business locations are often in the consumers' community for only a day or two. These sellers often represent that consumers must buy during the seller's presence in the community. In addition, such sellers often lure consumers to the temporary site with promises of free merchandise or services, only to surprise consumers with high-pressure sales pitches for high-priced merchandise. Consumers who purchase from permanent business locations also can visit the business in person to request refunds and file complaints. In addition, sellers with permanent business locations in a community have greater incentive to deal fairly with their customers. These significant benefits are not available to consumers who purchase from door to door sellers or from those who sell from temporary business locations.[35]

The fourth question concerning sales at temporary business locations sought comments on whether the current exemption for arts and crafts sold at fairs and similar places should be expanded to include other products, such as garden equipment, fencing materials and other non-crafts. The two commenters responding both opposed expanding this exemption. The IA DOJ stated that consumers attending these fairs, in many instances, lack sufficient time to consider making purchases.[36] NACAA noted that expanding this exemption would allow unscrupulous marketers to avoid Rule coverage.[37]

The Federal Register notice also sought information on whether the current exemption for automobiles sold at auctions, tent sales and other temporary places (provided the seller has a permanent place of business) should be expanded to include trucks, campers and vans. NADA stated that this exemption should be expanded because the reasoning the Commission used in exempting the sale of automobiles at temporary business locations would apply with equal force to sales of pickup trucks, vans, trucks and campers.[38]

NACAA, on the other hand, opposed extending the exemption to trucks, vans and campers because it has strong reservations about the current exemption for sales of automobiles at temporary business locations.[39] Specifically, NACAA believed that consumers purchasing motor vehicles at auctions sometimes do not understand that they may not be protected by warranties that would be applicable to sales made at dealers' lots. NACAA also believed that consumers may not perceive agreements they make at temporary locations as binding. For these reasons, NACAA opposed extending the exemption to include vehicles that may be even more expensive than cars.[40]

In addition to opposing expanding the automobile exemption, NACAA proposed a modification to this exemption to ensure that ''curbstoners'' are covered by the Rule.[41] NACAA stated that ''curbstoners'' (dealers who sell automobiles by posing as an

[19] IA DOJ, #007, p. 5; LASOD, #008, p. 2; NACAA, #009, p. 5.

[20] IA DOJ, #007, p. 7.

[21] IA DOJ, #007, p. 5; NACAA, #009, p. 5.

[22] *Id.*

[23] IA DOJ, #007, p. 6.

[24] *Id.*

[25] *Id.*

[26] NACAA, #009, p. 6.

[27] IA DOJ, #007, p. 6; NACAA, #009, p. 5.

[28] NACAA, #009, p. 5.

[29] *Id.* at 7.

[30] IA DOJ, #007, pp. 6–7.

[31] *Id.*

[32] *Id.*

[33] AARP, #002, p. 4; DSA, #006, p. 3; IA DOJ, #007, p. 7; LASOD, #008, p. 2; NACAA, #009, p. 4.

[34] DSA, #006, p. 4.

[35] IA DOJ, #007, p. 2.

[36] *Id.* at 8.

[37] NACAA, #009. p. 6.

[38] NADA, #004, p. 1. The Commission received a similar suggestion when it solicited comments before granting the automobile exemption. Because, however, the Commission had not specifically sought comment on exempting such other vehicles, the Commission concluded that adequate notice to the public had not been given at that time to justify the broader exemption.

[39] NACAA, #009, p. 7.

[40] *Id.*

[41] *Id.*

individual selling a personal vehicle) often make sales by misrepresenting the mechanical condition of the car and by rolling back the odometer. Many ''curbstoners,'' according to NACAA, are included in the exemption because they have a permanent business location.

2. Analysis

The Commission has determined that the Rule should continue to apply to sales at temporary business locations. The Rule specifically excludes sales that take place at the seller's ''place of business,'' which is defined as the seller's ''main or permanent branch office or local address.'' [42] The term ''local address,'' as it is used in the definition of ''place of business,'' means a permanent local address of the seller. Thus, a seller's temporary business location does not constitute a ''local address.'' Such temporary places of business include facilities rented on a temporary and short-term basis, such as hotel rooms, convention centers, fairgrounds and restaurants. In addition, sales occurring at other places that are not the seller's place of business, such as a buyer's workplace or dormitory lounge, are covered by the Rule.

The Commission also has determined to retain the exemptions for sellers of arts and crafts and of automobiles sold at temporary places of business. In addition, the Commission has decided to expand the automobile exemption to cover all motor vehicles sold at a dealer's temporary place of business (provided the dealer has a permanent sales location). In the Commission's view, there is no compelling reason to distinguish cars from other kinds of motor vehicles sold under the same circumstances.

The Commission has determined that modifying the exemption for automobiles to bring ''curbstoners'' under the Rule is not necessary. The problems with ''curbstoners'' that NACAA raises are not those that the Cooling-Off Rule was designed to correct. Other laws regulate such practices. Most ''curbstoners'' are covered by the Commission's Used Car Rule.[43] If the seller displays a Buyers Guide required by the Used Car Rule, consumers are likely to infer that the seller is a used car dealer rather than a private individual selling a personal vehicle. ''Curbstoners'' who fail to comply with the Used Car Rule are subject to an enforcement action by the Commission. If a state's consumer protection law authorizes enforcement of FTC Rules, that state's law enforcement agencies can also bring enforcement actions against ''curbstoners'' for violating the Used Car Rule. Similarly, odometer tampering is prohibited by federal law.[44] The U.S. Department of Justice enforces this law, and state Attorneys General can also bring actions under the federal odometer law against ''curbstoners'' that roll back odometers.[45]

Lastly, the Commission has decided against expanding the arts and crafts exemption. The comments do not support adding more transactions to this exemption. Furthermore, expanding the exemption could create confusion as to what sales at fairs and similar places are covered by the Rule.

(C) Responses to the Federal Register Notice's Remaining Questions

1. Summary

The Rule requires door-to-door sellers to offer buyers a cooling-off period of three business days from the date of the transaction. The current Rule defines ''Business Day'' as:

Any calendar day except Sunday or the following business holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day.

The Federal Register notice sought comment on whether this definition should be modified to refer to ''any federal holiday'' rather than listing the specific holidays. The amendment would enable the Rule automatically to take into account any changes in federal holidays. Since promulgation of the Rule, the federal George Washington's Birthday holiday has been replaced with the Presidents' Day holiday and a new federal holiday honoring the birthday of Martin Luther King, Jr., has been adopted. The Commission's proposed amendment would have corrected the existing Rule's out-of-date listing of holidays and avoided the need for further amendments if other changes in the federal holidays are ever made.

Three commenters addressed the proposal to amend the Rule's definition of ''business day.'' IA DOJ supported the proposed amendment.[46] NACAA opposed it, arguing that the Rule should specifically list the federal holidays so that consumers can readily identify them.[47] CO stated that the proposal should be revised to take into account the fact that, under some state laws or local ordinances, Saturday is not considered a business day. To avoid confusion, CO suggested that the following sentence be added to the proposed amendment: ''This definition shall take precedence over state or local law or ordinance.'' [48]

2. Analysis

The Commission has decided to amend the Rule's definition of ''business day'' by updating the list of federal holidays. This listing will allow both consumers and sellers to identify precisely those dates covered by the Rule's cancellation period. The Commission, however, has determined not to add to the definition of ''business day'' a sentence stating that the Rule's definition takes precedence over state or local law. The Rule does not preempt state laws or local regulations providing cancellation rights that are substantially the same or greater than that provided by the Rule.[49]

Further, the Notice of Cancellation that consumers receive at the time they sign the contract states exactly what cancellation period applies to their transaction. This notice has a space where the seller is required to write in the specific time when the cancellation period ends: ''To cancel this transaction, mail * * * this cancellation notice * * * to _____ not later than midnight of (date) _____.'' Thus, sellers can factor in time periods and days excluded by state law in calculating when the cancellation period ends. The Rule in essence only provides a right to have a minimum of three business days to cancel, as business days are counted under the Rule.

(D) Proposals Raised by Commenters

1. Summary

The commenters, in response to the Commission's request for suggestions on how the Rule might be modified, suggested a total of ten different amendments to the Rule. The five

[42] The Rule's definition of ''door-to-door sale'' excludes sales that are made at ''the place of business of the seller.'' 16 CFR 429.1, note 1(a). The Rule defines ''place of business'' as ''the main or permanent branch office or local address of the seller.'' 16 CFR 429.1, note 1(d).

[43] 16 CFR Part 455. The Used Car Rule requires dealers to post a Buyers Guide on each used car to disclose whether the vehicle is sold with a warranty or ''as is.'' The Buyers Guide also warns consumers not to rely on spoken promises and to seek independent inspections. Used car dealers must comply with the Used Car Rule if they sell more than five used vehicles within a twelve month period. The Commission assumes that most ''curbstoners,'' especially those who also sell at a permanent sales location, would sell more than five cars per year.

[44] 49 U.S.C.A. 32709–11 (1994).

[45] *Id.* at 32709(d).

[46] IA DOJ, #007, p. 2.

[47] NACAA, #009, p. 7.

[48] CO, #001, p. 11.

[49] *See* 16 CFR 429.1, note 2.

commenters representing sellers recommended that the Commission amend the Rule by: (1) Raising the $25 minimum;[50] (2) allowing sellers more than 10 days to make refunds;[51] (3) requiring sellers to give buyers just a written, not both an oral and a written, notice of cancellation rights;[52] (4) exempting sales of hearing aids at temporary business locations;[53] (5) allowing sellers to substitute ''satisfaction'' or ''money back'' guarantees in place of the Rule's cooling-off period;[54] and (6) allowing sellers and buyers to execute waivers of the Rule in instances in which the buyers want delivery prior to three business days after the transactions.[55]

The five commenters representing buyers recommended amending the Rule to: (1) Allow buyers more than 3 business days to cancel covered sales contracts;[56] (2) start the cooling-off period from the date of delivery of goods or services instead of the date of contract[57] or prohibit delivery of goods or providing of services until after expiration of cooling-off period;[58] (3) defer starting the cooling-off period until the seller has complied with all the Rule's provisions;[59] and (4) expand the Rule's coverage to include all telephone and mail order consumer sales transactions or all consumer sales transactions, including those made at sellers' regular places of business.[60]

2. Analysis

The comment suggesting that the minimum dollar amount be raised to reflect the price inflation of goods and services since 1972 appears to be based on the premise that the $25 minimum was adopted because the Commission in 1972 thought low priced sales were not associated with the kinds of high pressure tactics the Rule was meant to prevent. In fact, however, this was not the Commission's reason for adopting the $25 minimum. The Commission's principal purpose in adopting the $25 minimum was ''to exclude sales by milkmen, laundrymen and other route salesmen''[61] (*i.e.*, sales occurring between the same seller and buyer on an ongoing basis). The commenter did not offer evidence that other low priced items, sold door-to-door on a one-time basis, would not be associated with such high pressure sales tactics if they were exempted from the Rule. There is insufficient evidence justifying amendment of this provision.

Another comment urged that the Commission delete the Rule provision requiring sellers to give oral notice of the right to cancel. This comment asserted that the oral notice requirement could harm sellers because buyers might falsely allege that no oral notice was given in order to acquire a longer cancellation period. In addition, the comment contended that the oral notice requirement is an unnecessary duplication of the written notices.

The notion that consumers can lengthen the cancellation period by denying that they received the oral notice is incorrect. The cancellation period only runs for three business days from the date of the transaction. Merely requiring a written disclosure could make it easier for those using high pressure sales pitches to keep buyers unaware of the three-day cancellation period. Accordingly, the Commission is retaining the requirement that sellers give both written and oral notice of the right to cancel.

The requested exemption for hearing aids would be appropriate only if there were reliable and persuasive evidence showing that application of the Rule to such transactions is not necessary to prevent the practices prohibited by the Rule. Removing the protections of the Cooling-off Rule from sales of hearing aids at temporary business locations may adversely affect older consumers.[62] Two of the eleven enforcement actions the Commission has brought alleging violations of the Rule concerned sales of hearing aids to elderly people. There is insufficient evidence to justify such an exemption. The Commission therefore at this time is not exempting sales of hearing aids at temporary business locations.

When the Commission issued the Rule, it considered and rejected suggestions that sellers be allowed more than ten days to make the required refund[63] or that they be allowed to substitute ''satisfaction guarantees'' for the Rule's right to cancel[64] or be allowed to get buyers to waive their right to a cancellation period in order to get fast delivery.[65] The Commission's decision to require a ten-day period for making refunds took into account the possibility of the seller being injured by having made a refund while, unknown to the seller, the buyer stops payment on the check.[66] The comments did not offer new evidence or arguments on these issues. Therefore, the Commission has determined to take no action on the suggestions.

Although some commenters recommended a longer cooling-off period or expanding the Rule's coverage to all telephone and mail order solicitations, or even to all solicitations, they did not provide evidence that such changes would be necessary to correct the problems that the Rule was issued to address. The Cooling-Off Rule was not intended to be a federal ''satisfaction guarantee'' requirement or ''buyers' remorse'' insurance program. When it issued the Rule in 1972, the Commission considered, but rejected, such proposals.[67] The Rule instead has the limited purpose of correcting the specific problem of sales being obtained through high pressure and deceptive sales tactics used on consumers at times and places in which consumers typically may not expect to be solicited for sales and find it difficult to extricate themselves from the situation. Further, with respect to telephone solicitations, the Commission has addressed the issue of abusive and fraudulent practices in a separate proceeding. On August 16, 1995, the Commission promulgated a trade regulation rule governing telemarketing practices. This rule becomes effective on December 31, 1995.[68] Moreover, in mail order solicitations consumers can, more easily than in door-to-door sales, avoid or ignore unwanted sales pitches. They can simply not read or respond to the mailed sales literature. The Commission therefore continues to believe that the present Rule provides ample protection for buyers without placing undue burdens on sellers.

UAW–GM suggested that the Rule be amended to prohibit the delivery of

[50] WMI, #010, p. 1.

[51] CO, #001, pp. 7–8; WMI, #010, pp. 1–2.

[52] CO, #001, p. 4–6.

[53] IHS, #003, pp. 2–4. IHS requested that sales of hearing aids at temporary business locations be exempted from the Rule. The exemption is justified, contended IHS, because (1) hearing aids are medical devices regulated by the United States Food and Drug Administration (''FDA''), (2) most states require hearing aid providers to be licensed, and (3) most hearing aid providers in this country offer 30-day trial rental options.

[54] DSA, #006, pp. 2–3.

[55] CO, #001, pp. 9–10.

[56] AARP, #002, pp. 3–4; NACAA, #009, p. 3.

[57] NACAA, #009, p. 2.

[58] UAW–GM, #005, p. 1.

[59] UAW–GM, #005, p. 2; NACAA, #009, p. 3.

[60] IA DOJ, #007, pp. 2–4 (telephone solicitations); LASOD, #008, pp. 1–2 (telephone and mail order solicitations and possibly all sales solicitations); NACAA, #009, p. 3 (telephone, facsimile machine and computer modem solicitations). In addition, DSA, #006, p. 3, a representative of sellers, stated that it ''does not oppose reasonable extension of the Rule to telephone sales.''

[61] 37 FR 22935, 22945 (Oct. 26, 1972).

[62] IHS noted in its comment that older consumers make up the major percentage of hearing aid customers.

[63] 37 FR 22935, 22952 (1972).

[64] *Id.* at 22947–48.

[65] *Id.* at 22952–53.

[66] *Id.* at 22952.

[67] 37 FR 22935, 22947 (Oct. 26, 1972).

[68] Telemarketing Sales Rule, 60 FR 43842 (Aug. 23, 1995).

goods or the providing of services until expiration of the cooling-off period. The commenter stated that, in its experience, once work has started or goods have been delivered, buyers think they no longer have a right to cancel. No evidence was submitted showing how widespread such a misunderstanding might be. The short, six-paragraph ''Notice of Cancellation'' required by the Rule to be given to every buyer describes in detail what should be done when a buyer cancels a sale after goods have been delivered. Accordingly, the Commission has determined to take no action on this suggestion.

Another comment proposed that the cooling-off period continue until the seller has complied with all the notice provisions of the Rule. The Commission specifically rejected a similar proposal when the Rule was issued because it determined that the incorporation of a remedial or punitive provision in the Rule for prospective violators was not necessary or appropriate.[69] The Commission stated further that, although an extension of the cooling-off period could be an appropriate remedy to include in an order against a seller that had violated the Rule, the rulemaking record did not support including such a provision in the Rule itself.[70] No new evidence or arguments have been submitted for why the Commission should revisit this issue; therefore, the Commission has determined to take no action on this proposal.

In addition to the proposals for Rule amendments discussed above, three commenters suggested that the Commission interpret the Rule in specific ways and revise the Rule to reflect these interpretations. One comment asked that the Commission specify in the Rule that the envelopes of mailed cancellation notices must be postmarked on or before the third business day after the date the contract is signed.[71] The Commission rejects incorporating this requirement in the Rule. The Rule simply requires that cancellation notices be mailed or delivered to sellers by a certain date. Not all mail, not even all first class mail, is postmarked with a date. When exactly any notice was mailed or delivered is an evidentiary question that may be resolved by examining a number of relevant factors, including, but not limited to, a postmark.

Another comment urged the Commission to accept transmission by facsimile machines as coming within the Rule's term ''mail or deliver.''[72] The Commission agrees that facsimile transmissions would suffice to meet the Rule's delivery component, provided the buyer can demonstrate what was transmitted and when. A third comment urged the Commission to adopt the presumption used in Ohio in interpreting that state's cooling-off statute, which like the FTC's Rule covers sales made away from the seller's regular place of business. According to this presumption, when initial face-to-face negotiations leading to a sale occur outside the seller's regular place of business, the sale is presumed to be covered by the statute, even if the buyer later executes a final agreement at the seller's regular place of business.[73] The Rule's definition of ''Door-to-Door Sale'' specifies, however, that sales are covered only if the ''buyer's agreement or offer to purchase'' is made away from the seller's regular place of business. Therefore, the Rule already covers instances in which a seller convinces a buyer, away from the seller's place of business, to make a purchase and then merely memorializes the sale by having the buyer sign the contract at the seller's place of business. The Rule does not, however, cover instances in which initial negotiations or sales solicitations occur away from the seller's place of business and the buyer's agreement is obtained only after arriving at the seller's place of business.[74] The Commission rejects the notion that the Rule should cover such sales. These sales should be viewed as sales that take place at the seller's place of business.

IV. Discussion of Non-Substantive Amendments Being Adopted

The Commission has decided to adopt certain non-substantive amendments to the Rule. The following paragraphs discuss these amendments and the reasons for adopting them.

The current Rule is entitled ''Cooling-Off Period for Door-to-Door Sales.'' The Commission is amending 16 CFR Part 429 to rename the Rule as ''Cooling-Off Period for Sales Made at Homes or at Certain Other Locations'' to clarify that the Rule covers more than just at-home sales.

The current Rule consists of just one section, 16 CFR 429.1, having nine paragraphs and two ''Notes.'' The Commission is amending the Rule to include the first of these Notes, which contains the Rule's six definitions, as a new section of the Rule entitled ''Definitions.'' and designated 16 CFR Part 429.0. Further, the Commission is amending the Rule to include the second Note, which concerns the effect of the Rule on state laws and municipal ordinances, as another new section of the Rule entitled ''Effect on State Laws and Municipal Ordinances'' and designated 16 CFR Part 429.2.

The current Rule's definition of the term ''Door-to-Door Sale'' states that the term covers sales ''made at a place other than the place of business of the seller.'' The Commission is amending this definition to add the following parenthetical explanation: ''(*e.g.,* sales at the buyer's residence or at facilities rented on a temporary or short-term basis, such as hotel or motel rooms, convention centers, fairgrounds and restaurants, or sales at the buyer's workplace or in dormitory lounges).'' Amending the Rule to include this parenthetical statement would incorporate into the Rule the interpretations the Commission has provided in various Federal Register notices and other official publications.

The current Rule's definition of the term ''Business Day'' has an out-of-date listing of the federal holidays. This list omits Martin Luther King's Birthday and has George Washington's Birthday instead of Presidents' Day. For the reasons described previously, the Commission is amending this provision of the Rule to update the list of federal holidays.

The current Rule does not refer to the two exemptions the Commission has granted certain sellers of automobiles and of arts and crafts. The Commission therefore is also amending the Rule to add a third new section, to be entitled ''Exemptions.'' and designated as 16 CFR Part 429.3, to contain the exemptions granted to the Rule. The Commission has determined to expand the exemption for automobiles to all motor vehicles. Thus, section 429.3 will indicate that the exemption applies to sellers of motor vehicles who have at least one permanent place of business.

Section 429.1(b) of the current Rule includes a sample of the required ''Notice of Cancellation'' that is printed in all upper case boldface type. The Rule only specifies the type size (ten point), the typeface (boldface), and the language (the same as that used in the contract) of the Notice.[75] The Rule does not specify any type style for the Notice or whether its type must be all uppercase or not. The example of the Notice shown in 16 CFR Part 429 is, however, in all uppercase type and sellers may think that such a format is required or preferred by the

[69] *Id.* at 37 FR 22935, 22957 (Oct. 26, 1972).

[70] *Id.*

[71] CO, #001, pp 2–3.

[72] NACAA, #001, p. 3.

[73] LASOD, #008, p. 2.

[74] See 16 CFR 429.1, note 1(a)(1).

[75] 16 CFR 429.1(b).

Commission. A combination of upper and lowercase type is generally regarded by experts as easier to read.[76] The Commission, therefore, is revising the sample notice so that it will instead appear in a combination of upper and lower case boldface type, thereby making the sample notice more readable. Sellers may, however, continue to use stocks of ''Notices of Cancellation'' printed with an all uppercase typeface.

The current Rule repeatedly uses masculine pronouns when referring to buyers. The Commission is amending the Rule to change the pronouns ''he,'' ''his,'' and ''him,'' wherever they appear, to gender neutral terms like ''the buyer'' or ''the buyer's.''

List of Subjects in 16 CFR Part 429

Door-to-door sales; Trade practices.

Text of Amendments

For the reasons set forth in the preamble, 16 CFR Part 429 is amended to read as follows:

1. The heading of part 429 is revised to read as follows:

PART 429—RULE CONCERNING COOLING-OFF PERIOD FOR SALES MADE AT HOMES OR AT CERTAIN OTHER LOCATIONS

2. Further, the authority citation for part 429 is added to read as follows:

Authority: Sections 1–23, FTC Act, 15 U.S.C. 41–58.

3. Further, section 429.1 is amended by revising paragraphs (b), (d), (e) and (i) and by removing the authority citation following the section to read as follows:

§ 429.1 The Rule.

* * * * *

(b) Fail to furnish each buyer, at the time the buyer signs the door-to-door sales contract or otherwise agrees to buy consumer goods or services from the seller, a completed form in duplicate, captioned either ''NOTICE OF RIGHT TO CANCEL'' or ''NOTICE OF CANCELLATION,'' which shall (where applicable) contain in ten point bold face type the following information and statements in the same language, *e.g.*, Spanish, as that used in the contract.

Notice of Cancellation

[enter date of transaction]

_____

(Date)

You may CANCEL this transaction, without any Penalty or Obligation, within THREE BUSINESS DAYS from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within TEN BUSINESS DAYS following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be cancelled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your Notice of Cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this Cancellation Notice or any other written notice, or send a telegram, to [*Name of seller*], at [*address of seller's place of business*] NOT LATER THAN MIDNIGHT OF [*date*].

I HEREBY CANCEL THIS TRANSACTION.

(Date) _____

(Buyer's signature) _____

* * * * *

(d) Include in any door-to-door contract or receipt any confession of judgment or any waiver of any of the rights to which the buyer is entitled under this section including specifically the buyer's right to cancel the sale in accordance with the provisions of this section.

(e) Fail to inform each buyer orally, at the time the buyer signs the contract or purchases the goods or services, of the buyer's right to cancel.

* * * * *

(i) Fail, within 10 business days of receipt of the buyer's notice of cancellation, to notify the buyer whether the seller intends to repossess or to abandon any shipped or delivered goods.

4. Further, part 429 is amended by redesignating note 1 to § 429.1 as § 429.0 and revising it to read as follows:

§ 429.0 Definitions.

For the purposes of this part the following definitions shall apply:

(a) *Door-to-Door Sale*—A sale, lease, or rental of consumer goods or services with a purchase price of $25 or more, whether under single or multiple contracts, in which the seller or his representative personally solicits the sale, including those in response to or following an invitation by the buyer, and the buyer's agreement or offer to purchase is made at a place other than the place of business of the seller (*e.g.*, sales at the buyer's residence or at facilities rented on a temporary or short-term basis, such as hotel or motel rooms, convention centers, fairgrounds and restaurants, or sales at the buyer's workplace or in dormitory lounges). The term ''door-to-door sale'' does not include a transaction:

(1) Made pursuant to prior negotiations in the course of a visit by the buyer to a retail business establishment having a fixed permanent location where the goods are exhibited or the services are offered for sale on a continuing basis; or

(2) In which the consumer is accorded the right of rescission by the provisions of the Consumer Credit Protection Act (15 U.S.C. 1635) or regulations issued pursuant thereto; or

(3) In which the buyer has initiated the contact and the goods or services are needed to meet a bona fide immediate personal emergency of the buyer, and the buyer furnishes the seller with a separate dated and signed personal statement in the buyer's handwriting describing the situation requiring immediate remedy and expressly acknowledging and waiving the right to cancel the sale within 3 business days; or

(4) Conducted and consummated entirely by mail or telephone; and without any other contact between the buyer and the seller or its representative prior to delivery of the goods or performance of the services; or

(5) In which the buyer has initiated the contact and specifically requested the seller to visit the buyer's home for the purpose of repairing or performing maintenance upon the buyer's personal property. If, in the course of such a visit, the seller sells the buyer the right to receive additional services or goods other than replacement parts necessarily used in performing the maintenance or in making the repairs, the sale of those additional goods or services would not fall within this exclusion; or

(6) Pertaining to the sale or rental of real property, to the sale of insurance, or to the sale of securities or commodities by a broker-dealer registered with the Securities and Exchange Commission.

(b) *Consumer Goods or Services*—Goods or services purchased, leased, or rented primarily for personal, family, or household purposes, including courses of instruction or training regardless of the purpose for which they are taken.

(c) *Seller*—Any person, partnership, corporation, or association engaged in

[76] The University of Chicago, *Chicago Manual of Style: The Essential Guide for Writers, Editors, and Publishers.* 14th Ed. University of Chicago Press, Chicago, Ill., 1993.

the door-to-door sale of consumer goods or services.

(d) *Place of Business*—The main or permanent branch office or local address of a seller.

(e) *Purchase Price*—The total price paid or to be paid for the consumer goods or services, including all interest and service charges.

(f) *Business Day*—Any calendar day except Sunday or any federal holiday (*e.g.*, New Year's Day, Presidents' Day, Martin Luther King's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day.)

5. Further, part 429 is amended by redesignating note 2 to § 429.1 as § 429.2 and revising it to read as follows:

§ 429.2 Effect on State laws and municipal ordinances.

(a) The Commission is cognizant of the significant burden imposed upon door-to-door sellers by the various and often inconsistent State laws that provide the buyer the right to cancel a door-to-door sales transaction. However, it does not believe that this constitutes sufficient justification for preempting all of the provisions of such laws and the ordinances of the political subdivisions of the various States. The rulemaking record in this proceeding supports the view that the joint and coordinated efforts of both the Commission and State and local officials are required to insure that consumers who have purchased from a door-to-door seller something they do not want, do not need, or cannot afford, be accorded a unilateral right to rescind, without penalty, their agreements to purchase those goods or services.

(b) This part will not be construed to annul, or exempt any seller from complying with, the laws of any State or the ordinances of a political subdivision thereof that regulate door-to-door sales, except to the extent that such laws or ordinances, if they permit door-to-door selling, are directly inconsistent with the provisions of this part. Such laws or ordinances which do not accord the buyer, with respect to the particular transaction, a right to cancel a door-to-door sale that is substantially the same or greater than that provided in this part, which permit the imposition of any fee or penalty on the buyer for the exercise of such right, or which do not provide for giving the buyer a notice of the right to cancel the transaction in substantially the same form and manner provided for in this part, are among those which will be considered directly inconsistent.

6. Further, part 429 is amended to add a new § 429.3 to read as follows:

§ 429.3 Exemptions.

(a) The requirements of this part do not apply for sellers of automobiles, vans, trucks or other motor vehicles sold at auctions, tent sales or other temporary places of business, provided that the seller is a seller of vehicles with a permanent place of business.

(b) The requirements of this part do not apply for sellers of arts or crafts sold at fairs or similar places.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95–25573 Filed 10–19–95; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 123 and 148

[T.D. 95–86]

RIN 1515–AB56

Examination of Baggage

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations in order to reflect Customs statutory authority to open and examine baggage and vehicles without the permission of the owners of the baggage and vehicles. These amendments make the pertinent Customs regulations consistent with Customs statutory authority to inspect and search baggage and vehicles coming into the United States.

EFFECTIVE DATE: November 20, 1995.

FOR FURTHER INFORMATION CONTACT: Lars-Erik Hjelm, Office of the Chief Counsel, U.S. Customs Service, 202–927–6900.

SUPPLEMENTARY INFORMATION:

Background

Several statutory provisions give the U.S. Customs Service the authority to open and examine baggage. The primary provisions are sections 482, 1461, 1462, 1496, 1581, and 1582 of Title 19, United States Code (19 U.S.C. 482, 1461, 1462, 1496, 1581, and 1582). Section 482 authorizes Customs to search vehicles and persons and to seize undeclared merchandise or merchandise imported contrary to law. Section 1461 authorizes Customs to inspect all merchandise and baggage brought into the United States from contiguous countries. Section 1461 also authorizes Customs officers to require that owners of baggage open it or furnish keys for doing so.

Section 1462 authorizes Customs to inspect the contents of all baggage and vehicles brought into the United States. Section 1462 also authorizes Customs to seize and forfeit the contents of such imported baggage or vehicle which is subject to duty or which constitutes a prohibited importation. Section 1496 authorizes Customs to examine the baggage of people arriving in the United States. Section 1581(a) authorizes Customs to board vessels and vehicles and to examine, inspect and search the vessels or vehicles and everyone and everything thereon. Section 1582 authorizes the Secretary of the Treasury to write regulations concerning the search of persons and baggage. It also authorizes officers or agents of the United States Government to detain and search, under such regulations, any persons coming into the United States from foreign countries.

The statutes cited above grant Customs broad authority to inspect, search and seize baggage and vehicles coming into the United States. Sections 123.63 and 148.21, Customs Regulations (19 CFR 123.63 and 148.21) discuss Customs authority regarding examination of baggage and vehicles. Customs proposed to revise these regulations in a Notice of Proposed Rulemaking published in the Federal Register (59 FR 56014) on November 10, 1994, to more accurately reflect the fact that Customs has the statutory authority to open and examine baggage, vehicles, and compartments thereof without the permission of the owners. Of course, in many instances, Customs will first ask the owner or operator to unlock the vehicle, compartment, or baggage.

Analysis of Comments

The Notice of Proposed Rulemaking invited the public to comment on the proposed changes to the Customs Regulations. Two comments were received.

One comment was a suggestion to provide in the regulations that a Customs inspector may hire an outside contractor, such as a locksmith, to open or unlock baggage. This suggestion is beyond the scope of this rulemaking and may be addressed internally by Customs.

The other commenter suggested that Customs require its officers to assist the traveler in repacking his baggage when nothing contrary to the law is found during a baggage examination. Customs believes that such a requirement is legally unnecessary. Furthermore,

helping the passenger repack might unduly burden inspectors, who have to process many passengers, frequently in short periods of time.

Conclusion

After further review of the proposal and careful consideration of the comments received, we have decided to adopt the proposed regulatory changes.

Regulatory Flexibility Act and Executive Order 12866

Based upon the supplementary information set forth above and because the opening and examination of baggage and merchandise is mandated by the statutes cited above, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, the amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 or 604. This document does not meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866.

Drafting Information

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

List of Subjects

19 CFR Part 123

Canada, Customs duties and inspection, Freight, International boundaries, Mexico, Motor carriers, Railroads, Reporting and recordkeeping requirements, Vessels.

19 CFR Part 148

Airmen, Customs duties and inspection, Foreign officials, Government employees, International organizations, Reporting and recordkeeping requirements, Vessels.

Amendments to the Customs Regulations

For the reasons set forth in the preamble, parts 123 and 148 of the Customs Regulations (19 CFR parts 123 and 148) are amended as set forth below.

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. The general authority citation for part 123 and the specific authority citation for § 123.63 continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1624.

* * * * *

Section 123.63 also issued under 19 U.S.C. 1461, 1462.

* * * * *

2. Section 123.63 is revised to read as follows:

§ 123.63 Examination of baggage from Canada or Mexico.

(a) *Opening vehicle or compartment to examine baggage.* Customs officers are authorized to unlock, open, and examine vehicles and compartments thereof for the purposes of examining baggage under sections 461, 462, 496, 581(a) and 582, Tariff Act of 1930, as amended (19 U.S.C. 1461, 1462, 1496, 1581(a), and 1582) and 19 U.S.C. 482. However, to the extent practical, the Customs officer should ask the owner or operator to unlock such vehicle or compartment first. Where the owner or operator is unavailable or refuses to unlock the vehicle or compartment or where it is not practical to ask the owner or operator to unlock the same, it shall be opened by the Customs officer. If any article is subject to duty, or any prohibited article is found upon opening by the Customs officer, the whole contents and the vehicle shall be subject to forfeiture pursuant to 19 U.S.C. 1462.

(b) *Inspection of baggage.* A Customs officer has the right to inspect all merchandise and baggage brought into the United States from contiguous countries under 19 U.S.C. 1461. He also has the right, under the same statute, to require that owners of such baggage open it or furnish keys for doing so. Where the owner or agent is unavailable or refuses to open the baggage or furnish keys or where it is not practical to ask the owner or agent to open or furnish keys to the same, it shall be opened by the Customs officer. If any article is subject to duty, or any prohibited article is found upon opening by the Customs officer, the baggage shall be subject to forfeiture pursuant to 19 U.S.C. 1462.

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

1. The general authority citation for part 148 is revised to read as set forth below, and the specific authority for § 148.21 will continue to read as follows:

Authority: 19 U.S.C. 66, 1496, 1624. The provisions of this part, except for subpart C, are also issued under 19 U.S.C. 1202 (General Note 20, Harmonized Tariff Schedule of the United States).

Section 148.21 also issued under 19 U.S.C. 1461, 1462.

* * * * *

2. Section 148.21 is revised to read as follows:

§ 148.21 Opening of baggage, compartments, or vehicles.

A Customs officer has the right to open and examine all baggage, compartments and vehicles brought into the United States under Sections 461, 462, 496 and 582, Tariff Act of 1930, as amended (19 U.S.C. 1461, 1462, 1496, and 1582) and 19 U.S.C. 482. To the extent practical, the owner or his agent shall be asked to open the baggage, compartment or vehicle first. If the owner or his agent is unavailable or refuses to open the baggage, compartment, or vehicle, it shall be opened by the Customs officer. If any article subject to duty, or any prohibited article is found upon opening by the Customs officer, the whole contents and the baggage or vehicle shall be subject to forfeiture, pursuant to 19 U.S.C. 1462.

George J. Weise,

Commissioner of Customs.

Approved: September 6, 1995.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 95–25997 Filed 10–19–95; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 92F–0493]

Indirect Food Additives: Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of ethylene-maleic anhydride copolymers containing no more than 2 percent by weight of polymer units derived from maleic anhydride in contact with food at temperatures not to exceed 49 °C (120 °F). This action is in response to a petition filed by Showa Denko K. K.

DATES: Effective October 20, 1995; written objections and requests for a hearing by November 20, 1995.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration,

rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Edward J. Machuga, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3085.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of February 12, 1993 (58 FR 8290), FDA announced that a food additive petition (FAP 3B4351) had been filed by Showa Denko K. K., Tokyo, Japan, c/o Center for Regulatory Services, 2347 Paddock Lane, Reston, VA 22091. The petition proposed to amend the food additive regulations in 21 CFR part 177 *Indirect Food Additives: Polymers* by adding a new section to provide for the safe use of ethylene-maleic anhydride copolymers containing no more than 2 percent by weight of polymer units derived from maleic anhydride in contact with food at temperatures not to exceed 49 °C (120 °F). However, subsequent to the publication of the filing notice, the agency decided, with concurrence of the petitioner, that the subject additive would be more appropriately regulated in § 177.1520 *Olefin polymers* (21 CFR 177.1520). Therefore, this final rule is amending § 177.1520 to provide for the safe use of ethylene-maleic anhydride copolymers containing no more than 2 percent by weight of polymer units derived from maleic anhydride in contact with food at temperatures not to exceed 49 °C (120 °F).

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the food additive is safe and that the regulations in § 177.1520 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before November 20, 1995 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 177.1520 is amended by adding a new paragraph (a)(6) and in the table in paragraph (c) by adding a new item ''6'' to read as follows:

§ 177.1520 Olefin polymers.

* * * * *

(a) * * *

(6) Ethylene-maleic anhydride copolymers (CAS Reg. No. 9006–26–2) containing no more than 2 percent by weight of copolymer units derived from maleic anhydride.

* * * * *

(c) * * *

Olefin polymers	Density	Melting point (MP) or softening point (SP) (*Degrees Centigrade*)	Maximum extractable fraction (expressed as percent by weight of polymer) in *N*-hexane at specified temperatures	Maximum soluble fraction (expressed as percent by weight of polymer) in xylene at specified temperatures
* *	*	*	*	* *
6. Ethylene-maleic anhydride copolymers described in paragraph (a)(6) of this section for use as the adhesive component in multilaminate structures, or as the sealant layer in flexible packaging, in contact with food at temperatures not exceeding 49 °C (120 °F).	0.92–0.94	.....	1.36 pct at 50 °C.	2.28 pct at 25 °C.

* * * * *

Dated: October 4, 1995.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–25973 Filed 10–19–95; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Part 184

[Docket No. 87G–0406]

Direct Food Substances Affirmed as Generally Recognized as Safe; Aminopeptidase Enzyme Preparation Derived From Lactococcus Lactis

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to affirm that the use of an aminopeptidase enzyme preparation derived from *Lactococcus lactis* (formerly known as *Streptococcus lactis*) in the manufacturing of cheddar cheese and in the preparation of protein hydrolysates is generally recognized as safe (GRAS). This action is in response to a petition filed by Imperial Biotechnology, Ltd.

DATES: Effective October 20, 1995. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of a publication listed in new § 184.1985, effective October 20, 1995.

FOR FURTHER INFORMATION CONTACT: Aydin Örstan, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3076.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the procedures described in 21 CFR 170.35, Imperial Biotechnology, Ltd., Imperial College Rd., South Kensington, London, SW7 2BT, United Kingdom, submitted a petition (GRASP 8G0335) proposing that aminopeptidase from *L. lactis* be affirmed as GRAS as a direct human food ingredient.

FDA published a notice of filing of this petition in the Federal Register of February 23, 1988 (53 FR 5319), and gave interested parties an opportunity to submit comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. FDA received no comments in response to that notice.

II. Standards for GRAS Affirmation

Under § 170.30 (21 CFR 170.30), general recognition of safety may be based only on the views of experts qualified by scientific training and experience to evaluate the safety of substances added to food. The basis of such views may be either: (1) Scientific procedures, or (2) in the case of a substance used in food prior to January 1, 1958, experience based on common use in food (§ 170.30(a)). General recognition of safety based upon scientific procedures requires the same quantity and quality of scientific evidence as is required to obtain approval of a food additive regulation and ordinarily is to be based upon published studies, which may be corroborated by unpublished studies and other data and information (§ 170.30(b)). In its petition, Imperial Biotechnology, Ltd., relies on scientific procedures, primarily published scientific papers and books, corroborated by unpublished information, to demonstrate the safety of aminopeptidase enzyme preparation produced from *L. lactis* for use in the manufacturing of cheddar cheese and in the preparation of protein hydrolysates.

III. Identity, Technical Effect, and Production

A. Identity

Aminopeptidase enzyme preparation is a mixture of intracellular peptidases derived from the bacterium *L. lactis*. Peptidases are enzymes that cleave peptide bonds to liberate free amino acids or dipeptides (Ref. 1). The natural occurrence of peptidases in the cellular extracts of *L. lactis* and in extracts of cheese made with this organism is documented in the scientific literature (Ref. 2).

For simplicity, the trivial name aminopeptidase is used to describe the enzyme preparation. The Chemical Abstracts Service (CAS) Registry Number for aminopeptidase is 9031–94–1. The Enzyme Commission (EC) numbers of the enzymes present in aminopeptidase enzyme preparation are as follows: aminopeptidase, EC 3.4.11.1; tripeptide aminopeptidase, EC 3.4.11.4; dipeptidase, EC 3.4.13.11; proline dipeptidase, EC 3.4.13.9; dipeptidylpeptide hydrolases (EC 3.4.14.1–3) (Ref. 1). The agency finds that the petitioned preparation meets the requirements for enzyme preparations found in the Food Chemicals Codex, 3d ed. (1981), which is incorporated by reference in new § 184.1985.

B. Technical Effect

The progressive breakdown of milk proteins to peptides and amino acids during the ripening of cheese leads to the development of typical cheese texture and flavors. This process is catalyzed by aminopeptidase and other peptidases produced by the bacteria added to milk as starter cultures (Refs. 3 through 6). Also, these enzymes may be extracted from bacterial cultures and used in improving flavor and eliminating the bitterness of protein hydrolysates (Ref. 7), which are used in many foods for a variety of functions, including as formulation aids, leavening agents, stabilizers, thickening agents, nutrient supplements, protein sources, flavorings, and flavor enhancers. The petitioner intends to use the aminopeptidase enzyme preparation to accelerate flavor development during cheddar cheese ripening and to improve the flavor of protein hydrolysates used in various foods.

The petitioner has presented published information demonstrating that peptidase enzymes from *L. lactis* perform their intended technical effect in cheese manufacturing (Ref. 8). Furthermore, the petitioner provided a European patent office publication containing an approved patent application that demonstrates that the aminopeptidase enzyme preparation performs its intended technical effect in the manufacture of protein hydrolysates (Ref. 7). The petitioner also presented unpublished, corroborative studies demonstrating that the aminopeptidase enzyme preparation performs its intended technical effects in the manufacture of cheddar cheese and protein hydrolysates.

C. Production and Purification

The production process for aminopeptidase enzyme preparation, described in detail in GRASP 8G0335, may be summarized as follows: *L. lactis*, started from a pure culture, is aseptically grown at 30 °C in stainless steel fermenters in a medium containing lactose, casein hydrolysate, yeast extract, ascorbic acid, disodium hydrogen phosphate, magnesium sulfate, and polypropylene glycol P–2,000 as a defoaming agent. Samples of the medium are removed aseptically at various stages of fermentation and examined microscopically for typical morphology of the production organism and for the presence of contaminating organisms. During fermentation, the pH of the culture is maintained within a range of 6.4–6.6 with sodium hydroxide. Once the maximum cell density of the production organism, as measured by

optical density, has been reached, the fermentation is terminated by cooling the contents of the fermenter down to 5–10 °C. The bacterial cells are collected by centrifugation, resuspended in phosphate buffer, and the intracellular enzymes are released by physical disruption. The fraction containing aminopeptidase and other enzymes is separated from unwanted material by ultrafiltration or diafiltration. The enzyme fraction is dried, mixed, and packaged.

IV. Safety Evaluation

In evaluating the safety of aminopeptidase enzyme preparation as a food ingredient, the agency considered the following issues: (1) The safety of the producing organism; (2) the safety of the enzyme component; and (3) exposure levels of the enzyme preparation in food.

A. The Producing Organism

The producing organism *L. lactis* was formerly named *S. lactis*. However, genetic studies have demonstrated that this organism and several of its relatives are not as closely related to the other streptococci as was once thought, and the new information prompted their transfer to the newly created genus *Lactococcus* in 1985 (Ref. 9). Thus, in the older literature and various Federal regulations *L. lactis* is referred to as *S. lactis*.

L. lactis and its related organisms belong to a group of bacteria commonly known as the ''lactic acid bacteria'' (Ref. 10). All of the cheese standards FDA lists in part 133 (21 CFR part 133) provide for the use of lactic acid bacteria in the manufacture of cheese (for example, § 133.113 *Cheddar cheese*). Published information demonstrates that *L. lactis* and several of its subspecies are commonly used in cheese manufacturing (Refs. 2, 3, 4, 10, 11, and 12). The Catalogue of Strains of the National Collection of Food Bacteria in the United Kingdom lists several strains of *L. lactis* as cheese starter cultures (Ref. 13), and the Catalogue of Bacteria of the American Type Culture Collection cites various food uses for the same organism (Ref. 14).

Furthermore, certain strains of *S. lactis* are used to prepare two substances that FDA has affirmed as GRAS, nisin (21 CFR 184.1538) and starter distillate (21 CFR 184.1848). Additionally, the standards of identity for acidified sour cream (21 CFR 131.162); sour half-and-half (21 CFR 131.185); acidified sour half-and-half (21 CFR 131.187); and bread, rolls, and buns (21 CFR 136.110) provide for the use of lactic acid bacteria in the manufacture of these foods. *S. lactis* has been used to manufacture cheese, buttermilk, and other fermented foods for decades (Ref. 15). Lactic acid bacteria are the subject of a prior sanction by the United States Department of Agriculture (Ref. 16) and are listed as approved substances for use in several meat products in 9 CFR 318.7.

The information in the petition indicates that viable cells of the producing organism *L. lactis* may remain in the final product. The agency concludes that the presence of the viable cells of *L. lactis* in aminopeptidase enzyme preparation is not a safety concern, however, because: (1) The published information summarized above demonstrates the widespread food uses of this organism without any safety concerns; and (2) ''Bergey's Manual of Systematic Bacteriology,'' which describes the pathogenicity of *Streptococcus* species, contains no reference to pathogenicity of *S. lactis* (Ref. 17).

B. The Enzyme Component and Processing Aids

Published data demonstrate that aminopeptidase and other peptidases are naturally present in cheese prepared using *S. lactis* as a starter culture. In a study using a modified electrophoretic starch gel technique on cheddar cheese, researchers detected aminopeptidase activity in fractions of the cheese extracts (Ref. 2).

The petitioner also provided unpublished animal feeding studies as corroborative evidence of the safety of the aminopeptidase enzyme preparation. During a dietary range-finding study, rats were fed up to 2,000 milligrams (mg) aminopeptidase enzyme preparation per kilogram (kg) body weight (bw) per day (d) for 28 days. There were no reported deaths, clinical signs or group differences in liver and kidney weights that could be ascribed to treatment. Also, weight gains and food intake for all treatment groups were similar to those for controls.

During a second study, rats were fed aminopeptidase enzyme preparation for 13 weeks at doses up to 2,000 mg/kg bw/d. There were no deaths and no treatment-related clinical signs. Weight gains and food intake for all treatment groups were similar to those for controls. There were no macroscopic, pathologic, or histopathologic changes that could be ascribed to treatment with aminopeptidase enzyme preparation. Statistical analyses of organ weights showed no dose-related differences between treated and control groups.

The agency concludes from the evidence summarized above that the enzyme component of the aminopeptidase preparation does not raise safety concerns; therefore, the relevant safety issue becomes whether the enzyme preparations contain toxic contaminants. Enzyme preparations used in food processing are usually not chemically pure but contain, in addition to the enzyme component, materials that derive from the enzyme source, as well as from the manufacturing methods used to generate the finished enzyme preparation.

In accordance with § 170.30(h)(1), the enzyme preparations affirmed as GRAS in this document must comply with the general requirements and additional requirements for enzyme preparations in the Food Chemicals Codex, 3d ed., pp. 107–110. These include the requirement that aminopeptidase enzyme preparation from *L. lactis* be produced by methods and under culture conditions that ensure a controlled fermentation, thus preventing the introduction of bacterial cells that could be the source of toxic materials and other undesirable substances. Moreover, any compounds that become or are intended to become functional components of aminopeptidase enzyme preparation, such as water, salts, preservatives, or stabilizers, must be either GRAS ingredients or food additives approved as safe for this purpose. Therefore, the agency concludes that the presence of added substances and impurities derived from the enzyme source or introduced by manufacturing does not present a basis for concern about the safety of the enzyme preparation.

Additionally, the petitioner presented results of tests showing that aminopeptidase enzyme preparation derived from the strain of *L. lactis* used by the petitioner contains no detectable antibiotics that might promote the development of antibiotic resistance.

C. Estimated Exposure Levels

For exposure estimates, the agency has considered the proposed uses of aminopeptidase enzyme preparation in the manufacturing of cheddar cheese and in the preparation of protein hydrolysates. Estimates of enzyme use level and intake are usually based on the total organic solids (TOS) content of the enzyme preparation. The petitioner provided data indicating that the average TOS content of aminopeptidase enzyme preparation is 85 percent by weight. Based on information on consumption of cheese and processed foods containing protein hydrolysates and on the amount of aminopeptidase enzyme preparation needed to produce foods under conditions of current good

manufacturing practice (CGMP), the estimated daily intake (EDI) of aminopeptidase enzyme preparation, expressed as TOS, is 33 mg/person/d at the 90th percentile level of consumption of these products. As discussed above, aminopeptidase and other peptidases are naturally present in cheese made by using *S. lactis* as a starter culture (Ref. 2). The EDI at the 90th percentile level of consumption of aminopeptidase and other peptidases naturally present in cheese prepared with *L. lactis* as the starter culture expressed as TOS is 77 mg/person/d, which exceeds the EDI calculated above for added aminopeptidase enzyme preparation.

Moreover, the data obtained in the corroborative unpublished 13-week rat feeding study showed no adverse effects at the highest dose of 2,000 mg aminopeptidase enzyme preparation/kg bw/d. Correction of this value for TOS and application of a 1,000-fold safety factor produces, for a 60 kg person, an acceptable daily intake (ADI) of 102 mg TOS of aminopeptidase enzyme preparation/person/d, which exceeds the EDI reported above (33 mg TOS/person/d).

V. Conclusion

FDA has evaluated the published information in the petition, along with other corroborative information, and finds that the use of aminopeptidase enzyme preparation from *L. lactis* in the manufacturing of cheddar cheese and preparation of protein hydrolysates is GRAS.

Furthermore, these data show no potential risk from any foreseeable use of the aminopeptidase enzyme preparation. Therefore, in accordance with 21 CFR 184.1(b)(1), the agency is affirming that the use of aminopeptidase enzyme preparation from *L. lactis* is GRAS with no limits on its conditions of use other than CGMP.

VI. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

VII. Analysis of Impacts

FDA has examined the economic implications of this final rule affirming the GRAS status of the use of aminopeptidase enzyme preparation from *L. lactis* in the manufacturing of cheddar cheese and preparation of protein hydrolysates under Executive Order 12866 (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because no current activity is prohibited by this final rule, the compliance cost to firms is zero. Since no increase in the health risks faced by consumers will result from this final rule, total costs are also zero. Potential benefits include the wider use of this substance to achieve its intended technical effects, and any resources saved by eliminating the need to prepare further petitions to affirm the GRAS status of this substance. Affirming that the use of aminopeptidase enzyme preparation from *L. lactis* in the manufacturing of cheddar cheese and preparation of protein hydrolysates under conditions of CGMP is GRAS will expand product formulation possibilities for food manufacturers, including small entities. Therefore, under the Regulatory Flexibility Act, FDA has also determined that this rule will have a positive impact on small entities.

VIII. Effective Date

As this rule recognizes an exemption from the food additive definition in the Federal Food, Drug, and Cosmetic Act, and from the approval requirements applicable to food additives, no delay in effective date is required by the Administrative Procedure Act, 5 U.S.C. 553(d). The rule will therefore be effective immediately (5 U.S.C. 553(d)(1)).

IX. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. ''Enzyme Nomenclature 1978,'' pp. 300–309, Academic Press, NY, 1979.

2. Cliffe, A. J., and B. A. Law, ''An Electrophoretic Study of Peptidases in Starter Streptococci and in Cheddar Cheese,'' *Journal of Applied Bacteriology*, 47:65–73, 1979.

3. Perry, K. D., ''A Comparison of the Influence of *Streptococcus lactis* and *Str. cremoris* Starters on the Flavour of Cheddar Cheese,'' *Journal of Dairy Research*, 28:221–229, 1961.

4. Dawson, D. J., and J. T. Feagan, ''Bacteriology of Cheddar Cheese,'' *Journal of Dairy Research*, 24:210–224, 1957.

5. Law, B. A., M. E. Sharpe, and B. Reiter, ''The Release of Intracellular Dipeptidase from Starter Streptococci During Cheddar Cheese Ripening,'' *Journal of Dairy Research*, 41:137–146, 1974.

6. Reiter, B., Y. Sorokin, A. Pickering, and A. J. Hall, ''Hydrolysis of Fat and Protein in Small Cheeses Made Under Aseptic Conditions,'' *Journal of Dairy Research*, 36:65–76, 1969.

7. Parker, D. M., and D. Pawlett, ''Flavour Control of Protein Hydrolysates,'' European Patent Office Publication No. 0 223 560, Bulletin 87/22, May 5, 1987.

8. Law, B. A., and A. S. Wigmore, ''Accelerated Ripening of Cheddar Cheese with a Commercial Proteinase and Intracellular Enzymes from Starter Streptococci,'' *Journal of Dairy Research*, 50:519–525, 1983.

9. Schleifer, K. H., J. Kraus, C. Dvorak, R. Kilpper-Bälz, M. D. Collins, and W. Fischer, ''Transfer of *Streptococcus Lactis* and Related Streptococci to the Genus *Lactococcus* gen. nov.,'' *Systematic Applied Microbiology*, 6:183–195, 1985.

10. Jay, J. M., ''Modern Food Microbiology,'' 2d ed., pp. 255 and 265–266, D. Van Nostrand, NY, 1978.

11. Potter, N. N., ''Food Science,'' 4th ed., pp. 374–376, Van Nostrand Reinhold, NY, 1986.

12. Reiter, B., T. F. Fryer, A. Pickering, H. R. Chapman, R. C. Lawrence, and M. E. Sharpe, ''The Effect of the Microbial Flora on the Flavour and Free Fatty Acid Composition of Cheddar Cheese,'' *Journal of Dairy Research*, 34:257–272, 1967.

13. National Collection of Food Bacteria, Catalog of Strains, 3d ed., Reading, United Kingdom, pp. 116–126, 1986.

14. American Type Culture Collection, Catalogue of Bacteria and Phages, 8th ed., Rockville, MD, pp. 176–177, 1992.

15. Frazier, W. C., ''Food Microbiology,'' pp. 49 and 215, McGraw-Hill, NY, 1958.

16. Food Drug Cosmetic Law Journal, pp. 834–840, December, 1958.

17. ''Bergey's Manual of Systematic Bacteriology,'' vol. 2, edited by P. H. A. Sneath, pp. 1002 and 1065–1066, Williams and Wilkins, Baltimore, 1986.

List of Subjects in 21 CFR Part 184

Food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under

authority delegated to the Commissioner of Food and Drug and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 184 is amended as follows:

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

1. The authority citation for 21 CFR part 184 continues to read as follows:

Authority: Secs. 201, 402, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 371).

2. New § 184.1985 is added to read as follows:

§ 184.1985 Aminopeptidase enzyme preparation derived from lactococcus lactis.

(a) Aminopeptidase enzyme preparation is derived from the nonpathogenic and nontoxicogenic bacterium *Lactococcus lactis* (previously named *Streptococcus lactis*). The preparation contains the enzyme aminopeptidase (CAS Reg. No. 9031–94–1; EC 3.4.11.1) and other peptidases that hydrolyze milk proteins. The preparation is produced by pure culture fermentation.

(b) The ingredient meets the specifications for enzyme preparations in the Food Chemicals Codex, 3d ed. (1981), pp. 107–110, which are incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Division of Petition Control (HFS–215), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 1110 Vermont Ave. NW., suite 1200, Washington, DC, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitations other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an enzyme, as defined in § 170.3(o)(9) of this chapter, as an optional ingredient for flavor development in the manufacture of cheddar cheese, in accordance with § 133.113 of this chapter, and in the preparation of protein hydrolysates.

(2) The ingredient is used at levels not to exceed current good manufacturing practice.

Dated: September 29, 1995.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–26054 Filed 10–19–95; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Part 510

New Animal Drugs; Change of Sponsor Name

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor name from Miles, Inc., Agriculture Division, Animal Health Products to Bayer Corp., Agriculture Division, Animal Health.

EFFECTIVE DATE: October 20, 1995.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1646.

SUPPLEMENTARY INFORMATION: Miles, Inc., Agriculture Division, Animal Health Products, P.O. Box 390, Shawnee Mission, KS 66201–0390, has informed FDA of a change of sponsor name to Bayer Corp., Agriculture Division, Animal Health. Accordingly, FDA is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect the change of sponsor name.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry for ''Miles, Inc., Agriculture Division, Animal Health Products,'' and by alphabetically adding a new entry for ''Bayer Corp., Agriculture Division, Animal Health,'' and in the table in paragraph (c)(2) in the entry for ''000859'' by removing the sponsor name ''Miles, Inc., Agriculture Division, Animal Health Products'' and adding in its place ''Bayer Corp., Agriculture Division, Animal Health.''

Dated: October 5, 1995.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 95–25958 Filed 10–19–95; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lasalocid

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two supplemental new animal drug applications (NADA's) filed by Hoffmann-La Roche, Inc. One supplemental NADA provides for the addition of certain lasalocid-containing Type A medicated articles to dry, powdered milk replacer before reconstitution. The reconstituted Type C medicated feed is used to control coccidiosis in nonveal calves. Additionally, FDA is amending the regulations to reflect approval of another supplemental NADA which modifies the lasalocid feeding directions for control of coccidiosis in cattle.

EFFECTIVE DATE: October 20, 1995.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1643.

SUPPLEMENTARY INFORMATION: Hoffmann-La Roche, Inc., Nutley, NJ 07110, is the sponsor of NADA 96–298, which currently provides for the use of several concentrations of lasalocid sodium-containing Type A medicated articles in making Type C medicated cattle feeds (68 to 113 grams of activity per ton) for the control of coccidiosis caused by *Eimeria bovis* and *E. zuernii*. The firm has filed a supplemental NADA that expands this use of the drug to nonveal calves using milk replacer powder.

Additionally, FDA concurred with another supplemental NADA which was filed to modify the feeding directions for lasalocid medicated feed when used to

control coccidiosis in cattle. The supplemental NADA modifies the feeding directions in the table in § 558.311(e)(1) by changing ''feed continuously'' to ''hand feed''.

The supplemental NADA's are approved as of August 7, 1995, and the regulations are amended in § 558.311 (21 CFR 558.311) to reflect the approvals.

Under 21 CFR 514.106(b)(2), these are Category II changes. Approval of these changes is not expected to have any adverse effect on the safety or effectiveness of this new animal drug. Accordingly, these approvals did not require a reevaluation of the safety and effectiveness data in the parent application.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), these approvals for food-producing animals do not qualify for marketing exclusivity because the supplemental applications do not contain new clinical or field investigations (other than bioequivalence or residue studies) and new human food safety studies (other than bioequivalence or residue studies) essential to the approvals and conducted or sponsored by the applicant.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

2. Section 558.311 is amended in paragraph (b)(3) by removing ''(xiii)'' and adding in its place ''(xv)'' and in the table in paragraph (e)(1), in the ''Limitations'' column, in the entry for ''(xii)'' by removing ''feed continuously'' and adding in its place ''hand feed'', and by adding new entry ''(xv)'' to read as follows:

§ 558.311 Lasalocid.

* * * * *

(e)(1) * * *

Lasalocid sodium activity in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
*	*	* *	* *	*
(xv).....	.....	Replacement calves; for control of coccidiosis caused by *E. bovis* and *E. zuernii*.	In milk replacer powder; hand feed at a rate of 1 mg of lasalocid per 2.2 lb body weight per day; include on labeling warning: ''A withdrawal period has not been established for lasalocid in pre-ruminating calves. Do not use in calves to be processed for veal.''.	000004

* * * * *

Dated: October 5, 1995.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 95–25972 Filed 10–19–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations; News Organizations; Travel Transactions; Intellectual Property

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: Pursuant to the President's announcement of October 6, 1995, the Treasury Department is amending the Cuban Assets Control Regulations to add 3 interpretive sections concerning the authorization of travel transactions related to research, free–lance journalism, and educational activities in Cuba. A general license is added to permit travel to Cuba once a year in cases of extreme humanitarian need. Statements of licensing policy are added concerning the availability of specific licenses for public performances, educational exchanges, activities of human rights organizations, and the reciprocal establishment of news organization offices. Payment of expenses for intellectual property protection in Cuba is also authorized. In addition, a number of clarifying technical amendments are included in this final rule.

EFFECTIVE DATE: October 17, 1995.

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

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the Federal Register. By modem, dial 202/515–1387 and type ''/GO FAC,'' or call 202/512–1530 for disks or paper copies. This file is available for downloading in WordPerfect, ASCII, and Adobe Acrobat™ readable (*.PDF) formats. The document is also accessible for downloading in ASCII format without change from Treasury's Electronic Library (''TEL'') in the ''Business, Trade and Labor Mall'' of the FedWorld bulletin board. By modem dial 703/321–3339, and select self–expanding file ''T11FR00.EXE'' in TEL. For Internet access, use one of the following protocols: Telnet = fedworld.gov (192.239.93.3); World Wide Web (Home Page) = hhtp://www.fedworld.gov; FTP = ftp.fedworld.gov (192.239.92.205).

Background

On October 6, 1995, President Clinton announced a number of changes to the administration of the Cuban embargo intended to promote democratic change in Cuba. Accordingly, the Office of Foreign Assets Control is amending the Cuban Assets Control Regulations, 31 CFR part 515 (the ''Regulations''), to implement these measures.

Section 514.416 is amended to expand the interpretation of the term

''research and similar activities'' to include research conducted on behalf of an organization with an established interest in international relations. Individuals acting on behalf of such an organization may apply for a specific license to authorize travel–related transactions in Cuba. Section 515.417 is added to the Regulations to establish the basis on which specific licenses to authorize travel–related transactions will be granted to individuals engaging in free–lance journalism. Section 515.419 is added providing an interpretation of the term ''educational activities.'' Specific licenses will be available for individuals who are attending certain meetings of international organizations in Cuba. Undergraduates' travel to Cuba for study toward a degree may be licensed if the activities are sponsored by a college or university.

Sections 515.527 and 515.528 are amended to authorize transactions including payments to the United States by Cuban nationals and payments to Cuba by U.S. companies and individuals related to the protection of intellectual property. A new general license is established at § 515.560(a)(1)(iii) to permit travel to Cuba once a year to visit close relatives in circumstances of extreme humanitarian need. Clarifying amendments are made to § 515.560(g) to make clear that ''fully hosted or sponsored'' travelers may not use the charter services authorized pursuant to § 515.566. Section 515.565 is amended to provide that specific licenses may be issued for public performances or public exhibitions in Cuba. A new § 515.572 is added to the Regulations which states that specific licenses may be issued on a case–by–case basis to permit the establishment of offices for news organizations in the United States by Cubans and in Cuba by U.S. persons.

A new § 515.573 is added to the Regulations authorizing educational exchanges for Cuban and U.S. scholars, as well as study in a Cuban academic institution by graduate and undergraduate students. Section 515.574 is added to the Regulations to allow for specific licensing of activities of human rights organizations and other non–governmental organizations to support the Cuban people.

In addition, certain technical amendments are included in this rule. The term ''authorized trade territory'' is redefined in § 515.322. Sections 515.413 and 515.561 are being removed from the Regulations. Section 515.413, concerning certain engineering advice, related to a general license that is no longer included in the Regulations; accordingly, § 515.413 is being removed as unnecessary. Section 515.561 was originally incorporated into the Regulations to authorize travel in support of transactions authorized under an earlier version of § 515.559. The continued authorization of travel transactions is inconsistent with the present limited scope of § 515.559. Finally § 515.563 is amended to clarify that remittances related to emigration from Cuba continue to be authorized under general license.

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

List of Subjects in 31 CFR Part 515

Administrative practice and procedure, Air carriers, Banks, banking, Cuba, Currency, Estates, Exports, Fines and penalties, Foreign investment in the United States, Foreign trade, Imports, Informational materials, Publications, Reporting and recordkeeping requirements, Securities, Shipping, Travel restrictions, Trusts and trustees, Vessels.

For the reasons set forth in the preamble, 31 CFR part 515 is amended as set forth below:

PART 515—CUBAN ASSETS CONTROL REGULATIONS

1. The authority citation for part 515 continues to read as follows:

Authority: 50 U.S.C. App. 1–44; 22 U.S.C. 6001–6010; 22 U.S.C. 2370(a); Proc. 3447, 27 FR 1085, 3 CFR, 1959–1963 Comp., p. 157; E.O. 9193, 7 FR 5205, 3 CFR, 1938–1943 Comp.,p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943–1948 Comp., p. 748; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614.

Subpart C—General Definitions

2. Paragraph (a) of § 515.322 is revised to read as follows:

§ 515.322 Authorized trade territory; member of the authorized trade territory.

(a) The term *authorized trade territory* includes all countries, including any colony, territory, possession, or protectorate, except those countries subject to sanctions pursuant to this chapter. The term does not include the United States.

* * * * *

Subpart D—Interpretations

§ 515.413 [Removed and reserved]

3. Section 515.413 is removed and reserved.

4. The introductory text of paragraph (a) and paragraph (a)(1) of § 515.416 are revised to read as follows:

§ 515.416 Professional research and similar activities.

(a) Section 515.560(b) sets forth the criteria on which specific licenses for transactions related to travel to, from, and within Cuba may be issued for persons engaging in professional research and similar activities of a noncommercial, academic nature. Persons traveling to Cuba to engage in professional research must engage in a full work schedule in Cuba, and there must be a substantial likelihood of public dissemination of the product of their research. No transactions related to tourist or recreational travel within Cuba are authorized in connection with professional research, except those that are consistent with a full schedule of research activities.

(1) Persons are considered to be engaging in professional research for purposes of this section:

(i) If they are full–time professionals who travel to Cuba to do research in their professional areas and their research is specifically related to Cuba; or

(ii) If they are acting on behalf of an organization with an established interest in international relations to collect information related to Cuba.

* * * * *

5. Section 515.417 is added to subpart D to read as follows:

§ 515.417 Free-lance journalists.

(a) Section 515.560(a)(2) authorizes travel transactions for journalists who are regularly employed in that capacity by a news reporting organization. For individuals who wish to travel to Cuba to do research for a free–lance article, specific licenses will be issued pursuant to § 515.560(b) on a case–by–case basis upon submission of an adequate written application including the following documentation:

(1) A detailed itinerary and a detailed description of the proposed research; and

(2) A resume or similar document showing a record of publications.

(b) To qualify for specific licensing pursuant to § 515.560(b), the itinerary for the proposed research in Cuba for a free–lance article must demonstrate that the research constitutes a full work schedule that could not be accomplished in a shorter period of time.

6. Section 515.419 is added to subpart D to read as follows:

§ 515.419 Travel related to educational activities.

(a) Section 515.560(b) provides, in part, that specific licenses will be issued to persons for travel to Cuba for clearly defined educational activities. Transactions related to travel and maintenance in Cuba for the following activities will be licensed upon submission of an adequate written application:

(1) Attendance at a meeting or conference held in Cuba by a person with an established interest in the subject of the meeting or conference, provided that:

(i) The meeting or conference is organized by an international institution or association that regularly sponsors meetings or conferences in other countries; and

(ii) The purpose of the meeting or conference is not the promotion of tourism in Cuba or other commercial activities involving Cuba that are inconsistent with this part; and

(2) Activities related to study for an undergraduate or graduate degree sponsored by a college or university located in the United States.

(b) Transactions related to travel that is primarily tourist travel, including self–directed educational activities that are intended for personal enrichment, will not be licensed pursuant to § 515.560(b).

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

7. Section 515.527 is revised to read as follows:

§ 515.527 Certain transactions with respect to United States intellectual property.

(a) Transactions related to the registration and renewal in the United States Patent and Trademark Office or the United States Copyright Office of patents, trademarks, and copyrights in which the Government of Cuba or a Cuban national has an interest are authorized.

(b) This section authorizes the payment from blocked accounts or otherwise of fees currently due to the United States Government in connection with any transaction authorized in paragraph (a) of this section.

(c) This section further authorizes the payment from blocked accounts or otherwise of the reasonable and customary fees and charges currently due to attorneys or representatives within the United States in connection with the transactions authorized in paragraph (a) of this section.

8. The section heading and the introductory text of paragraph (a) of § 515.528 are revised to read as follows:

§ 515.528 Certain transactions with respect to blocked foreign intellectual property.

(a) The following transactions by any person who is not a designated national are hereby authorized:

* * * * *

9. Paragraphs (a), (b) and (g) of § 515.560 are revised to read as follows:

§ 515.560 Certain transactions incident to travel to and within Cuba.

(a)(1) *General license.* The transactions in paragraph (c) of this section are authorized in connection with travel to Cuba by:

(i) Persons who are officials of the United States Government or of any foreign government, or of any intergovernmental organization of which the United States is a member, and who are traveling on official business;

(ii) Journalists regularly employed in that capacity by a news reporting organization; or

(iii) Persons, and persons traveling with them who share a common dwelling as a family with them, who are traveling to visit close relatives in Cuba in circumstances that demonstrate extreme humanitarian need, provided that the authorization contained in this paragraph may be used only once in any 12 month period. Any additional transactions must be specifically licensed pursuant to paragraph (b) of this section.

(2) Nothing in this section authorizes transactions in connection with tourist travel to Cuba, nor does it authorize transactions in relation to any business travel not otherwise authorized by specific license issued pursuant to this part.

(b) *Specific licenses.* Specific licenses authorizing the transactions in paragraph (c) of this section may be issued in cases involving extreme humanitarian need to persons or persons living in the same household, who seek to travel to visit close relatives in Cuba of such persons more than once in a calendar year. Specific licenses may also be issued to persons to travel to Cuba for humanitarian reasons based on a demonstrated compelling need to travel, for professional research and similar activities consistent with § 515.416, for free lance journalism consistent with § 515.417, for clearly defined educational activities consistent with § 515.419, for religious activities, for activities of recognized human rights organizations investigating human rights violations, or for purposes related to the exportation, importation, or transmission of information or informational materials as defined in § 515.332.

(1) For purposes of this section, the term *close relative* means spouse, child, grandchild, parent, grandparent, great grandparent, uncle, aunt, brother, sister, nephew, niece, first cousin, mother–in–law, father–in–law, daughter–in–law, son–in–law, sister–in–law, brother–in–law, or spouse, widow, or widower of any of the foregoing.

(2) Nothing in this section authorizes transactions in connection with tourist travel to Cuba. Travel to Cuba that is characterized as falling within the criteria specified in paragraph (b) is prohibited unless specifically licensed.

* * * * *

(g)(1) For purposes of this section, all necessary transactions involving fully sponsored or hosted travel to, from, and within Cuba are authorized, provided that:

(i) No person subject to the jurisdiction of the United States shall make any payment or transfer any property or provide any service to Cuba or a Cuban national in connection with such travel; and

(ii) The travel is not aboard a direct flight between the United States and Cuba authorized pursuant to § 515.566 of this part.

(2) Travel shall be considered fully sponsored or hosted for purposes of this section notwithstanding a payment by the person subject to the jurisdiction of the United States for transportation to and from Cuba, provided that the carrier furnishing the transportation is not a Cuban national.

§ 515.561 [Removed and reserved]

10. Section 515.561 is removed and reserved.

11. Section 515.563 is revised to read as follows:

§ 515.563 Family remittances to nationals of Cuba.

(a) Specific licenses may be issued on a case–by–case basis authorizing remittances to a close relative of the remitter or of the remitter's spouse who is a national of Cuba and who is resident in Cuba or in the authorized trade territory. Such remittances will be authorized only in circumstances where extreme humanitarian need is demonstrated, including terminal illness or severe medical emergency.

(b) Remittances to any close relative of the remitter or of the remitter's spouse who is a national of Cuba or who

is resident in Cuba are authorized for the purpose of enabling the payee to emigrate from Cuba to the United States, in an amount not exceeding $500, to be made only once to any payee, provided that the payee is a resident of and within Cuba at the time the payment is made.

(c) The term *close relative* used with respect to any person means such person's spouse, child, grandchild, parent, grandparent, great grandparent, uncle, aunt, brother, sister, nephew, niece, first cousin, mother–in–law, father–in–law, son–in–law, daughter–in–law, sister–in–law, brother–in–law, or spouse, widow, or widower of any of the foregoing.

12. Paragraph (c) is added to § 515.565 to read as follows:

§ 515.565 Transactions in connection with public exhibitions or performances.

* * * * *

(c) Specific licenses may be issued in appropriate cases for transactions incident to participation by a person subject to the jurisdiction of the United States in a public exhibition or performance in Cuba.

13. Section 515.572 is added to subpart E to read as follows:

§ 515.572 Transactions by news organizations.

(a) Specific licenses may be issued authorizing all transactions necessary for the establishment and operation of news bureaus in Cuba whose primary purpose is the gathering and dissemination of news to the general public. Transactions that may be authorized include, but are not limited to, those incident to the following:

(1) Leasing office space and securing related goods and services;

(2) Hiring Cuban nationals to serve as support staff;

(3) Purchasing Cuban–origin goods for use in the operation of the office; and

(4) Paying fees related to the operation of the office in Cuba.

(b) Specific licenses may be issued authorizing transactions necessary for the establishment and operation of news bureaus in the United States by Cuban organizations whose primary purpose is the gathering and dissemination of news to the general public.

(c) Specific licenses may be issued authorizing transactions related to hiring Cuban nationals to provide reporting services or other services related to the gathering and dissemination of news.

(d) Note: The number assigned to a specific license issued pursuant to this section should be referenced in all import documents, and in all funds transfers and other banking transactions through banks organized or located in the United States, in connection with the licensed transaction to avoid the blocking of goods imported from Cuba and the interruption of the financial transactions with Cuba.

14. Section 515.573 is added to subpart E to read as follows:

§ 515.573 Transactions related to educational exchanges.

Specific licenses may be issued on a case–by–case basis authorizing the following:

(a) Transactions related to teaching at a Cuban academic institution by an individual regularly employed in a teaching capacity at a college or university located in the United States, provided the activities are related to a college or university academic program;

(b) Transactions related to the sponsorship of a Cuban scholar to teach or engage in other scholarly activity at a college or university located in the United States;

(c) Transactions related to participation in a formal course of study at a Cuban academic institution by a graduate or undergraduate student; and

(d) Transactions related to the organization of activities described in paragraph (a), (b), or (c) of this section.

15. Section 515.574 is added to subpart E to read as follows:

§ 515.574 Support for the Cuban people.

(a) Specific licenses may be issued on a case–by–case basis for transactions intended to provide support for the Cuban people including, but not limited to, the following:

(1) Activities of recognized human rights organizations; and

(2) Activities of individuals and non–governmental organizations which promote independent activity intended to strengthen civil society in Cuba.

(b) Licenses will only be issued pursuant to this section upon a clearly articulated showing that the proposed transactions are consistent with the purposes of this part and that no significant accumulation of funds or financial benefit will accrue to the Government of Cuba.

Dated: October 13, 1995.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: October 13, 1995.

John P. Simpson,

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

[FR Doc. 95–25976 Filed 10–17–95; 11:09 am]

BILLING CODE 4810–25–F

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 311

Privacy Program

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule.

SUMMARY: The Office of the Secretary of Defense is exempting a system of records identified as DWHS 29, entitled Personnel Security Adjudications File, from certain provisions of 5 U.S.C. 552a. Exemption is needed to comply with prohibitions against disclosure of information provided the government under a promise of confidentiality and to protect privacy rights of individuals identified in the system of records. The proposed rule was published on June 14, 1995, at 60 FR 31267. No comments were received, therefore, the rule is being adopted as final.

EFFECTIVE DATE: August 15, 1995.

ADDRESSES: Send comments to the OSD Privacy Act Officer, Washington Headquarter Services, Correspondence and Directives Division, Records Management Division, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Cragg at (703) 695–0970.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Director, Administration and Management, Office of the Secretary of Defense has determined that this Privacy Act rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of $100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866 (1993).

Regulatory Flexibility Act of 1980

The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act

The Director, Administration and Management, Office of the Secretary of Defense certifies that this Privacy Act rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

List of Subjects in 32 CFR Part 311

Privacy.

Accordingly, 32 CFR part 311 is amended as follows:

1. The authority citation for 32 CFR part 311 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat 1896 (5 U.S.C.552a).

2. Section 311.7, add a new paragraph (c)(8) as follows:

§ 311.7 Procedures for exemptions.

* * * * *

(c) *Specific exemptions.* * * *

(8)*System identifier and name*-DWHS P29, Personnel Security Adjudications File.

Exemption. Portions of this system of records that fall within the provisions of 5 U.S.C. 552a(k)(5) may be exempt from the following subsections (d)(1) through (d)(5).

Authority. 5 U.S.C. 552a(k)(5).

Reasons. From (d)(1) through (d)(5) because the agency is required to protect the confidentiality of sources who furnished information to the Government under an expressed promise of confidentiality or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence. This confidentiality is needed to maintain the Government's continued access to information from persons who otherwise might refuse to give it. This exemption is limited to disclosures that would reveal the identity of a confidential source. At the time of the request for a record, a determination will be made concerning whether a right, privilege, or benefit is denied or specific information would reveal the identity of a source.

* * * * *

Dated: October 13, 1995.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–25998 Filed 10–19–95; 8:45 am]

BILLING CODE 5000–04–F

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS STOUT (DDG 55) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: June 13, 1995.

FOR FURTHER INFORMATION CONTACT: Commander K.P. McMahon, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400. Telephone number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS STOUT (DDG 55) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, section 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead lights; and, Annex I, section 2(f)(i) pertaining to placement of the masthead light or lights above and clear of all other lights and obstructions. The Deputy Assistant Judge Advocate General (Admiralty) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

2. Table Four of § 706.2 is amended by revising the information on the following vessel in Paragraph 16:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	No.	Obstruction angle relative ship's headings
*	*	* * * * *
USS STOUT.	DDG 55 ...	102.00 thru 112.50°.
*	*	* * * * *

3. Table Five of § 706.2 is amended by revising the information on the following vessel:

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship annex I, sec. 3(a)	After mast-head light less than ½ ship's length aft of forward masthead light annex I, sec. 3(a)	Percentage horizontal separation attained
*	*	*	*	*	*
USS STOUT.	DDG 55 ...	X	X	X	20.7
*	*	*	*	*	*

Dated: June 13, 1995.

K.P. McMahon,

U.S. Navy Deputy Assistant Judge Advocate General (Admiralty).

[FR Doc. 95–25878 Filed 10–19–95; 8:45 am]

BILLING CODE 3810–FF–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

41 CFR Part 51–5

Mandatory Source Requirement

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Final rule.

SUMMARY: This rule revises the Committee's mandatory source requirement regulation to permit sales of Javits-Wagner-O'Day (JWOD) products to the Government through commercial distributors as well as the Committee's traditional sources of supply.

EFFECTIVE DATE: November 20, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: G. John Heyer (703) 603–7740. Copies of this notice will be made available on request in computer diskette format.

SUPPLEMENTARY INFORMATION: Entities of the Government desiring to buy commodities and services which are on the Committee's Procurement List are required by law (41 U.S.C. 48) to buy them from a qualified nonprofit agency designated by the Committee at the fair market price established by the Committee, in accordance with the Committee's rules and regulations. The Committee has traditionally interpreted this statutory mandate as requiring a direct buying relationship between a Government entity and a nonprofit agency. The Committee's mandatory source requirement regulation, 41 CFR 51–5.2, is based on this interpretation.

In light of ongoing changes in Federal procurement, the Committee has reexamined its traditional interpretation of its statute and has concluded that the regulatory authority it has been granted allows it to prescribe by regulation that its products may be procured through commercial distributors. As Government distributors such as the General Services Administration and the Defense Logistics Agency have long been providing these products to Government agencies, the Committee does not believe that this new interpretation is a departure from the statutory scheme which Congress established for the Committee to create jobs for people who are blind or have other severe disabilities by requiring Government agencies to purchase commodities and services from nonprofit agencies which employ these people.

The former version of the mandatory source requirement regulation mentioned the Department of Veterans Affairs (VA) as one of the Government central supply agencies which distribute commodities produced by the JWOD Program. Because VA has closed its depot system, a specific reference to VA does not appear in the new regulation. The new regulation retains the requirement that persons providing commodities to Government agencies by contract are required to order them from the same Committee-authorized sources the Government agencies would use if they bought the commodities directly.

Public Comments on the Proposed Rule

The Committee published the proposed rule in the Federal Register of July 28, 1995 (60 FR 38784). Four comments were received, one of which indicated that the commenter had no comments on the proposed rule at that time.

One commenter requested that the rule identify specific commercial distributors which would be authorized to serve as JWOD distributors. Another commenter asked questions about the process to be used to authorize commercial distributors of JWOD commodities. However, as indicated in the preamble to both the proposed and final rules, the purpose of this rulemaking is merely to create the regulatory authority needed to permit the Committee to use commercial distributors in the future if appropriate. The process and criteria to be used to authorize the distributors, as well as the identities of the distributors, have not yet been determined.

Another commenter requested that the reference in paragraph 51–5.2(b) of the proposed rule to ''sources authorized by the Committee'' be changed to ''sources authorized and/or recognized by the Committee.'' The change would permit retrospective recognition of a commercial distributor's status as an authorized JWOD distributor. This change would be contrary to the Committee's intent to authorize commercial JWOD distributors, if at all, only after assuring that they meet appropriate criteria. Consequently, the proposed change has not been adopted.

Regulatory Flexibility Act

I certify that this proposed revision of the Committee regulations will not have a significant economic impact on a substantial number of small entities because the revision clarifies program policies and does not essentially change the impact of the regulations on small entities.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply to this proposed rule because it contains no information collection or recordkeeping requirements as defined in that Act and its regulations.

Executive Order No. 12866

The Committee has been exempted from the regulatory review requirements of the Executive Order by the Office of Information and Regulatory Affairs.

Additionally, the proposed rule is not a significant regulatory action as defined in the Executive Order.

List of Subjects in 41 CFR Part 51–5

Government procurement, Handicapped.

For the reasons set out in the preamble, Part 51–5 of Title 41, Chapter 51 of the Code of Federal Regulations is amended as follows:

PART 51–5—CONTRACTING REQUIREMENTS

1. The authority citation for Part 51–5 continues to read as follows:

Authority: 41 U.S.C. 46–48c.

2. Section 51–5.2 is amended by revising paragraphs (b) and (c), removing paragraphs (d) and (e), and redesignating paragraph (f) as paragraph (d), to read as follows:

§ 51–5.2 Mandatory source requirement.

* * * * *

(b) Purchases of commodities on the Procurement List by entities of the Government shall be made from sources authorized by the Committee. These sources may include nonprofit agencies, central nonprofit agencies, Government central supply agencies such as the Defense Logistics Agency and the General Services Administration, and certain commercial distributors. Identification of the authorized sources for a particular commodity may be obtained from the central nonprofit agencies at the addresses noted in § 51–6.2 of this chapter.

(c) Contracting activities shall require other persons providing commodities which are on the Procurement List to entities of the Government by contract to order these commodities from the sources authorized by the Committee.

(d) * * *

Dated: October 17, 1995.

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–26011 Filed 10–19–95; 8:45 am]

BILLING CODE 6820–33–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 950206041–5041–01; I.D. 101695A]

Groundfish of the Gulf of Alaska; Sablefish and Pacific Ocean Perch in the Eastern Regulatory Area

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

ACTION: Inseason adjustment, clarification of a closure, request for comments.

SUMMARY: NMFS is issuing an inseason adjustment prohibiting retention of sablefish by vessels using trawl gear in the Southeast Outside District of the Eastern Regulatory Area and clarifying that directed fishing for Pacific ocean perch in the Eastern Regulatory Area in the Gulf of Alaska (GOA) is prohibited. Action is necessary to reduce bycatch of the shortraker/rougheye rockfish species group in the Eastern Regulatory Area.

EFFECTIVE DATE: For the prohibition of retention of sablefish by vessels using trawl gear in the Southeast Outside District: 12 noon, Alaska local time (A.l.t.), October 17, 1995 until 12 midnight, A.l.t. December 31, 1995. Comments must be received at the following address no later than 4:30 p.m., A.l.t., November 1, 1995.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief,Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or be delivered to the fourth floor of the Federal Building, 709 West 9th Street, Juneau, AK.

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 (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

The acceptable biological catch for the shortraker/rougheye rockfish species group in the GOA was established by the Final 1995 Harvest Specifications of Groundfish (60 FR 8470, February 14, 1995) as 1,910 metric tons (mt). NMFS has determined that as of September 30, 1995, 2,008 mt have been caught. The specified level of overfishing, as defined in the FMP, for the shortraker/rougheye species group is 2,925 mt. Further unrestricted catches of the shortraker/rougheye species group could result in overfishing.

Trawl vessels currently can retain sablefish in the Southeast Outside District of the Eastern Regulatory Area. Species of the ''other rockfish'' and pelagic shelf rockfish group are open to trawling in the Southeast Outside District. Trawl effort that targets rockfish and maximizes the bycatch of sablefish, a highly valuable species, will incur significant incidental bycatch of shortraker/rougheye rockfish.

To prevent overfishing of the shortraker/rougheye rockfish species group, the Director, Alaska Region, NMFS (Regional Director), has determined in accordance with § 672.22(a)(1)(i) and (a)(4), that closing the season by prohibiting retention of sablefish by vessels using trawl gear in the Southeast Outside District is necessary and is the least restrictive measure to achieve that purpose and will allow other fisheries to continue in noncritical areas and time periods. Unless the retention of sablefish is prohibited, significant incidental catch of the shortraker/rougheye rockfish species group would occur by trawl vessels seeking to maximize retainable amounts of sablefish under the standards for directed fishing at § 672.20(g).

In accordance with § 672.20(c)(1)(ii)(B), the annual total allowable catch for Pacific ocean perch in the Eastern Regulatory Area was established by the Final 1995 Harvest Specifications of Groundfish (60 FR 8470, February 14, 1995) as 1,914 mt. NMFS determined that as of September 30, 1995, 950 mt remained unharvested. Therefore, NMFS announced that the previous closure would be modified in order to allow directed fishing for Pacific ocean perch in the Eastern Regulatory Area for a 48–hour period. The Regional Director intended to establish a directed fishing allowance for Pacific ocean perch of 1,814 mt, with consideration that 100 mt would be taken as incidental catch in directed fishing for other species in this area. Unfortunately, because of processing delays, the modification of the closure was never filed with the Office of the Federal Register. In any case, based upon the press release, directed fishing occurred and the Regional Director has determined that the intended directed fishing allowance of 1,814 mt has been

reached. Consequently, NMFS is clarifying that directed fishing for Pacific ocean perch in the Eastern Regulatory Area is prohibited and that the maximum retainable bycatch amounts at § 672.20(g), apply at any time during a trip.

The Assistant Administrator for Fisheries, NOAA, finds for good cause that providing prior notice and opportunity for public comment or delaying the effective date of this action is impracticable and contrary to the public interest. Without this inseason adjustment, NMFS could not allow other fisheries to continue. Under § 672.22(c)(2), interested persons are invited to submit written comments on this action to the above address until November 1, 1995.

All other closures remain in full force and effect.

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: October 17, 1995.

Richard W. Surdi,

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

[FR Doc. 95–26008 Filed 10–17–95; 1:21 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 203
Friday, October 20, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–77–AD]

Airworthiness Directives; Airbus Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A320 series airplanes. This proposal would require replacement of the relays in the forward electronics rack of the braking system of the landing gear with new relays. This proposal is prompted by reports of loss of the systems of the braking/steering control unit (BSCU) on these airplanes due to electrical overvoltage of the relays. The actions specified by the proposed AD are intended to prevent such electrical overvoltage of the relays, which could result in the loss of the BSCU systems, and subsequent loss of the antiskid functions and nose wheel steering of the airplane.

DATES: Comments must be received by December 4, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–77–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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Charles D. Huber, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2589; fax (206) 227–1149.

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–77–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–77–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A320 series airplanes. The DGAC advises that it has received several reports of loss of the two systems of the braking/steering control unit (BSCU) on these airplanes. Investigation revealed that this problem was caused by an electrical overvoltage of the relays during the transfer to the second system of the BSCU upon the loss of the first system. This condition, if not corrected, could result in loss of the BSCU system, and subsequent loss of the antiskid functions and nose wheel steering of the airplane.

Airbus has issued Service Bulletin A320–32–1115, Revision 2, dated September 21, 1994, which describes procedures for replacement of the relays 24 GG and 25 GG in the forward electronics rack 90VU of zone 120 of the braking system of the landing gear with new relays. This replacement will improve the electrical overvoltage protection on the braking system. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive (CN) 93–163–043 (B), dated September 29, 1993, in order to assure the continued airworthiness of these airplanes in France.

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

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require replacement of certain relays in the forward electronics rack 90VU of the braking system of the landing gear with new relays. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 87 airplanes of U.S. registry would be affected by this proposed AD, that it would take

approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be supplied by the manufacturer at no cost to the operators. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $10,440, or $120 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator 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. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

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

Airbus Industrie: Docket 95–NM–77–AD.

Applicability: Model A320 series airplanes on which Airbus Modification 23611 (reference Airbus Service Bulletin A320–32–1115) has not been installed; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise 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 (b) of this AD 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 an electrical overvoltage of the relays, which could result in the loss of the braking/steering control unit (BSCU) systems, and subsequent loss of the antiskid functions and nose wheel steering of the airplane, accomplish the following:

(a) Within 10 months after the effective date of this AD, replace relays 24 GG and 25 GG in the forward electronics rack 90VU of zone 120 of the braking system of the landing gear with new relays, in accordance with Airbus Service Bulletin A320–32–1115, Revision 2, dated September 21, 1994.

(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 sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on October 16, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–25988 Filed 10–19–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–ANE–49]

Airworthiness Directives; Pratt & Whitney JFTD12A Series and T73 Series Turboshaft 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 Pratt & Whitney (PW) JFTD12A series and T73 series turboshaft engines. This proposal would require initial and repetitive fluorescent penetrant inspections (FPI) of compressor hubs, disks, spacers, and bolted on (rotating) airseals for cracks, and replacement, if necessary, with serviceable parts. This proposal is prompted by reports of extensive compressor rotor part cracking. The actions specified by the proposed AD are intended to prevent disk rupture, an uncontained engine failure, and possible damage to the helicopter.

DATES: Comments must be received by December 19, 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. 94–ANE–49, 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 Pratt & Whitney, 400 Main St., East Hartford, CT 06108. 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: Barbara Caufield, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7146, 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 94–ANE–49.'' 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. 94–ANE–49, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) has received reports of cracked compressor hubs, disks, spacers, and bolted on (rotating) airseals installed on Pratt & Whitney (PW) Models JFTD12A–4A and -5A turboshaft engines. These cracked components were found during overhaul type inspections performed at intervals less than the current engine overhaul interval. Laboratory analysis of several parts from three of these engines has detected a similar pattern of high cycle fatigue cracking from multiple origins in compressor disk tierod and blade attachment pin holes, spacer tierod and lightening holes, and airseal tierod and lightening holes. This condition, if not corrected, could result in disk rupture, an uncontained engine failure, and possible damage to the helicopter.

The FAA has also determined that there are engines and aircraft operating under Restricted Category that are identical to the commercial PW JFTD12A series engines and Sikorsky S–64 series helicopters, however, these retain their military designations, T73 series engines and CH–54 series helicopters. The T73 series engines are subject to the same unsafe condition as the PW JFTD12 series engines, and, therefore, are included in this AD.

The FAA has reviewed and approved the technical contents of PW Alert Service Bulletin (ASB) No. 5856, Revision 1, dated December 13, 1991, that describes procedures for initial and repetitive fluorescent penetrant inspections (FPI) of compressor hubs, disks, spacers, and bolted on (rotating) airseals for cracks, and replacement, if necessary, with serviceable parts.

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 initial and repetitive FPI of compressor hubs, disks, spacers, and bolted on (rotating) airseals for cracks, and replacement, if necessary, with serviceable parts. The actions would be required to be accomplished in accordance with the alert service bulletin described previously.

There are approximately 120 engines of the affected design in the worldwide fleet. The FAA estimates that 47 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 140 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $40,670 per engine. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $2,306,290.

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. 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

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

Pratt & Whitney: Docket No. 94–ANE–49.

Applicability: Pratt & Whitney Models JFTD12A–4A and –5A, and T73–P–1 and –P–700 turboshaft engines, installed on but not limited to Sikorsky S–64 series and CH–54 series helicopters.

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 disk rupture, an uncontained engine failure, and possible damage to the helicopter, accomplish the following:

(a) Perform a fluorescent penetrant inspection (FPI) of compressor hubs, disks, spacers, and bolted on (rotating) airseals for cracks in accordance with PW Alert Service

Bulletin (ASB) No. 5856, Revision 1, dated December 13, 1991, as follows:

(1) Prior to further flight, for engines that equal or exceed 2,200 hours time in service (TIS) since last FPI of affected parts on the effective date of this airworthiness directive (AD).

(2) At or before 2,200 hours TIS since last FPI of affected parts on the effective date of this AD, for engines that equal or exceed 1,500 hours TIS but have less than 2,200 hours TIS since last FPI of affected parts on the effective date of this AD.

(3) At or before 1,500 hours TIS since last FPI of affected parts on the effective date of this AD, for engines that have less than 1,500 hours TIS since last FPI of affected parts on the effective date of this AD.

(4) Prior to further flight, remove cracked compressor hubs, disks, spacers, and bolted on (rotating) airseals, and replace with serviceable parts.

(b) Thereafter, except for engines described in paragraph (c) of this AD, perform repetitive FPI of affected parts for cracks at intervals not to exceed 1,500 hours TIS since last FPI in accordance with PW ASB No. 5856, Revision 1, dated December 13, 1991.

(c) For all engines inspected in accordance with paragraph (a) or (b) of this AD that have zero time second and third stage compressor disks installed after the effective date of this AD, perform the next FPI of affected parts at or before 3,000 hours TIS since the last FPI performed in accordance with paragraph (a) or (b) of this AD, and thereafter perform repetitive FPI of affected parts for cracks at intervals not to exceed 1,500 hours TIS since the last FPI, in accordance with PW ASB No. 5856, Revision 1, dated December 13, 1991.

(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 alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

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

Issued in Burlington, Massachusetts, on October 11, 1995.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–25994 Filed 10–19–95; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 95–AWP–29]

Proposed Amendment of Class E Airspace; Bullhead City, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Bullhead City, AZ. Additional controlled airspace is required for aircraft executing instrument approach procedures at Laughlin/Bullhead International Airport. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Laughlin/Bullhead International Airport, Bullhead City, AZ.

DATES: Comments must be received on or before November 27, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, System Management Branch, AWP–530, Docket No. 95–AWP–29, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business at the Office of the Manager, System Management Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Speer, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6533.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–AWP–29.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to provide additional controlled airspace for Instrument Flight Rules (IFR) procedures at the Laughlin/Bullhead International Airport, AZ. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the Standard Instrument Approach Procedure at Laughlin/Bullhead International Airport, Bullhead, AZ. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(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 10034; 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 proposed rule would 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).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

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

* * * * *

AWP AZ E5 Bullhead City, AZ. [Revised]

Laughlin/Bullhead International Airport, AZ
(Lat. 35°08′50″ N, long. 114°33′32″ W)
Neeles VORTAC, CA
(Lat. 34°45′58″ N, long. 114°28′27″ W)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Laughlin/Bullhead International Airport and within 3 miles each side of the Needles VORTAC 350° radial extending from the 6-mile radius to 10 miles south of the Laughlin/Bullhead International Airport. That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 34°55′00″ N, long. 114°36′00″ W; to lat. 35°07′00″ N, long. 115°00′00″ W; to lat. 35°16′00″ N, long. 115°00′00″ W; to lat. 35°30′00″ N, long. 114°47′00″ W; thence to the point of beginning.

* * * * *

Issued in Los Angeles, California, on October 4, 1995.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 95–26048 Filed 10–19–95; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 95–ANM–17]

Proposed Establishment of Class E Airspace; Wray, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish the Wray, Colorado, Class E airspace. The airspace would accommodate a new instrument approach procedure at Wray Municipal Airport, Wray, Colorado. The area would be depicted on aeronautical charts for pilot reference.

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

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, ANM–530, Federal Aviation Administration, Docket No. 95–ANM–17, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: James Frala, ANM–535/A, Federal Aviation Administration, Docket No. 95–ANM–17, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone number: (206) 227–2535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 95–ANM–17.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, ANM–530, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Wray, Colorado, to accommodate a new instrument approach procedure at Wray Municipal Airport. The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed 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'' and 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, when promulgated, 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).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: (49 U.S.C. 106(g) 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

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

* * * * *

ANM CO E5 Wray, CO

Wray Municipal Airport, CO
(Lat. 40°06′00″ N; long. 102°14′27″W)

That airspace extending upward from 700 feet above the surface within a 6.5=mile radius of the Wray Municipal Airport; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 40°12′00″N, long, 102°30′00″W; to lat 40°16′00″N, long. 102°03′00″ W; to lat. 39°45′00″ N, long. 102°03′00″ W; to lat. 39°45′00″N, long. 102°14′00″ W; to lat. 40°00′00″ N, long. 102°30′00″ W; thence to point of beginning.

* * * * *

Issued in Seattle, Washington, on October 4, 1995.

Richard E. Prang,

Acting Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 95–26049 Filed 10–19–95; 8:45 am]

BILLING CODE 4910–13–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Older Workers Benefit Protection Act of 1990 (OWBPA)

AGENCY: Equal Employment Opportunity Commission (EEOC).

ACTION: Notice of establishment of Negotiated Rulemaking Advisory Committee.

SUMMARY: EEOC announces the establishment of a Federal Advisory Committee for Negotiated Rulemaking under Title II of the Older Workers Benefits Protection Act of 1990 (the Committee). A Notice of Intent to form the Committee was published in the Federal Register on August 31, 1995, 60 FR 45388.

DATES: On or about November 6, 1995, EEOC will file the Committee's Charter with the General Services Administration, the Library of Congress, and all Congressional committees with jurisdiction over EEOC.

FOR FURTHER INFORMATION CONTACT: Joseph N. Cleary, Paul E. Boymel, or John K. Light, ADEA Division, Office of Legal Counsel, EEOC, 1801 L Street, NW., Washington, DC 20507, (202) 663–4692.

SUPPLEMENTARY INFORMATION:

I. Nature and Purpose of Committee

As explained in the August 31, 1995 Federal Register Notice, the Committee is to have a balanced membership reflecting various affected interests. The Committee will be an advisory committee whose objective is to assist EEOC in developing a Notice of Proposed Rulemaking (NPRM) under Title II of OWBPA, relating to the enforceability of unsupervised waivers of rights under the Age Discrimination in Employment Act of 1967.

II. Need for Committee

For the reasons set forth in the August 31, 1995 Federal Register notice, the Chairman, EEOC, certifies that the Committee is necessary and in the public interest.

Gilbert F. Casellas,

Chairman.

[FR Doc. 95–25985 Filed 10–19–95; 8:45 am]

BILLING CODE 6570–07–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261, 271, and 302

[SWH–FRL–5316–4]

Extension of Comment Period for the Proposed Identification and Listing of Hazardous Waste/Dye and Pigment Industries

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is reopening the comment period for the proposed listing determination for the dyes and pigments industry, which appeared in the Federal Register on December 22, 1994 (see 59 FR 66072–114). The public comment period for this proposed rule was to end on October 17, 1995. The purpose of this notice is to reopen the comment period to end on November 30, 1995. This reopening of the comment period is provided due to unresolved confidential business information (CBI) issues.

DATES: EPA will accept public comments on this proposed listing determination until November 30, 1995. Comments postmarked after the close of the comment period will be stamped ''late.''

ADDRESSES: The public must send an original and two copies of their comments to EPA RCRA Docket Number F–94–DPLP–FFFFF, Room 2616, U.S. EPA, 401 M Street, SW, Washington, DC. The docket is open from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. The public must make an appointment to review docket materials by calling (202) 260–9327. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at $0.15 per page for additional copies.

FOR FURTHER INFORMATION CONTACT: For technical information concerning this notice, please contact Wanda Levine, Office of Solid Waste (5304), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 260–7458.

SUPPLEMENTARY INFORMATION: This proposed rule was issued under Section 3001(b) of RCRA. EPA proposed to list certain wastes generated during the production of dyes and pigments because these wastes may pose a substantial present or potential risk to human health or the environment when improperly managed. See 59 FR 66072–114 (December 22, 1994) for a more

detailed explanation of the proposed rule.

These proposed hazardous waste listings were based in part upon data claimed as confidential by certain dye and pigment manufacturers. Although EPA hopes to publish these data or information derived from these data to the extent relevant to the proposed listing, the Agency is unable to do so at the present time due in large part to the issuance of a preliminary injunction against EPA in *Magruder Color Co.* v. *EPA*, Civ. No. 94–5768 (D.N.J.). EPA is pursuing avenues to allow publication of the information and hopes to supplement the public record with and allow public comment on such information prior to issuance of a final listing. However, because EPA currently is obligated to publish a final rule by November 30, 1995 pursuant to a consent decree entered in EDF v. Browner, Civ. No. 89–0598 (D.D.C.), at this time EPA is only reopening the comment period until November 30, 1995. EPA will attempt to seek an extension of that deadline, and if successful, will further extend the comment period. If EPA is unsuccessful in obtaining an extension, the comment period will close on November 30, 1995.

Dated: October 10, 1995.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 95–25918 Filed 10–19–95; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1816 and 1852

Addition of Coverage to NASA FAR Supplement on NASA Shared Savings Clause

AGENCY: Office of Procurement, National Aeronautics and Space Administration (NASA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This rule proposes to amend the NASA Federal Acquisition Regulation Supplement in order to establish the procedures for a ''Shared Savings Clause'' to be used in solicitations and contracts. The intent of the clause is to provide an incentive for contractors to identify and implement significant cost reduction programs. In return they would be eligible for a share of realized savings which result from those cost-cutting projects once the projects are approved by the contracting officer.

DATES: Comments must be received on or before December 19, 1995.

ADDRESSES: Submit comments to Mr. James A. Balinskas, Analysis Division (Code HC), Office of Procurement, NASA Headquarters, Washington, DC 20546. Comments on the paperwork burden should also be addressed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for NASA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Balinskas, (202) 385–0445.

SUPPLEMENTARY INFORMATION:

Background

This action revises the NASA FAR Supplement to add a ''Share Savings Clause'' which was developed as an element of the Agency's Cost Control Initiative. We expect this process will help identify and eliminate counterproductive, outdated or redundant activities whether they are mandated by the contract or created as a result of the manner in which the government is managing the contract.

Regulatory Flexibility Act

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small entities under Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

A copy of the proposed rule has been submitted to OMB for review under section 3507(d) of the Paperwork Reduction Act.

Title: Cost Reduction Proposal (CRP).

Summary: The CRP is used by the contractor to propose cost reduction projects to NASA.

Description of the need for the information and proposed use of the information: The Shared Savings Clause was developed as an element of the Agency's Cost Control Initiative. The CRP is a means by which a contractor may suggest savings to NASA. The contracting officer evaluates the CRP in order to determine whether or not to accept the contractor's suggestions. If the CRP is accepted, the contractor becomes eligible for a share of the savings.

Description of the likely respondents, including the estimated number of likely respondents, and proposed frequency of response to the collection of information: NASA contractors whose contracts contain the clause entitled ''Shared Savings'' may submit a CRP on their own initiative. The number of respondents is estimated to be 10.

Estimate of the total annual reporting and recordkeeping burden that will result from the collection of information: The annual recordkeeping and reporting burden related to preparation and submission of CRP's is estimated to be 600 hours.

Notice: Comments may be submitted to the OMB address shown under **ADDRESSES.**

Time period within which the agency is requesting OMB to approve or disapprove the collection of information: NASA is requesting that OMB approve the proposed revisions to the collection of information within the next 60 days.

In addition, comments may be submitted to NASA and OMB in order to help NASA—

(a) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

List of Subjects in 48 CFR Parts 1816 and 1852

Government procurement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1816 and 1852 are proposed to be amended as follows:

PART 1816—TYPES OF CONTRACTS

1. The authority citation for 48 CFR Parts 1816 and 1852 continue to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

2. Paragraph 1816.7001 is added to read as follows:

1816.7001 Shared Savings Clause.

The contracting officer shall insert the clause at 1852.216–90, Shared Savings Clause, in all solicitations and contracts above the simplified acquisition threshold.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 1852.216–90 is added to read as follows:

1852.216–90 Shared Savings.

As prescribed in 1816.7001, insert the following clause:

Shared Savings

(XXX 19XX)

(a) The Contractor is entitled, under the provisions of this clause, to share in cost savings resulting from the implementation of cost reduction projects which are presented to the Government in the form of Cost Reduction Proposals (CRP) and approved by the Contracting Officer. These cost reduction projects may require changes to the terms, conditions or statement of work of this contract. Any cost reduction projects must not, however, revise the essential function or service to be provided by the basic contract.

(b) *Definitions:*

(1) *Cost savings* means savings that result from instituting non-recurring changes to the management or structure of the covered contract, as identified in an approved Cost Reduction Proposal.

(2) *Cost Reduction Proposal* means a proposal that recommends alternatives to the established procedures or organizational support of a contract or group of contracts. These alternatives must result in a net reduction of contract cost and price to NASA. The proposal will include technical and cost information sufficient to enable the Contracting Officer to review the CRP and approve or disapprove it. The contractor may propose changes in other activities that impact performance on their contract, to include Government and other contractor operations, if such changes will optimize cost savings on their contract. A contractor shall not be entitled to share, however, in any cost shavings that are internal to the Government, or which result from changes made to any contracts to which they are not a party even if those changes were proposed as a part of their CRP.

(3) *Covered contract* means the contract, excluding unexercised options or future contracts, whether contemplated or not, against which the CRP is submitted.

(4) *Contractor implementation costs* or ''implementation costs'' means those costs the Contractor incurs, or will incur, on the covered contract specifically in the development, preparing, submitting, and supporting a CRP, as well as those costs the contractor will incur on the covered contract to make any structural or organizational changes in order to implement an approved CRP.

(5) *Government costs* means internal costs of NASA or any other Government agency that result directly from developing and implementing the CRP. These may include, but are not limited to, costs associated with the administration of the contract or with such contractually related functions such as testing, operations, maintenance and logistics support. These costs do not include the normal administrative costs of reviewing and processing the Cost Reduction Proposal.

(c) *General.* The contractor shall develop, prepare and submit CRP's with supporting information, as detailed in paragraph (d) of this clause, to the Contracting Officer. The CRP will describe the proposed cost reduction activity in sufficient detail to enable the Contracting Officer to evaluate it and to render an approval or disapproval. The Contractor shall share in any net cost savings realized from accepted and implemented CRP's in accordance with the terms of this clause. The Contractor's actual percentage share of the cost savings shall be a matter for negotiation with the Contracting Officer, but shall not, in any event, exceed 50% of the total recognized cost savings.

(d) *Computation of cost savings.* The contractor is eligible to share in savings realized on the covered contract as a result of implementing approved CRP's. The cost savings to be shared between the Government and the Contractor will be derived by comparing a current estimate to complete (ETC) for the covered contract, as structured before implementation of the proposed CRP, to an ETC which takes into account the impact of that CRP. Although a CRP may result in cost savings that extend far into the future, the period over which the contractor may share in those savings will be limited to five years. In extenuating circumstances, this five year period may be extended if the contracting officer agrees with the contractors proposal, and written concurrence is obtained from the Director, Analysis Division, Office of Procurement, NASA Headquarters. Implementation costs of the contractor must be considered and specifically identified in the revised ETC. Any change in Government costs associated with the covered contract shall also be specifically identified and addressed in the CRP. The contractor shall not be entitled, under the provisions of this clause, to share in any cost reductions to the contract that are the result of changes stemming from any action other than an approved CRP. This clause does not limit, however, recovery of any such reimbursements that are allowed as a result of other contract provisions.

(e) *Supporting information.* As a minimum, the Contractor shall provide the following supporting information with each CRP:

(1) Identification of the current contract requirement or practice which is targeted for restructuring.

(2) A description of the difference between the current process or procedure and the proposed change. This description shall address how proposed changes will meet NASA requirements and discuss the advantages and disadvantages of the existing practice and the proposed changes.

(3) A list of contract requirements which must be revised, if any, if the CRP is approved, along with proposed revisions. Any changes to NASA, or delegated, contract management processes should also be addressed.

(4) Detailed cost estimates which reflect the implementation costs of the CRP.

(5) An updated ETC for the covered contract, unchanged, and an ETC for the covered contract which reflects changes resulting from implementing the CRP. If the CRP proposes changes to only a limited number of elements of the contract, the ETC's need only address those portions of the contract that have been impacted. Each ETC shall depict the level of costs incurred on a period basis. If other CRP's have been proposed or approved on a contract, the impact of these CRP's must be addressed in the computation of the cost savings to ensure that the cost savings identified are attributable only to the CRP under consideration in the instant case.

(6) A depiction of each estimate to complete shall also provide a comparison of costs to be incurred, by period, through the end of the covered contract.

(7) Identification of any other previous submissions of the CRP, including the dates submitted, the agencies and contracts involved, and the disposition of those submittals.

(f) *Administration.*

(1) The contractor shall submit proposed CRP's to the Contracting Officer who shall be responsible for the review. evaluation and approval. Normally, CRP's should not be entertained for the first year of performance to allow the Contracting Officer to assess performance against the basic requirements. If a cost reduction project impacts more than a single contract, the contractor may, upon concurrence of the Contracting Officers responsible for the affected contracts, submit a single CRP which addresses fully the cost savings projected on all affected contracts that contain this Shared Savings Clause. In the case of multiple contracts affected, responsibility for the review and approval of the CRP will be a matter to be decided by the affected Contracting Officers.

(2) The Contracting Officer shall approve or disapprove any proposed cost reduction plan within 60 days after receipt. In the event additional time is required, the Contracting Officer shall notify the Contractor within the 60-day period, provide the reason for delay and the expected date of the decision. Failure of the Contracting Officer to provide a response shall not be construed as approval of the CRP. The contractor shall continue to perform in accordance with the terms and conditions of the existing contract until the Contracting Officer executes a contract modification incorporating the changes identified by the CRP. The modification shall also adjust the contract cost and price, establish the contractors share of cost savings, and establish a payment schedule.

(3) Notwithstanding the overall level of savings computed for any CRP, the contractor shall not be paid any portion of its share of cost savings until NASA realizes a positive cost savings on the covered contract. (i.e., if implementation costs result in a period of increased cost as a result of implementation of the CRP).

(4) The contractor shall be paid in accordance with a schedule to be established with the contracting officer. Normally a payment of 50% of the contractors share of the cost savings will be made in the first month after NASA realizes a positive cost savings on the covered contract.

(5) Any future restructuring or reorganizing activity (such as a merger or acquisition)

undertaken by the Contractor, or to which the contractor becomes an involved party, which serves to reduce, or reverse the cost savings realized from an approved CRP for which the contractor has received payment, may be cause for recomputing the net cost savings associated with any approved CRP. The Government reserves the right to make an adjustment to the contractor's share of cost savings and to receive a refund of moneys paid if necessary. Such adjustment may only be made after—

(i) the contractor is afforded the opportunity to provide, and discuss with the contracting officer, full justification and support for their actions, and

(ii) advance notification is provided to the Director, Analysis Division, Office of Procurement, NASA Headquarters.

(g) *Limitations.* Contract requirements that are imposed by statute shall not be targeted for cost reduction exercises. The contractor is precluded from receiving reimbursements under this clause and other incentive provisions of the contract, if any, for the same cost reductions.

(h) Disapproval of, or failure to approve, any proposed cost reduction proposal will not be considered a dispute subject to remedies under the Disputes clause.

(i) Cost savings paid to the contractor in accordance with the provisions of this clause do not constitute profit or fee within the limitations imposed by 10 U.S.C. 2306(d) and 41 U.S.C. 254(b).

(End of clause)

[FR Doc. 95–26057 Filed 10–19–95; 8:45 am]

BILLING CODE 7510–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 18

RIN 1018–ADO4

Importation of Polar Bear Trophies From Canada; Proposed Rule on Legal and Scientific Findings to Implement Section 104(c)(5)(A) of the 1994 Amendments to the Marine Mammal Protection Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service gives notice that the comment period on the proposed legal and scientific findings for issuance of permits for the importation of polar bears (*Ursus maritimus*) taken in sport hunts in Canada, including ones taken, but not imported, prior to enactment of the 1994 Amendments of the Marine Mammal Protection Act will be reopened for 15 days to obtain further comments.

DATES: Public comments received on or before November 6, 1995 will be considered by the Service.

ADDRESSES: Comments may be submitted to the Director, Fish and Wildlife Service, c/o Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Kenneth Stansell, Chief, Office of Management Authority, at the above address, or call (703) 358–2093; fax (703) 358–2280.

SUPPLEMENTARY INFORMATION: The Service published proposed findings for issuance of permits for the importation of sport-hunted polar bear trophies on July 17, 1995 (60 FR 36382). The original comment period ended on August 31, 1995. The Service received a request from The Humane Society of the United States, Washington, D.C., The Humane Society of Canada, Toronto, Ontario, Canada, and Polar Bears Alive, Tiburon, California, to extend the comment period by 45 days to allow for further review and opportunity to comment by interested parties. The Service has decided to extend the comment period by 15 days in the interest of meeting their request as well as the interests of the public and organizations who are seeking expeditious completion of the regulatory process. Interested organizations and the public are invited to comment on concerns as outlined in the July 17 Federal Register.

Authority: This notice was prepared under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*).

Dated: September 25, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–25995 Filed 10–19–95; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 649, 650, and 651

[I.D. 101295B]

New England Fishery Management Council; Meeting

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

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 2-day public meeting on October 25–26, 1995, to consider actions affecting New England fisheries in the exclusive economic zone.

DATES: The two sessions of the meeting will begin at 10 a.m. on Wednesday, October 25, 1995, and at 8:30 a.m. on Thursday, October 26, 1995, at 8:30 a.m.

ADDRESSES: The meeting will be held at the King's Grant Inn, Route 128 at Trask Lane, Danvers, MA 01923. Requests for special accommodations should be addressed to Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1097, telephone: (617) 231–0422.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, New England Fishery Management Council (617) 231–0422.

SUPPLEMENTARY INFORMATION:

October 25, 1995 Session

On October 25, 1995, the Council's public meeting will begin with reports given by the Chairman of the Council, the Executive Director of the Council, the NMFS Regional Director, the liaison from the Northeast Fisheries Science Center of NMFS, the liaison from the Mid-Atlantic Fishery Management Council, and representatives from the U.S. Coast Guard, the Atlantic States Marine Fisheries Commission, and the U.S. Department of State. These reports will be followed by an extra report from the U.S. Coast Guard on their new enforcement initiatives.

During the afternoon session, the Council will begin its formal review of public comments received on Amendment 7 to the Fishery Management Plan for the Northeast Multispecies Fishery (FMP). The comment period on the draft amendment ends on October 18, 1995. The Council may also consider recommendations received from the October 18, 1995, Groundfish Committee (Committee) meeting regarding the haddock possession limit and how NMFS will report to the Council on the status of experimental and exempted fisheries operating under the FMP, both in terms of frequency of reports and the content of such reports.

October 26, 1995 Session

The October 26, 1995, session will begin with a report on the October 12, 1995, meeting between the Council's United States-Canada Issues Committee and representatives from Canada and NMFS. This report will be followed by an update on the United States-Canada

October 13, 1995, meeting held to discuss the status of Atlantic herring management and research. The morning portion of the session will conclude with a report on the October 18, 1995, Advisory Panel meeting of the International Commission for Conservation of Atlantic Tunas.

Under the framework for abbreviated rulemaking contained in 50 CFR parts 649, 650, and 651, the Council will initiate Framework Adjustment 6 to the Fishery Management Plan for American Lobster (Lobster FMP) to prevent shifts of fishing effort into the lobster fishery because of restrictions on groundfish and on other fisheries. This will be considered the initial meeting of this framework action.

The Council will also hear recommendations from the Lobster Committee related to the advance notice of proposed rulemaking on lobster that discusses the possible withdrawal of the Lobster FMP by NMFS or submission of an amendment by the Secretary of Commerce to eliminate any overfishing. Finally, the Council may consider the Lobster Committee's recommendations for terms of reference for the review of the lobster overfishing definition and assessment methods.

The afternoon portion of the October 26 session will feature an update on proposed management measures for monkfish (goosefish) that will include recommendations for total allowable landings and for trip limits for the bycatch fishery. The Council will also be updated by the Gear Conflict Committee chairperson on the development of an amendment to various fishery management plans designed to resolve gear conflict issues.

The Council meeting will conclude with a closed session to address administrative matters.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Douglas G. Marshall (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: October 17, 1995.

Richard W. Surdi,

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

[FR Doc. 95–26041 Filed 10–17–95; 2:53 pm]

BILLING CODE 3510–22–F

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50 CFR Part 652

[I.D. 101295C]

Atlantic Surf Clam and Ocean Quahog Fishery; Possible Protocol for Testing for Paralytic Shellfish Poisoning

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

ACTION: Notice of public meeting.

SUMMARY: A public meeting will be held to discuss the protocol for dockside testing of paralytic shellfish poisoning (PSP) toxin in surf clams and ocean quahogs and the possible reopening of Georges Bank to the fishery if the protocol is adopted.

DATES: The meeting will be held on October 24, 1995, from 10:00 a.m. until 5:00 p.m.

ADDRESSES: The meeting will be held at the National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930; (508)–281–9250. Requests for special accommodations may be addressed to the Regional Director located at the address mentioned above.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Resource Policy Analyst, (508)-281-9104.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss the development of a protocol for dockside testing for PSP in surf clams and ocean quahogs. Representatives of various government agencies and the surf clam and ocean quahog industry will meet to: Determine the state of industry interest in harvesting surf clams and ocean quahogs under the requirements of the protocol; identify the factors that may hinder full implementation of the protocol; clearly define or redefine the roles of all participants in implementing the protocol, including any needed approvals, agreements, or policy statements; discuss probable NMFS authorization of an experimental fishery to operationally test the protocol; and discuss the possibility of reopening Georges Bank to the fishery if the protocol is adopted.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Regional Director (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: October 17, 1995.

Richard W. Surdi,

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

[FR Doc. 95–26042 Filed 10–17–95; 2:53 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 60, No. 203
Friday, October 20, 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

Forest Service

Southwest Washington Provincial Advisory Committee Meeting Notice

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Washington Provincial Advisory Committee will meet on November 8, 1995, in Stevenson, Washington, at a location yet to be determined. The meeting will begin at 9 a.m. and continue until 4:30 p.m.

Meeting purpose is to continue building measures of province health for the Cowlitz, Lewis, Wind River, and White Salmon Basins. The Advisory Committee will apply this information in advising Federal land managers on implementing the President's Northwest Forest Plan. Agenda items to be covered include: (1) Social and Economic Measures of Basin Health, (2) Province Health Assessment Model and Advisory Committee Work, (3) Forest Watershed Analysis Priorities, (4) Forest Monitoring Program, and (5) Public Open Forum.

All Southwest Washington Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. The ''open forum'' provides opportunity for the public to bring issues, concerns, and discussion topics to the Advisory Committee. The ''open forum'' is scheduled near the conclusion of this meeting. Interested speakers will need to register prior to the open forum period. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Mark Maggiora, Public Affairs, at (360) 750–5007, or write Forest Headquarters Office, Gifford Pinchot National Forest, 6926 E. Fourth Plain Blvd., P.O. Box 8944, Vancouver, WA 98668–8944.

Dated: October 13, 1995.

J. Sharon Heywood,

Deputy Forest Supervisor.

[FR Doc. 95–25993 Filed 10–19–95; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Mexico Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New Mexico Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 4 p.m. on Friday, November 3, 1995, at the Hyatt Regency Hotel, 330 Tijeras, N.W., Albuquerque, New Mexico 87102. The purpose of the meeting is to discuss civil rights issues in New Mexico.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Lynda Eaton, 505–326–4338, or Thomas V. Pilla, Acting Director of the Western Regional Office, 213–894–3437 (TDD 213–894–0508). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

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

Dated at Washington, DC, October 16, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–26044 Filed 10–19–95; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews: Notice of Withdrawal of Panel Request

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of withdrawal of panel request.

SUMMARY: Notice is hereby given of the Withdrawal of the Request for Panel Review of the final redetermination made by the Deputy Minister of National Revenue, Customs, Excise and Taxation, respecting Machine Tufted Carpeting Originating in or Exported from the United States of America (Secretariat File No. CDA–95–1904–03). As of September 19, 1995, no Complaints were filed pursuant to Rule 39 of the *Rules of Procedure for Article 1904 Binational Panel Review,* no Notices of Appearance were filed pursuant to Rule 40 and no panel has been appointed. Thus there are no ''participants'' in this review as defined in Rule 3, therefore, this panel review is terminated.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Review* (''Rules''). These Rules were published in the Federal Register on February 23, 1994 (59 FR 8686).

Dated: October 13, 1995.

Caratina L. Alston,

United States Deputy Secretary, NAFTA Secretariat.

[FR Doc. 95–26046 Filed 10–19–95; 8:45 am]

BILLING CODE 3510–GT–M

Notice of Scope Rulings

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

ACTION: Notice of scope rulings and anticircumvention inquiries.

SUMMARY: The Department of Commerce (the Department) hereby publishes a list of scope rulings and anticircumvention inquiries completed between July 1, 1995, and September 30, 1995. In conjunction with this list, the Department is also publishing a list of pending requests for scope clarifications and anticircumvention inquiries. The Department intends to publish future lists within 30 days of the end of each quarter.

EFFECTIVE DATE: October 20, 1995.

FOR FURTHER INFORMATION CONTACT: Ronald M. Trentham, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 482–4793.

Background

The Department's regulations (19 CFR 353.29(d)(8) and 355.29(d)(8)) provide that on a quarterly basis the Secretary will publish in the Federal Register a list of scope rulings completed within the last three months.

This notice lists scope rulings and anticircumvention inquiries completed between July 1, 1995, and September 30, 1995, and pending scope clarification and anticircumvention inquiry requests. The Department intends to publish in January 1996 a notice of scope rulings and anticircumvention inquiries completed between October 1, 1995, and December 31, 1995, as well as pending scope clarification and anticircumvention inquiry requests.

The following lists provide the country, case reference number, requester(s), and a brief description of either the ruling or product subject to the request.

I. Scope Rulings Completed Between July 1, 1995, and September 30, 1995

Country	Sweden.
A–401–040	*Stainless Steel Plate.*
	Armco, Inc., G.O. Carlson, Allegheny Ludlum Corp., and Washington Steel Corp.—Stavax, Ramax, and 904 L when flat rolled are within the scope of the order. 7/11/95.
Country	Italy.
A–475–401	*Certain Brass Fire Protection Products.*
	Giacomini, S.p.A.—Pressure control (or regulating valves), models A201, A202, and A204 and leader line siamese valve model A99 are outside the scope of the order. 7/28/95.
Country	People's Republic of China.
A–570–502	*Iron Construction Castings.*
	Jack's International Trading Associates, Ltd.—Cast iron, floor area drains (area drains) imported by Jack's are outside the scope of the order. 8/28/95.
A–570–504	*Petroleum Wax Candles.*
	Concept Marketing—Concept's Safe-2–Lite candle is outside the scope of the order. 9/28/95.
Country	Taiwan .
A–583–508	*Porcelain-on-Steel Cookware.*
	Blair Corporation—Blair cooking ware items #1101 (seven piece cookware set), #271911 (eight-quart stock pot), and #271921 (twelve-quart stock pot) are outside the scope of the order. 8/18/95.
A–583–816	*Certain Stainless Steel Butt-Weld Pipe Fittings.*
	Top Line Process Equipment Corporation—Top Line's stainless steel tube fittings with non-welded end connections, and other products, are outside the scope of the order. 8/4/95.
Country	Japan.
A–588–405	*Cellular Mobile Telephones and Subassemblies.*
	Mitsubishi Electric Corporation, Mitsubishi Electronics America, Inc., and Mitsubishi Consumer Electronics America, Inc.—the Mitsubishi model MT1516FOR6A portable cellular telephone (PCT) is outside the scope of the order. 7/19/95.
	Mitsubishi Electric Corporation, Mitsubishi Electronics America, Inc., and Mitsubishi Consumer Electronics America, Inc.—the Mitsubishi MT1292FOR6A and MT1296FOR6A portable cellular telephones (PCTs) are outside the scope of the order. 9/28/95.
	Matsushita Communications Industrial Corporation of America and its related entities—the Matsushita EB–3570, EB–3571, EB–3572, and EB–3578 portable cellular telephones (PCTs) are outside the scope of the order. 9/28/95.
A–588–702	*Stainless-Steel Butt-Weld Pipe Fittings.*
	Fujikin of America, Inc.—Certain gasket raised face seal sleeves and certain stainless steel ''fine-fit'' tube fittings imported by Fujikin are outside the scope of the order. 8/4/95.
A–588–802	*3½''* Microdisks.
	Minnesota Mining and Manufacturing Company (3M)—3M's 3.5 inch magneto-optical disk is outside the scope of the order. 8/24/95.
A–588–823	*Professional Electric Cutting Tools.*
	Makita, Inc., Makita U.S.A.—Makita's planer-jointer model 2030SC is outside the scope of the order. 7/19/95.
	Makita, Inc., Makita U.S.A.—Makita's chain morticer model 7104L is outside the scope of the order. 8/1/95.
	Makita, Inc., Makita U.S.A.—Makita's concrete planer model PC1100 is outside the scope of the order. 8/30/95.

II. Anticircumvention Rulings Completed Between July 1, 1995, and September 30, 1995: None.
III. Scope Inquiries Terminated Between July 1, 1995 and September 30, 1995.

Country	People's Republic of China.
A–570–504	*Petroleum Wax Candles.*
	Boomster Imports Inc.—Clarification to determine whether Boomster's three-inch cube candle is within the scope of the order. Scope inquiry terminated on 7/6/95.
Country	Korea.
A–588–811	*Steel Wire Rope.*

	TSK Korea and Hi-Lex Corp.—Clarification to determine whether certain motion control cables are within the scope of the order. Scope inquiry terminated on 7/14/95.

IV. Anticircumvention Inquiries Terminated Between July 1, 1995 and September 30, 1995: None.

V. Pending Scope Clarification Requests as of September 30, 1995:

Country	Canada.
A–122–823	*Certain Cut-to-Length Carbon Steel Plate.*
	Sidbec-Dosco Inc., and Canberra Industries—Clarification to determine whether hot-rolled carbon steel plate containing little or no Cobalt 60 is within the scope of the order.
Country	Mexico.
A–201–802	*Gray Portland Cement and Cement Clinker.*
	Cementos de Chihuahua S.A. de C.V. and Mexcement, Inc.—Clarification to determine whether masonry cement is within the scope of the order.
A–201–805	*Circular Welded Non-Alloy Steel Pipe.*
	Allied Tube & Conduit Corp., American Tube Co., Century Tube Corp., CSI Tubular Productions, Inc., Laclede Steel Co., LTV Tubular Productions Co., Sawhill Tubular Division, Sharon Tube Co., Tex-Tube Division, Western Tube & Conduit Corp., Wheatland Tube Co.—Clarification to determine whether pipe produced to API 5L line pipe specifications or to both ASTM A–53 standard pipe specification and the API 5L line pipe specification (dual-certified pipe), when intended for use as standard pipe or when actually used as standard pipe, is within the scope of the order. Affirmative preliminary scope ruling issued on January 13, 1994.
	Tubacero International Corporation—Clarification to determine whether circular welded carbon steel piping, 16 inches in outside diameter with 3/8 inch wall thickness, for use in extremely heavy load bearing applications, is within the scope of the order.
Country	Venezula.
A–307–805	*Circular Welded Non-Alloy Steel Pipe.*
	Self-initiation. Clarification to determine whether pipe produced to API 5L line pipe specifications or to both ASTM A–53 standard pipe specification and the API 5L line pipe specification (dual-certified pipe), when intended for use as standard pipe or when actually used as standard pipe, is within the scope of the order. Affirmative preliminary scope ruling issued on January 13, 1994.
Country	Brazil.
A–351–809	*Circular Welded Non-Alloy Steel Pipe.*
	Allied Tube & Conduit Corp., American Tube Co., Century Tube Corp., CSI Tubular Productions, Inc., Laclede Steel Co., LTV Tubular Productions Co., Sawhill Tubular Division, Sharon Tube Co., Tex-Tube Division, Western Tube & Conduit Corp., Wheatland Tube Co.—Clarification to determine whether pipe produced to API 5L line pipe specifications or to both ASTM A–53 standard pipe specification and the API 5L line pipe specification (dual-certified pipe), when intended for use as standard pipe or when actually used as standard pipe, is within the scope of the order. Affirmative preliminary scope ruling issued on January 13, 1994.
Country	Sweden.
A–401–040	*Stainless Steel Plate.*
	Armco, Inc., G.O. Carlson, Allegheny Ludlum Corp., and Washington Steel Corp.—Clarification to determine whether Stavax, Ramax, and 904L when forged are within the scope of the finding.
Country	France.
A–427–078	*Sugar.*
	Boiron-Borneman, Inc.—Clarification to determine whether manufactured homeopathic sugar pellets are within the scope of the finding.
Country	Germany.
A–428–801	*Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof.*
	Marquardt Switches—Clarification to determine whether certain medium carbon steel balls are within the scope of the order.
Country	Turkey.
A–489–501	*Welded Carbon Steel Standard Pipe and Tube Products.*
	Allied Tube and Conduit Corporation, Wheatland Tube Company, Laclede Steel Company, Sharon Tube Company, and Sawhill Tubular Division of Armco, Inc.—Clarification to determine whether pipe and tube which meets the order's physical specifications, when intended for or actually used as standard pipe and tube, is included within the scope of the order.
Country	People's Republic of China.
A–570–504	*Petroleum Wax Candles.*
	Mervyn's—Clarification to determine whether a candle, article no. 20172, in the shape of a cube is within the scope of the order.
A–570–808	*Chrome-Plated Lug Nuts.*
	Consolidated International Automotive, Inc.—Clarification to determine whether certain nickel-plated lug nuts are within the scope of the order.
	Wheel Plus, Inc.—Clarification to determine whether imported zinc-plated lug nuts which are chrome-plated in the United States are within the scope of the order.
A–570–820	*Certain Compact Ductile Iron Waterworks (CDIW) Fittings and Glands.*
	Star Pipe Products, Inc.—Clarification to determine whether ''retainer glands'' are within the scope of the order.
Country	Korea.
A–580–809	*Circular Welded Non-Alloy Steel Pipe.*
	Allied Tube & Conduit Corp., American Tube Co., Century Tube Corp., CSI Tubular Productions, Inc., Laclede Steel Co., LTV Tubular Productions Co., Sawhill Tubular Division, Sharon Tube Co., Tex-Tube Division, Western Tube & Conduit Corp., Wheatland Tube Co.—Clarification to determine whether pipe produced to API 5L line pipe specifications or to both ASTM A–53 standard pipe specification and the API 5L line pipe specification (dual-certified pipe), when intended for use as standard pipe or when actually used as standard pipe, is within the scope of the order. Affirmative preliminary scope ruling issued on January 13, 1994.
Country	Taiwan.

A–583–810	*Chrome-Plated Lug Nuts.*
	Consolidated International Automotive, Inc.—Clarification to determine whether certain nickel-plated lug nuts are within the scope of the order.
Country	Japan.
A–588–029	*Fishnetting of Man Made Fiber.*
	Trans-Pacific Trading, Inc.—Clarification to determine whether salmon gill fish netting of man-made fibers are within the scope of the order.
A–588–405	*Cellular Mobile Telephones and Subassemblies.*
	TDK Corporation of America—Clarification to determine whether duplexers, voltage control oscillators, and isolators are within the scope of the order.
	Matsushita Communication Industrial Corporation of America and related entities—Clarification to determine whether Matsushita's EB-H70, EB-H705, EB-H7071, and EB-H7075 portable cellular telephones (PCTs) are within the scope of the order.
A–588–702	*Stainless Steel Butt-Weld Pipe Fittings.*
	Daido Steel Co., Ltd.—Clarification to determine whether Primet joint metal seal fittings and Primet joint weld fittings produced by Daido are within the scope of the order.
	Benkan America, Inc. and Benkan UCT Corporation—Clarification to determine whether the sleeves of clean vacuum couplings (CVCs) and the super-clean microfittings (SCMs) manufactured by Benkan are within the scope of the order.
A–588–802	*3 1/2″ Microdisks.*
	TDK Inc., TDK Electronics Co.—Clarification to determine whether certain web roll media are within the scope of the order.
A–588–804.	*Antifriction Bearings (Other Than Tapered Roller Bearings), and Parts Thereof.*
	Dana Corporation—Clarification to determine whether an automotive component known variously as a center bracket assembly, center bearing assembly, support bracket, or shaft support bearing, is within the scope of the order.
A–588–809	*Small Business Telephone Systems and Subassemblies and Parts Thereof.*
	Iwatsu America, Inc. and Iwatsu Electric Co.—Clarification to determine whether certain dual use subassemblies (a caller ID trunk unit and a station interface circuit card) are within the scope of the order.
A–588–810	*Mechanical Transfer Presses.*
	Komatsu Ltd.—Clarification to determine whether certain mechanical transfer press parts exported from Japan are within the scope of the order.
A–588–815	*Gray Portland Cement and Clinker.*
	Surecrete, Inc.—Clarification to determine whether New Super Fine Cement manufactured by Nittetsu Cement Co., Ltd., is within the scope of the order.

VI. Pending Anticircumvention Inquiry Requests as of September 30, 1995:

Country	Germany.
A–428–811	*Hot-Rolled Lead and Bismuth Carbon Steel Products.*
	Inland Steel Bar Company and USS Kolbe Steel Company—Anticircumvention inquiry to determine whether a producer of steel in Germany is circumventing the antidumping duty order by shipping leaded steel billets to its wholly-owned subsidiary in the Netherlands, hot-rolling the billets into bars and rods, and then exporting them to the United States.
Country	Japan.
A–588–602	*Carbon Steel Butt-Weld Pipe Fittings.*
	U.S. Fittings Group—Anticircumvention inquiry to determine whether a producer of carbon steel butt-weld pipe fittings in Japan is circumventing the antidumping duty order by shipping parts to Thailand for processing and importing the finished product into the United States. Negative preliminary determination of circumvention published 9/20/95.

Interested parties are invited to comment on the accuracy of the list of pending scope clarification requests. Any comments should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

Dated: October 13, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–26045 Filed 10–19–95; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

Announcement of a Meeting To Discuss an Opportunity To Join a Cooperative Research and Development Consortium for an Open Architecture Enhanced Machine Controller (EMC)

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of public meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) invites interested parties to attend a meeting on December 1, 1995 to discuss the possibility of setting up a cooperative research consortium to reduce the life-cycle cost of machine tool controllers by developing public domain open system interface standards which support component interoperability.

Any program undertaken will be within the scope and confines of The Federal Technology Transfer Act of 1986 (Pub. L. 99–502, 15 U.S.C. 3710a), which provides federal laboratories including NIST, with the authority to enter into cooperative research agreements with qualified parties. Under the law, NIST may provide ''personnel, service, facilities, equipment or other resources with or without reimbursement (but not funds to non-federal parties)''—to the cooperative research program.

The meeting will be held on Friday December 1, 1995 at 8:30 a.m., Room 126, Building 304, at NIST in Gaithersburg, MD, for interested parties. The meeting will discuss the possible formation of a research consortium including NIST and manufacturing

industry to conduct research in this area. This is not a grant program.

DATES: The meeting will be held on December 1, 1995. Interested parties should contact NIST to confirm their attendance at the address, telephone number or FAX number shown below no later than November 23, 1995.

ADDRESSES: The meeting will be held at 8:30 a.m., Room 126, Building 304, National Institute of Standards and Technology, Gaithersburg, MD.

FOR FURTHER INFORMATION CONTACT: Fred Proctor, Building 220, Room B127, National Institute of Standards and Technology, Gaithersburg, MD 20899. Telephone: 301–975–3425; FAX: 301–990–9688; e-mail: proctor@cme.nist.gov.

Dated: October 13, 1995.

Samuel Kramer,

Associate Director.

[FR Doc. 95–25983 Filed 10–19–95; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

[I.D. 101395C]

Marine Fisheries Advisory Committee; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: Notice is hereby given of meetings of the Marine Fisheries Advisory Committee (MAFAC) from November 7 to November 9, 1995.

DATES: The meetings are scheduled as follows:

1. November 7, 1995 10 a.m. - 4 p.m.;
2. November 8, 1995, 8:30 a.m. - 5 p.m.; and
3. November 9, 1995, 8:30 a.m. - 11:00 a.m.

ADDRESSES: The meeting will be held at the Portland Hilton, 921 SW. Sixth Ave, Portland, OR.

Requests for special accommodations may be directed to MAFAC, Management Services Office, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Richard Wheeler, Executive Secretary; telephone: (301) 713–2259.

SUPPLEMENTARY INFORMATION: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of a meeting of MAFAC. MAFAC was established by the Secretary of Commerce (Secretary) on February 17, 1971, to advise the Secretary on all living marine resource matters that are the responsibility of the Department of Commerce. This Committee ensures that the living marine resource policies and programs of this Nation are adequate to meet the needs of commercial and recreational fishermen, and environmental, state, consumer, academic, and other national interests.

Matters to be Considered

November 7, 1995—Subcommittee Meetings

(1) Steering Committee;
(2) Marine Recreational Fisheries Committee;
(3) Protected Resources/Habitat Committee;
(4) Seafood Markets and Trade Committee; and,
(5) Commercial Fisheries Committee.

November 8, 1995

(1) Report of subcommittees;
(2) Report of Bycatch Task Force on field trip findings;
(3) Report on the NMFS budget(s); and
(4) Report on the National Habitat Program.

November 9, 1995

(1) Report of subcommittees;
(2) Report on the U.N. Treaty on Straddling Stocks;
(3) Open panel discussion.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to MAFAC (see **ADDRESSES**).

Dated: October 13, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 95–26010 Filed 10–19–95; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 20, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.
2. The action does not appear to have a severe economic impact on current contractors for the services.
3. The action will result in authorizing small entities to furnish the services to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Acquisition & Distribution of D-Cell Batteries (6135–00–835–7210)
Defense General Supply Center, Richmond, Virginia
NPA: Eastern Carolina Vocational Center, Inc., Greenville, North Carolina

Grounds Maintenance, Basewide, Tinker Air Force Base, Oklahoma
NPA: Oklahoma Goodwill Industries, Inc., Oklahoma City, Oklahoma

Janitorial/Custodial, DITCO Buildings 3600, 3178 and 3179, Scott Air Force Base, Illinois
NPA: Challenge Unlimited, Inc., Alton, Illinois

Janitorial/Custodial, for the following Albuquerque, New Mexico locations:
Petroglyph National Monument Headquarters, 6001 Unser Boulevard NW.
Petroglyph National Monument Visitor Center and Ranger Station, 4735 Unser Boulevard NW.
NPA: RCI, Inc., Albuquerque, New Mexico

Janitorial/Custodial, U.S. Army Reserve Centers, 6510 Bonny Oaks Drive and East 23rd Street, Chattanooga, Tennessee
NPA: Chattanooga Goodwill Industries, Inc., Chattanooga, Tennessee

Recycling Service, Westover Air Reserve Base, Chicopee, Massachusetts
NPA: For Community Services, Inc., Chicopee, Massachusetts

Recycling Service, McGuire Air Force Base, New Jersey
NPA: Occupational Training Center of Burlington Co., Inc., Mt. Holly, New Jersey

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–26012 Filed 10–19–95; 8:45 am]

BILLING CODE 6820–33–P

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: November 20, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On August 4 and 25, 1995, the Committee for Purchase from People who are Blind or Severely Disabled published notices (60 FR 39947 and 44319) of proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and service, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Securities and Exchange Commission Confidential Microfiche (GPO Program C557–S)
7690–00–NSH–0083

(Requirements for the Securities & Exchange Commission)

Vest, High Visibility
8415–01–394–0216

Services

Janitorial/Custodial, Edward Hines, Jr. VA Hospital, VABDC Building #215, Hines, Illinois
Janitorial/Custodial, U.S. Military Academy, Pershing Center, Buildings 2101, 2104, 2107 and 2113, West Point, New York
Janitorial/Custodial, Parkersburg AMSA, Parkersburg, West Virginia
Janitorial/Custodial, Parkersburg U.S. Army Reserve Center, Parkersburg, West Virginia
Janitorial/Custodial, Valley Grove AMSA, Valley Grove, West Virginia
Switchboard Operation, Department of Veterans Affairs Medical Center, Decatur, Georgia

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–26013 Filed 10–19–95; 8:45 am]

BILLING CODE 6820–33–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Government-Industry Advisory Committee on the Operation and Modernization of the National Defense Stockpile

ACTION: Notice of meeting.

SUMMARY: The fourth meeting of this committee will be held on November 2, 1995, in Charlotte, NC. The location for the meeting has not been determined at the time of this notice. The meeting is open to the public. This committee was established under Public Law 102–484. The meeting times and agenda are as follows:

TIME: November 2, 9:00 a.m. to 2:00 p.m.

AGENDA: The Committee will receive reports from the two working groups established at the previous meeting. One group will discuss the sales practices of the Stockpile and the second group will discuss the modernization of the Stockpile.

For additional information and for the meeting location contact Mr. Tom Meeker at 703–767–6476.

Dated: October 16, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–25999 Filed 10–19–95; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Final Environmental Impact Statement (FEIS) on the Disposal and Reuse of Jefferson Proving Ground, Madison, IN

AGENCY: Department of Defense, United States Army.

ACTION: Notice of availability.

SUMMARY: The proposed action evaluated by this FEIS is the disposal of Jefferson Proving Ground (JPG).

This action will result in the disposal of 55,264 acres of excess property at JPG in accordance with the Defense Base Closure and Realignment Act of 1988, Public Law 100–526. The FEIS addresses the environmental and socioeconomic effects of the disposal and subsequent reuse of the 55,264 acres. Three alternative methods of disposal are analyzed: Encumbered Disposal, Unencumbered Disposal and Retention of the Property in a Caretaker Status (i.e., the No Action Alternative).

The Encumbered Disposal Alternative addresses natural or man-made encumbrances to the future reuse. The Unencumbered Disposal Alternative evaluates the potential to remove

encumbrances, thereby allowing the property to be disposed with fewer or no Army-imposed restrictions on future use. The impacts of reuse are evaluated in terms of low, medium and high land use intensities.

No significant environmental or human health effects are anticipated for any of the three disposal alternatives. Medium and high intensity reuse of certain study areas would have long-term significant impacts on various environmental resources. Hazardous waste remediation in the contonment area will have a beneficial effect on soils, surface water, and groundwater. Mitigation measures that future owners could take include exercise of discretion in land use planning and infrastructure development. Adherence to deed restrictions and enforcement of zoning, subdivision regulation, and building permits could help maintain visual resources inherent at the JPG site.

ADDRESSES: Copies of the Final Environmental Impact Statement can be obtained by writing or calling Mr. James Davidson, at the U.S. Army Materiel Command, ATTN: AMCSO, 5001 Eisenhower Avenue, Alexandria, VA 22333–0001, (703) 274–5510.

Dated: October 13, 1995.

Raymond J. Fatz,

Acting Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), OASA, (I,L&E).

[FR Doc. 95–26043 Filed 10–19–95; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: October 18, 1995.

Time of Meeting: 0900–1600.

Place: Pentagon—Washington, DC.

Agenda: The Army Science Board's Research and Advanced Concepts Issue Group on ''Decisive Infantry Weapons'' will meet to determine the need for a study on the availability of new technology that substantially enhances the state of the art in offensive infantry weaponry. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of this meeting. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 95–26020 Filed 10–19–95; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB)

Date of Meeting: 27 October 1995

Time of Meeting: 0900–1500

Place: Austin, TX

Agenda: The Army Science Board's (ASB) Ad Hoc Study on ''Tank Modernization'' will meet for briefings and discussions on electromagnetic and electrothermal chemical gun propulsion and hypervelocity physics. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically paragraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of this meeting. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 95–26007 Filed 10–19–95; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Intent To Grant Exclusive Patent License; Santa Fe Laser Company

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Santa Fe Laser Company a revocable, non-assignable exclusive license in the United States to practice the Government-owned inventions described in U.S. Patents Nos. 5,121,402, ''Multiple Element Ring Laser,'' issued June 9, 1992; and 5,285,467, ''Compact, Efficient, Scalable Neodymium Laser Co-doped with Activator Ions and Pumped by Visible Laser Diodes,'' issued February 8, 1994.

Anyone wishing to object to the granting of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of Naval Research, ONR OOCC, Ballston Tower One, Arlington, Virginia 22217–5660.

FOR FURTHER INFORMATION CONTACT: Mr. R. J. Erickson, Staff Patent Attorney, Office of the Naval Research, ONR OOCC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

Dated: October 11, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–26034 Filed 10–19–95; 8:45 am]

BILLING CODE 3810–FF–P

Notice of Prospective Exclusive or Partially Exclusive Licenses; William D. Sterling/Robert F. Gampper and Santa Fe Laser Company

SUMMARY: Messrs. William D. Sterling and Robert F. Gampper have applied for an exclusive license to practice the Government owned invention described in U.S. Patent No. 5,244,196 entitled ''Internally Folded Scalable Laser'' issued September 28, 1993; and the Santa Fe Laser Company has also applied for an exclusive license to practice the same invention. The Department of the Navy is considering the granting to either one or both of these entities a revocable, nonassignable, exclusive or partially exclusive license(s) in the United States to practice to aforedescribed invention.

Anyone wishing to object to the granting of licenses to either or both of these prospective licensees has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of Naval Research, ONR, OOCC, Ballston Tower One, Arlington, Virginia 22217–5660.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of Naval Research, ONR, OOCC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

Dated: October 10, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–26035 Filed 10–19–95; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0031]

Request for Public Comments Regarding OMB Clearance Entitled Contractor Use of Government Supply Sources

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0031).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Contractor Use of Government Supply Sources. This OMB clearance currently expires on February 28, 1996.

DATES: *Comment Due Date*: December 19, 1995.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0031, Contractor Use of Government Supply Sources, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein, Office of Federal Acquisition Policy, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

When it is in the best interest of the Government and when supplies and services are required by a Government contract, contracting officers may authorize contractors to use Government supply sources in performing certain contracts. Contractors placing orders under Federal Supply Schedules or Personal Property Rehabilitation Price Schedules must follow the terms of the applicable schedule. To place orders, firms will submit the initial FEDSTRIP or MILSTRIP requisitions or the Optional Form 347, a copy of the authorization to order, and a statement regarding authorization to the firm holding the schedule contract.

The information informs the schedule contractor that the ordering contractor is authorized to use this Government supply source and fills the ordering contractor's order under the terms of the Government contract.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *15* minutes 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.

The annual reporting burden is estimated as follows: Respondents, *300*; responses per respondent, *7*; total annual responses, *2,100*; preparation hours per response, *.25*; and total response burden hours, *525*.

Dated: October 13, 1995.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 95–26064 Filed 10–19–95; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–0032]

Request for Public Comments Regarding OMB Clearance Entitled Contractor Use of Interagency Motor Pool Vehicles

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0032).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Contractor Use of Interagency Motor Pool Vehicles. This OMB clearance currently expires on February 28, 1996.

DATES: *Comment Due Date:* December 19, 1995.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0032, Contractor Use of Interagency Motor Pool Vehicles, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein, Office of Federal Acquisition Policy, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

If it is in the best interest of the Government, the contracting officer may authorize cost-reimbursement contractors to obtain, for official purposes only, interagency motor pool vehicles and related services. Contractors' requests for vehicles must contain two copies of the agency authorization, the number of vehicles and related services required and period of use, a list of employees who are authorized to request the vehicles, a listing of equipment authorized to be serviced, and billing instructions and address.

A written statement that the contractor will assume, without the right of reimbursement from the Government, the cost or expense of any use of the motor pool vehicles and services not related to the performance of the contract is necessary before the contracting officer may authorize cost-reimbursement contractors to obtain interagency motor pool vehicles and related services.

The information is used by the Government to determine that it is in the Government's best interest to authorize a cost-reimbursement contractor to obtain, for official purposes only, interagency motor pool vehicles and related services, and to provide those vehicles.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *30* minutes 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.

The annual reporting burden is estimated as follows: Respondents, *70*; responses per respondent, *2*; total annual responses, *140*; preparation

hours per response, *.5*; and total response burden hours, *70*.

Dated: October 13, 1995.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 95–26065 Filed 10–19–95; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–0035]

Request for Public Comments Regarding OMB Clearance Entitled Claims and Appeals

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of requests for public comments regarding an extension to an existing OMB clearance (9000–0035).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Claims and Appeals. This OMB clearance currently expires on February 28, 1996.

DATES: Comment Due Date: December 19, 1995.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0035, Claims and Appeals, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill, Office of Federal Acquisition Policy, GSA (202) 501–3856.

SUPPLEMENTARY INFORMATION:

A. Purpose

It is the Government's policy to try to resolve all contractual issues by mutual agreement at the contracting officer's level without litigation. Contractor's claims must be submitted in writing to the contracting officer for a decision. Claims exceeding $50,000 must be accompanied by a certification that (1) the claim is made in good faith; (2) supporting data are accurate and complete; and (3) the amount requested accurately reflects the contract adjustment for which the contractor believes the Government is liable. Contractors may appeal the contracting officer's decision by submitting written appeals to the appropriate officials.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *1* hour per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *7,5000*; responses per respondent, *20*; total annual responses, *150,000*; preparation hours per response, *1*; and total response burden hours, *150,000*.

Dated: October 16, 1995.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 95–26066 Filed 10–19–95; 8:45 am]

BILLING CODE 6820–EP–M′

[OMB Control No. 9000–0056]

Request for Public Comments Regarding OMB Clearance Entitled Report of Shipment

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0056).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Report of Shipment. This OMB clearance currently expires on February 28, 1996.

DATES: *Comment Due Date:* December 19, 1995.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0056, Report of Shipment, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein, Office of Federal Acquisition Policy, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

Military (and, as required, civilian agency) storage and distribution points, depots, and other receiving activities require advance notice of large shipments enroute from contractors' plants. Timely receipt of notices by the consignee transportation office precludes the incurring of demurrage and vehicle detention charges. The information is used to alert the receiving activity of the arrival of a large shipment.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *10* minutes 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.

The annual reporting burden is estimated as follows: Respondents, *250;* responses per respondent, *4*; total annual responses, *1,000;* preparation hours per response, *.167;* and total response burden hours, *167*.

Dated: October 13, 1995.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 95–26067 Filed 10–19–95; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–0065]

Request for Public Comments Regarding OMB Clearance Entitled Overtime

AGENCIES: Department of Defense (DOD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0065).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Overtime. This OMB clearance currently expires on February 28, 1996.

DATES: *Comment Due Date:* December 19, 1995.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0065, Overtime, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill, Office of Federal Acquisition Policy, GSA (202) 501–3856.

SUPPLEMENTARY INFORMATION:

A. Purpose

Federal solicitations normally do not specify delivery schedules that will require overtime at the Government's expense. However, when overtime is required under a contract and it exceeds the dollar ceiling established during negotiations, the contractor must request approval from the contracting officer for overtime. With the request, the contractor must provide information regarding the need for overtime.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *15* minutes per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *1,270*; responses per respondent, *1*; total annual responses, *1,270*; preparation hours per response, *.5*; and total response burden hours, *635*.

Dated: October 16, 1995.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 95–26068 Filed 10–19–95; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–0108]

Request for Public Comments Regarding OMB Clearance Entitled Bankruptcy

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0108).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Bankruptcy. This OMB clearance currently expires on February 28, 1996.

DATES: *Comment Due Date:* December 19, 1995.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0108, Bankruptcy, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein, Office of Federal Acquisition Policy, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

Under statute, contractors may enter into bankruptcy which may have a significant impact on the contractor's ability to perform its Government contract. The Government often does not receive adequate and timely notice of this event. The subject contract clause requires contractors to notify the contracting officer within five days after the contractor enters into bankruptcy.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *1* hour 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.

The annual reporting burden is estimated as follows: Respondents, *1,000*; responses per respondent, *1*; total annual responses, *1,000*; preparation hours per response, *1*; and total response burden hours, *1,000*.

C. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: Recordkeepers, *1,000;* hours per recordkeeper, *.25;* and total recordkeeping burden hours, *250*.

Dated: October 13, 1995.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 95–26069 Filed 10–19–95; 8:45 am]

BILLING CODE 6820–EP–M

DEPARTMENT OF ENERGY

Final Environmental Impact Statement for the Safe Interim Storage of Hanford Tank Wastes at the Hanford Site, Richland, WA

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Department of Energy (DOE), Richland Operations Office is giving notice of the availability of the Final Environmental Impact Statement (EIS) for the Safe Interim Storage (SIS) of Hanford Tank Wastes (DOE/EIS–0212). The SIS EIS has been prepared jointly with the Washington State Department of Ecology (Ecology). The Final EIS was prepared in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA); Council on Environmental Quality regulations implementing NEPA, 40 CFR parts 1500–1508; DOE NEPA Implementing Procedures, 10 CFR 1021; and the Washington State Environmental Policy Act (SEPA) (WAC 197–11 and RCW 43.21C). The Final EIS addresses interim management strategies for continued safe storage of tank wastes performed under the Tank Waste Remediation System Program. Final disposal actions for Hanford tank wastes are being considered in the Tank Waste Remediation System EIS, which is currently in the preliminary draft stage of preparation.

The Final EIS has been distributed to interested parties, Federal and State

agencies, and is available in DOE reading rooms and designated information locations which are identified in this notice. DOE plans to issue a Record of Decision on the Final EIS in November 1995.

ADDRESSES: Requests for copies of the Final EIS and for further information on the Final EIS should be directed to:

Ms. Carolyn C. Haass, TWRS NEPA Document Manager, U.S. Department of Energy, Richland Operations Office, P.O. Box 550, MSIN S7–51, Richland, WA 99352, (509) 372–2731

Mr. Geoff Tallent, Washington State Department of Ecology, P.O. Box 47600, Olympia, WA 98504–7600, (360) 407–7112

Information on the DOE NEPA process may be obtained from:

Ms. Carol Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–4600 or leave a message at 1–800–472–2756

SUPPLEMENTARY INFORMATION:

Background

DOE and Ecology issued a Draft EIS for public comment and published a Notice of Availability in the Federal Register July 20th, 1994 (59 FR 39329). During the 45 day comment period, DOE held five public hearings in order to obtain public comments on the Draft SIS EIS. In addition, public comments were received by mail, a toll-free telephone line, and facsimile. The comments are summarized and responded to in Volume 2 of the Final SIS EIS.

Public comments on the Draft SIS EIS were assessed and considered both individually and collectively by DOE and Ecology. Some comments resulted in modifications to the EIS. Other comments were responded to with an explanation of why a change was not warranted. The majority of the responses answered or further explained technical issues and comments, referred commentors to information in the SIS EIS, explained the relationship of this EIS to other related NEPA documents, communicated government policy, or indicated that the comment was beyond the scope of this EIS. In generating the Final SIS EIS, DOE and Ecology considered all comments received on the Draft.

During the preparation of the Final SIS EIS, progress was made in the resolution of unacceptable flammable gas generation and release in Tank 101–SY, the principal safety issue evaluated in the Draft EIS. A mixer pump was introduced into Tank 101–SY to stir the contents and prevent the build-up and sudden release of flammable gases. Based on several months of operational data, the mixer pump has been determined to successfully mitigate the unacceptable generation of flammable gases. As a result, DOE and Ecology have selected as part of their preferred alternative in the Final SIS EIS, continued operation of the mixer pump to resolve the safety issues in Tank 101–SY. Mixer pump operation would continue until final waste disposal decisions are reached and implemented through the Tank Waste Remediation System EIS. The preferred alternative evaluated in the Draft SIS EIS, which included retrieval and dilution of Tank 101–SY into newly constructed double shell tanks, remains in the Final SIS EIS as a technical alternative to mixer pump operation, although the number of new tanks has been reduced from six to two based on further studies of required mitigation.

Based on public comments, the purpose and need statement of the Final SIS EIS includes waste management and operation activities required prior to the implementation of disposal decisions under the Tank Waste Remediation System EIS. The Final EIS recognizes four specific areas of waste management requiring interim actions.

- Removal of salt well liquids from old single shell tanks to reduce the likelihood of leaks.
- Establishment of a compliant cross-site waste transfer capability for interim storage of tank waste in double shell tanks.
- Maintenance of adequate tank storage capacity for future waste.
- Mitigate Hydrogen generation in Tank 101–SY.

These waste management and operation activities form the basis for the purpose and need statement of the Final SIS EIS.

Alternatives

The alternatives evaluated in the Final SIS EIS have been modified from those evaluated in the Draft SIS EIS to reflect the changes made to the purpose and need statement, and reflect the range of alternatives available to the agencies to safely manage high level tank wastes until final disposal decisions are made and implemented. The alternatives evaluated in the Final EIS include:

Preferred Alternative—The preferred alternative would continue retrieval of salt well liquids, and operation of the existing mixer pump in Tank 101–SY. It would construct and operate a new pipeline system, termed the replacement cross-site transfer system, and a retrieval and transfer system in Tank 102–SY. The existing cross-site transfer system would continue to be used until the replacement cross-site transfer system becomes operational or the existing cross-site transfer system is no longer operational.

Truck Transfer Alternative—The truck transfer alternative would also continue to retrieve salt well liquids, but would transfer wastes utilizing truck tankers instead of pipelines. The alternative would also include constructing and operating a high level radioactive waste load and waste unload facilities. This alternative would use existing roadways utilizing either a modified tanker trailer truck or a French truck the LR–56(H). The alternative would not construct or operate a retrieval system in Tank 102–SY. The continued long-term operation of the existing mixer pump in Tank 101–SY would mitigate its flammable gas safety concerns. The existing cross-site transfer system would be utilized until the replacement system is operational.

Rail Transfer Alternative—The rail transfer alternative would be identical to the truck transfer alternative except wastes would be transported by rail instead of truck.

New Storage Alternative—The new storage alternative would continue salt well liquid retrievals and transfer wastes through the replacement cross-site transfer system like the preferred alternative, but would resolve the safety issue of Tank 101–SY by retrieval and dilution instead of continued operation of the mixer pump. The alternative would construct and operate two new double-shell tanks and their associated facilities to receive the diluted wastes from Tank 101–SY, and install retrieval systems in Tanks 102–SY and 101–SY. The existing cross-site transfer system would be utilized until the replacement system is operational.

No Action Alternative—The no action alternative would continued retrieval of salt well liquids and transfer wastes to the extent possible utilizing the existing cross-site transfer system. No new transfer capability would be constructed at this time. Operation of the existing mixer pump in Tank 101–SY would continue to mitigate its flammable gas safety concerns. This alternative would not provide a transfer capability that is compliant with current Federal and State regulations.

Availability of Copies of the Final EIS

Copies of the Final SIS EIS are being distributed to Federal, State, and local officials and agencies, organizations and individuals known to be interested in

the EIS, and persons and agencies that commented on the Draft SIS EIS. Additional copies may be obtained by contacting Ms. Haass or Mr. Tallent at the above addresses. Copies of the Final SIS EIS, including appendices, reference material, comment letters, public hearing transcripts, and the DOE responses to comments, will be available for public review at the locations listed below.

The Final EIS is separately bound in two volumes. Volume 1 contains the Final EIS document and Volume 2 contains the Public Comment Response document.

DOE Public Reading Rooms

(1) U.S. Department of Energy, Headquarters, Freedom of Information Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW., Washington DC 10585, (202) 586–6020, Monday–Friday: 9 a.m. to 4 p.m.

(2) U.S. Department of Energy, Richland Operations Office, Public Reading Room, Washington State University Tri-Cities, 100 Sprout Road, Room 130W, Richland, WA 99352, (509) 376–8583, Monday–Friday: 8 a.m. to 12 p.m. and 1 p.m. to 4 p.m.

(3) Suzzallo Library, SM25, University of Washington, Seattle, WA 98185, (206) 543–9158, Monday–Thursday: 7:30 a.m.to 12:00 p.m.; Friday: 7:30 a.m. to 6:30 p.m.; Saturday: 9:00 a.m. to 5 p.m.; Sunday: 12 p.m. to 12 midnight.

(4) Foley Center, Gonzaga University, East 502 Boone Avenue, Spokane, WA 99258, (509) 328–4220, Extension 3125.

(5) Portland State University, Branford Price Millar Library, SW., Harrison and Park, Portland, OR 97207, (503) 725–3690.

You may also receive a copy of the Final EIS by calling the Hanford Cleanup Hotline toll-free 1–800–321–2008. If you have special accommodation needs, contact Michele Davis at (206) 407–7126 or (206) 407–7155 Telecommunications Device for the Deaf (TDD).

Signed in Richland, WA. this 10th day of October 1995, for the United States Department of Energy.

John D. Wagoner,

Manager, U.S. Department of Energy, Richland Operations Office.

[FR Doc. 95–25948 Filed 10–19–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. ER95–1857–000, et al.]

Green Mountain Power Corporation, et al.; Electric Rate and Corporate Regulation Filings

October 13, 1995.

Take notice that the following filings have been made with the Commission:

1. Green Mountain Power Corporation

[Docket No. ER95–1857–000]

Take notice that on September 29, 1995, Green Mountain Power Corporation (GMP), tendered for filing a Transmission and Distribution Service Agreement between GMP and Vermont Electric Generation and Transmission Cooperative, Inc. (VEG&T), and a Notice of Cancellation of a Service Agreement for service to Vermont Electric Cooperative, Inc. (VEC) under GMP's FERC Electric Tariff, First Revised Volume No. 1.

GMP states that these filings are being made to accommodate VEC's desire to discontinue purchasing its requirements for power and energy from GMP and to purchase such power and energy in the future from other suppliers. GMP has requested that the Notice of Cancellation of service to VEC under its FERC Electric Tariff, First Revised Volume No. 1 be made effective as of February 1, 1995, and that the Transmission and Distribution Service Agreement with VEG&T be made effective on December 1, 1995.

Comment date: October 27, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Great Bay Power Corporation

[Docket No. ER95–1858–000]

Take notice that on September 29, 1995, Great Bay Power Corporation (Great Bay), tendered for filing a service agreement between CNG Power Services Corporation and Great Bay for service under Great Bay's Tariff for Short Term Sales. This Tariff was accepted for filing by the Commission on November 15, 1993, in Docket No. ER93–924–000. The service agreement is proposed to be effective October 1, 1995. Great Bay states that it plans to amend the Tariff shortly and agrees to make the service agreement subject to the outcome of the docket in which the Tariff is revised.

Comment date: October 27, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. New England Power Company

[Docket No. ER95–1859–000]

Take notice that on September 29, 1995, New England Power Company filed a Service Agreement and Certificates of Concurrence with Commonwealth Electric Company and Cambridge Electric Light Company under NEP's FERC Electric Tariff, Original Volume No. 6.

Comment date: October 27, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Southern Energy Marketing, Inc.

[Docket No. ER95–1860–000]

Take notice that on September 29, 1995, Southern Energy Marketing, Inc. (Southern Energy) submitted for filing an enabling agreement and service schedule executed September 26, 1995 between Southern Energy and the Eugene Water & Electric Board (EWEB).

The enabling agreement provides the general terms and conditions under which Southern Energy and EWEB propose to engage in power sales and purchase transactions. The service schedule provides for the sale from Southern Energy to EWEB of 25 MW of firm, off-peak energy at the rate specified therein. Service under the service schedule is scheduled to commence on October 1, 1995 and to terminate on March 31, 1996.

Southern Energy requests waiver of the 60-day prior notice requirement to permit service under the proposed agreement to commence on October 1, 1995. Southern Energy also requests certain other waivers and blanket approvals, including waiver of the Commission's filing requirements to the extent necessary.

Comment date: October 27, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Public Service Company of Colorado

[Docket No. ER95–1861–000]

Take notice that on September 29, 1995, Public Service Company of Colorado (Public Service), tendered for filing a Service Agreement between Public Service Company of Colorado (Public Service) and Holy Cross Electric Association, Inc. (Holy Cross) under Public Service's Electric Coordination Service Tariff (Tariff). The Service Agreement will permit Holy Cross to arrange individual Coordination Power and Energy transactions in accordance with Service Schedule A of the Tariff. Public Service requests that its filing be made effective on October 1, 1995.

Comment date: October 27, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Public Service Company of Colorado

[Docket No. ER95–1862–000]

Take notice that on September 29, 1995, Public Service Company of

Colorado (Public Service), tendered for filing a Service Agreement for Non-Firm Transmission Service between Public Service Company of Colorado and Western Gas Resources Power Marketing, Inc. (Western Gas). Public Service states that the purpose of this filing is to provide Non-Firm Transmission Service to Western Gas under the provisions of the currently effective Transmission Service tariff, FERC Electric Tariff, Original Volume No. 1 (Tariff), and, upon its effectiveness, Public Service's Point-to-Point Transmission Service Tariff (TST), which is currently pending in Docket No. ER95–1268–000. Public Service requests that its filing be made effective September 1, 1995.

Comment date: October 27, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Louisville Gas and Electric Company

[Docket No. ER95–1863–000]

Take notice that on September 29, 1995, Louisville Gas and Electric Company tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Enron Power Marketing, Inc. under Rate GSS.

Comment date: October 27, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Indiana Michigan Power Company

[Docket No. ER95–1864–000]

Take notice that on September 29, 1995, American Electric Power Service Corporation (AEPSC), tendered for filing a Supplement to a service agreement pursuant to which transmission service is being made available to Indiana Municipal Power Agency pursuant to AEPSC FERC Electric Tariff Original Volume No. 1. Waiver of Notice requirements was requested to accommodate an effective date of September 1, 1995.

A copy of the filing was served upon IMPA and the affected state regulatory commission.

Comment date: October 27, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Carolina Energy Limited Partnership

[Docket No. QF95–291–000]

On October 4, 1995, and October 10, 1995, Carolina Energy Limited Partnership (Carolina) tendered for filing an amendment to its filing in this docket.

The amendment pertains to information relating to the ownership structure of Carolina's small power production facility. No determination has been made that the submittal constitutes a complete filing.

Comment date: October 31, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25996 Filed 10–19–95; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 3474–013 North Carolina]

Lake Junaluska; Notice of Availability of Environmental Assessment

October 16, 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 486, 52 F.R. 47897), the Commission's Office of Hydropower Licensing has reviewed an exemption surrender application for the Lake Junaluska Project, No. 3474–013. The Lake Junaluska Project is located on Richland Creek in Haywood County, North Carolina. The exemptee is applying for a surrender of the exemption because the project is no longer economically viable. An Environmental Assessment (EA) was prepared for the application. The EA finds that approving the application would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 3104, of the Commission's offices at 941 North Capitol Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25963 Filed 10–19–95; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 6901–026 West Virginia]

City of New Martinsville, WV; Notice of Availability of Final Environmental Assessment

October 16, 1995.

A final environmental assessment (FEA) is available for public review. The FEA is for an application to amend the license for the New Cumberland Hydroelectric Project. The application is to reduce the spillflow requirement at the project. The FEA finds that approval of the application would not constitute a major federal action significantly affecting the quality of the human environment. The New Cumberland Hydroelectric Project is located on the Ohio River in Hancock County, West Virginia and Jefferson County Ohio.

The FEA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA can be viewed at the Commission's Reference and Information Center, Room 3308, 941 North Capitol Street NW., Washington, DC 20426.

For further information, please contact the project manager, Ms. Monica Maynard, at (202) 219–2652.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25964 Filed 10–19–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–17–000]

National Fuel Gas Supply Corporation; Notice of Application

October 16, 1995.

Take notice that on October 6, 1995, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed an application with the Commission in Docket No. CP96–17–000 pursuant to Section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon its interests in four lateral lines connected to the High Island Offshore System (HIOS), offshore Louisiana, which were authorized in Docket Nos. CP77–320, CP79–297, and CP81–269–000,[1] all as more fully set forth in the application which is open to the public for inspection.

National Fuel proposes to abandon by transfer to Tennessee Gas Pipeline Company (Tennessee) the following four lateral lines:

A. *High Island Lateral Line A–330.* National Fuel owns a 3.23 percent interest in High Island Lateral Line A–

[1] 5 FERC ¶ 61,300 (1978), 4 FERC ¶ 61,030 (1978), and 17 FERC ¶ 61,103 (1981).

330, which consists of 1.47 miles of 20-inch diameter pipe and appurtenant facilities that connect gas supplies from High Island Blocks A–330 and A–349 and West Cameron Blocks 612 and 613 to HIOS.

B. *High Island Lateral Line A–349.* National Fuel owns a 3.20 percent interest in High Island Lateral Line A–349, which consists of 1.88 miles of 16-inch diameter pipe and appurtenant facilities that connect gas supplies from High Island Block A–349 to High Island Lateral Line A–330.

C. *High Island Lateral Line A–563.* National Fuel owns a 2.67 percent interest in High Island Lateral Line A–563, which consists of 1.20 miles of 20-inch diameter pipe and appurtenant facilities that connect a High Island Block A–563 production platform with HIOS.

D. *High Island Lateral Line A–582.* National Fuel owns a 3.13 percent interest in High Island Lateral Line A–582, which consists of 0.53 mile of 12-inch diameter pipe and appurtenant facilities that connect a High Island Block A–582 production platform with HIOS.

National Fuel states that its interests in the High Island laterals are fully depreciated and that Tennessee would acquire these facilities from National Fuel at no cost.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 6, 1995, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for National Fuel to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–25967 Filed 10–19–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–20–000]

Florida Gas Transmission Company; Notice of Request Under Blanket Authorization

October 16, 1995.

Take notice that on October 10, 1995, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP96–20–0000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon a meter station and related facilities located in Brazoria County, Texas, under FGT's blanket certificate issued in Docket No. CP82–553–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

FGT proposes to abandon the meter station, located on FGT's 22-inch line in Brazoria County, which was installed in 1980 under Commission authorization in Docket No. CP79–471. It is stated that the meter station was installed in order for FGT to make deliveries of up to 3,000 MMBtu equivalent of natural gas per day to Natural Gas Pipeline Company of America (Natural). It is explained that Natural's 24-inch mainline is located near FGT's facilities, and in Docket No. CP79–479 (in a joint order with CP79–471) Natural was authorized to construct approximately 1,300 feet of 3-inch pipeline to connect the two companies' facilities. It is asserted that FGT's transportation service, also authorized in the joint order, was abandoned by authorization of the Commission in Docket No. CP83–13–000, because Natural's gas supply had been depleted. It is stated that the meter station would have required costly repairs and maintenance expense to be operational and that neither company could justify the expense. The request includes a letter from Natural stating its concurrence with the abandonment.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a 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. 95–25966 Filed 10–19–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–1836–000]

PacifiCorp; Notice of Filing

October 16, 1995.

Take notice that PacifiCorp, on September 20, 1995, tendered for filing a Firm Energy Purchase and Sale Agreement dated July 31, 1995 (Agreement) between PacifiCorp and Bonneville Power Administration (Bonneville).

PacifiCorp requests that a waiver of prior notice be granted and that an effective date of one (1) day after the date the Commission receives this filing be assigned to the Agreement.

Copies of this filing were supplied to Bonneville, the Public Utility Commission of Oregon and the Washington Utilities and Transportation Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before October 27, 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. 95–25965 Filed 10–19–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5229–9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared October 02, 1995 Through October 06, 1995 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 14, 1995 (60 FR 19047).

Draft EISs

ERP No. D–AFS–L65174–AK Rating EC2, Eight Fathom Timber Sales, Implementation, COE Section 404 Permit and EPA NPDES, Tongass National Forests, Hoonah and Sitka Ranger District, Chatham Area, AK.

Summary: EPA expressed environmental concerns regarding direct and cumulative impacts to water quality. Additional site specific information on bark accumulation is needed to assess impacts to the marine environment. EPA also requested additional discussion of best management practices and water quality monitoring.

ERP No. D–FHW–E40760–NC Rating EC2, Sunset Beach Bridge No. 198 on Secondary Road NC–1172 Replacement, Over the Atlantic Intracoastal Waterway, Funding, COE Section 10 and 404 Permit, Brunswick County, NC.

Summary: EPA expressed environmental objections with alternatives C1 and W1 due to water quality, wetlands and noise impacts. EPA prefers alternative C4 as it would result in the least water quality and other impacts.

ERP No. D–IBR–K39053–CA Rating LO, South Bay Water Recycling Program (SBWRP), Development and Construction, Funding and COE Section 404 Permit, Golden Triangle Area, City of San Jose, Santa Clara County, CA.

Summary: EPA expressed a lack of environmental objections to the proposed action.

Final EISs

ERP No. F–AFS–K65240–CA Barkley Fire Salvage Sale, Implementation, Lower Deer Creek Management Area, Lassen National Forest, Almanor Ranger District, Tehama County, CA.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–AFS–L65235–ID Boise River Wildfire Recovery Project, Implementation, North Fork Boise River and Mores Creek Drainages, Boise National Forest, Idaho City and Mountain Home Ranger Districts, Boise and Elmore Counties, ID.

Summary: EPA provided no formal written comments. EPA had no objection to the preferred alternative as described in the EIS.

ERP No. F–BOP–D81025–PA Federal Prison Camp—Scranton, Pennsylvania, Construction, Operation and Site Selection, Jessup Borough, Lackawanna County, PA.

Summary: EPA still expressed environmental concern regarding alternative site analysis and cumulative impact analysis.

Dated: October 17, 1995.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 95–26090 Filed 10–19–95; 8:45 am]

BILLING CODE 6560–50–U

[ER–FRL–5229–8]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 260–5076 OR (202) 260–5075. Weekly receipt of Environmental Impact Statements Filed October 9, 1995 Through October 13, 1995 Pursuant to 40 CFR 1506.9.

EIS No. 950461, Final EIS, AFS, CA, Paper Reforestation and Resource Recovery Project, Implementation, Stanislaus National Forest, Mi-Wok Ranger District, Tuolumne County, CA, Due: November 20, 1995, Contact: Ann L. Denton (209) 586–3224.

EIS No. 950462, Draft EIS, FHW, NC, Winston-Salem Northern Beltway, (Eastern Section) from US 52 North of Winston-Salem to US 421/I–40 Business east of Winston-Salem, Construction, Funding and COE Section 404 Permit, Forsyth County, NC, Due: December 4, 1995, Contact: Nicholas L. Graf (919) 856–4350.

EIS No. 950463, Draft Supplement, FHW, KS, South Lawrence Trafficway Construction, Kansas Turnpike/I–70 to KS–10/Noria Road, New Information Concerning KS–10 on the East and US 59 on the West, Funding, COE Section 404 Permit and Right-of-Way Acqusition, Douglass County, KS, Due: December 4, 1995, Contact: Mark Sehr (913) 267–7284.

EIS No. 950464, Draft EIS, COE, FL, Programmatic EIS—Florida's Everglades Stormwater Treatment Area Construction Project, NPDES and COE Section 404 Permits, Implementation, Lake Okeechobee, Palm Beach and Hendry Counties, FL, Due: December 4, 1995, Contact: William Porter (904) 232–2259.

EIS No. 950465, Final EIS, NPS, CA, Santa Rosa Island Development Concept Plan, Implementation and Funding, Channel Islands National Park, Santa Barbara County, CA, Due: November 20, 1995, Contact: Mack C. Shaver (805) 658–5700.

EIS No. 950466, Final EIS, AFS, WY, Tie Hack Dam and Reservoir Construction, Special-Use-Permit, NPDES and COE Section 404 Permits, Bighorn National Forest, Buffalo Ranger District, City of Buffalo, WY, Due: November 20, 1995, Contact: John W. Almond (307) 672–0751.

EIS No. 950467, Final EIS, DOE, WA, Safe Interim Storage of Hanford Tank Wastes, Double Shell Tanks (DSTs) and Cross Site Transfer System (CSTS) Construction, Hanford Site, Adams, Richland, Washington, Benton and Franklin Counties, WA, Due: November 20, 1995, Contact: Carolyn C. Jones (509) 372–2731.

EIS No. 950468, Final EIS, FHW, PA, US 22/322/PA–22/Section 002/River Route Improvements, Dauphin Borough to Speeceville and a Section of PA–225 through Dauphin Borough Improvements, Funding and COE Section 404 Permit, City of Harrisburg, Dauphin County, PA, Due: November 20, 1995, Contact: Manual A. Marks (717) 782–3461.

EIS No. 950469, Draft Supplement, COE, NY, NJ, Passaic River Basin Flood Control Plan, Implementation, Updated Information to extend tunnel outlet from Upstream Terminus to Newark Bay, Passaic, Bergen, Morris, Essex and Hudson Counties, NJ and Rockland and Orange Counties, NY, Due: December 19, 1995, Contact: John S. Wright (201) 656–4749.

EIS No. 950470, Final EIS, DOE, SC, Savannah River Site Interim Management of Nuclear Materials, Implementation, Aiken and Barnwell

Counties, SC, Due: November 20, 1995, Contact: Andrew R. Grainger (803) 725–1523.

EIS No. 950471, Final EIS, USA, IN, Jefferson Proving Ground Disposal and Reuse, Implementation, Town of Madison, Jefferson, Jennings and Ripley Counties, IN, Due: November 20, 1995, Contact: James Davidson (703) 274–5510.

Amended Notices

EIS No. 950315, Draft EIS, EPA, NJ, Hackensack Meadows District (HMD) Special Area Management Plan (SAMP), Development and Implementation, COE Section 10 and 404 Permit Issuance, NJ, Due: November 3, 1995, Contact: Robert W. Hargrove (212) 637–3495. Published FR—7–21–95—Review period extended.

EIS No. 950366, DRAFT EIS, BLM, MT, Zortman and Landusky Mines Reclamation Plan Modifications and Mine Life Extensions, Approval of Mine Operation, Mine Reclamation and COE Section 404 Permits, Little Rocky Mountains, Phillip County, MT, Due: November 1, 1995, Contact: David L. Mari (406) 538–7461. Published FR 8–18–95—Review period extended.

Dated: October 17, 1995.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 95–26091 Filed 10–19–95; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by FCC For Extension Under Delegated Authority 5 CFR Part 1320 authority

October 13, 1995.

The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

The FCC is reviewing the following information collection requirements for possible 3-year extension under delegated authority 5 CFR 1320, authority delegated to the Commission by the Office of Management and Budget (OMB).

Written comments should be submitted on or before December 19, 1995. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

OMB Approval Number: 3060–0436.

Title: Cordless Telephone Security Coding.

Form No.: N/A.

Type of Review: Extension of existing collection.

Resopondents: Businesses or other for-profit.

Number of Respondents: 100.

Estimated Time Per Response: 2 hours.

Total Annual Burden: 200 hours.

Needs and Uses: Cordless telephones must incorporate digital security coding to protect the public switched telphone network from unintentional seizure and dialing, and user's from unintentionally ringing. An attestation of compliance, and the means and procedures used to ensure the required protection must accompany any application for authorization filed for the subject equipment.

OMB Approval Number: 3060–0004.

Title: Environmental Information Collection Requirements Sections 1.1307, 1.1308, 1.1311.

Form No.: N/A.

Type of Review: Extension of existing collection.

Respondents: Individuals or households; State, local or tribal governments; Not-for-profit institutions; Businesses and other for-profit; Small businesses or organizations.

Number of Respondents: 1,156.

Estimated Time Per Response: 2.1 hour.

Total Annual Burden: 2,428 hours.

Needs and Uses: Under the terms of the National Environmental Policy Act (NEPA) of 1969, the FCC is required to determine whether the transmitters it licenses or authorizes significantly affect the quality of the human environment. Since the emission of potentially hazardous radiofrequency radiation is one of several possible environmental effects, the Commission has established rules for evaluating human exposure to RF radiation from FCC-regulated transmitters. The environmental information required by section 1.1307 is reviewed by attorneys, engineers and paraprofessionals to determine whether the environmental evaluation is sufficiently complete and in compliance with the Commission's Rules to be acceptable for filing. If collection of this information were not made the FCC would not ensure compliance with the National Environmental Policy Act (NEPA), specifically, to minimize the potential for signficant environmental impact from radiofrequency (RF) radiation from FCC-regulated facilities.

OMB Approval Number: 3060–0421.

Title: Price Cap Rules.

Form No.: N/A.

Type of Review: Exension of existing collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 13.

Estimated Time Per Response: 20 hours.

Total Annual Burden: 1040 hours.

Needs and Uses: Under the Commission's price cap rules, tariffs for new services are supported by new service showings which may include the results of net revenue test. As part of the net revenue tests, carriers project their future revenue and costs for new services. Carriers then file the required reports to enable the Commission and the public to compare their actual revenues and costs with their earlier projections. The Commission staff uses these reports to guage the accuracy of these carriers' earlier forecasts so that it can better evaluate the reliability of future new service showings. Without such an evalutation, the risk of unreasonable or otherwise unlawful rates would be significantly increased, to the detriment of those who subscribe to these services.

OMB Approval Number: 3060–0307.

Title: Section 90.629(a) Extended implemention period.

Form No.: N/A.

Type of Review: Extention of existing collection.

Respondents: State, local or tribal governments; Businesses or other for-

profit; Not-for-profit organizations; Small businesses and organizations.

Number of Respondents: 100.

Estimated Time Per Response: 1 hour.

Total Annual Burden: 100 hours.

Needs and Uses: Section 90.629(a) provides certain categories of licensees the opportunity to extend the time within which system construction is required, upon submission of a justification. This allows entities requiring a longer construction period flexibility.

OMB Approval Number: 3060–0280.

Title: Section 90.633(f)&(g) Conventional systems loading requiring (wide area systems).

Form No.: N/A.

Type of Review: Extention of existing collection.

Respondents: State, local or tribal governments; Businesses or other for-profit; Not-for-profit institutions.

Number of Respondents: 15.

Estimated Time Per Response: 1 hour.

Total Annual Burden: 15 hours.

Needs and Uses: Section 90.633(f)&(g) provides for the authorization for wide area or ribbon systems upon a appropriate showing of need. The information is used to determine if such systems should be authorized, thus maintaining spectrum efficiency.

OMB Approval Number: 3060–0273.

Title: Section 94.43 Procedure for obtaining special temporary authority.

Form No.: N/A.

Type of Review: Extension of existing collection.

Respondents: Businesses or other for-profit; State, Local or Tribal Governments; non-profit institutions; small businesses or organizations.

Number of Respondents: 125.

Estimated Time Per Response: 1 hours.

Total Annual Burden: 125 hours.

Needs and Uses: Section 94.43 specifies certain circumstances the Commission will consider in granting a ''Special Temporary Authorization (STA) to permit an applicant to conduct operations for up to 180 days without going through the normal application forms and procedures ser out in Part 94. The requirement is neccessary so that FCC personnel can determine if the grant of an STA is warranted, and to allow the Commission to have certain minimum information about the station's characteristics should interference problems arise.

OMB Approval Number: 3060–0290.

Title: Section 90.517 Developmental Operation - Report of Operation.

Form No.: N/A.

Type of Review: Extension of existing collection.

Respondents: Businesses or other for-profit; State, Local or Tribal Governments.

Number of Respondents: 100.

Estimated Time Per Response: 2 hour per response.

Total Annual Burden: 200 hours.

Needs and Uses: The recordkeeping requirement contained in 90.517 requires that developmental authorization licensees to file a report indicating the usefulness of such developmental operations when requesting renewal or termination of developmental operations. The information is used by the Commission personnel to evaluate the need for renewal of the applicant's authorization. This information is also used by policy-making personnel to decide the desirability of instituting rulemaking proceedings involving new technologies or new uses of the radio spectrum.

OMB Approval Number: 3060–0299.

Title: Section 94.51 Private Microwave, Time to Construction.

Form No.: N/A.

Type of Review: Extension of existing collection.

Respondents: Businesses or other for-profit; State, Local or Tribal Governments; non-profit institutions; small businesses or organizations.

Number of Respondents: 50.

Estimated Time Per Response: .33 hour per response.

Total Annual Burden: 17 hours.

Needs and Uses: The recordkeeping requirement contained in 94.51 requires those licensees who are unable to construct thier private microwave stations within 12 months to request an extension of time to construct thier facilities. This information is used by FCC personnel to determine whether to grant an extension of time to constuct. This notification of failure to construct give the Commission and prospective applicants an accurate pocture of current frequency usage.

OMB Approval Number: 3060–0301.

Title: Section 94.113 Private Microwave Station Records.

Form No.: N/A.

Type of Review: Extension of existing collection.

Respondents: Businesses or other for-profit; State, Local or Tribal Governments; non-profit institutions; small businesses or organizations.

Number of Respondents: 17,866.

Estimated Time Per Response: .1666 hour per response.

Total Annual Burden: 2,981 hours.

Needs and Uses: The recordkeeping requirement contained in 94.113 requires that private microwave licensees maintain station records that can be made available to FCC personnel on demand. These records of transmitter measurements and maintenance checks are used by the licensee or Commission field personnel to note an y recurring equipment problems or cnditions that may lead to degarded equipment performance and/or interference problems.

OMB Approval Number: 3060–0312.

Title: Section 94.27(A)(60) Application and Standard Forms.

Form No.: N/A.

Type of Review: Extension of existing collection.

Respondents: Businesses or other for-profit; State, Local or Tribal Governments; non-profit institutions; small businesses or organizations.

Number of Respondents: 30.

Estimated Time Per Response: .1666 hour per response.

Total Annual Burden: 5 hours.

Needs and Uses: The requirement contained in 94.27 (A)(6) requires that licensees who contemplate assigning thier microwave station authorization to another entity to provide written notification to the Commission so that the Commission may make a public interest determination pursuant to 47 U.S.C. 310(d). This notification is used by FCC personnel to assure compliance with the Communications Act. This information assures that the Commission's database is accurate, thereby enhancing the Commission's ability to resolve interference problems quickly.

OMB Approval Number: 3060–0194.

Title: Section 74.21 Broadcasting emergency information.

Form No.: None.

Type of Review: Extension of existing collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 1.

Estimated Time Per Response: 1 hour.

Total Annual Burden: 1 hour.

Needs and Uses: In the event of an emergency, Section 74.21 requires that a licensee of an auxiliary broadcast station notify the FCC in Washington, DC, as soon as practicable, when that station is operated in a manner other than that for which is authorized. This notification shall specify the nature of the emergency and the use to which the station is being put. The licensee shall also notify the FCC when the emergency operation has been terminated. These notifications are used by FCC staff to evaluate the need and nature of the emergency broadcast to confirm that an actual emergency existed.

OMB Approval Number: 3060–0170.

Title: Section 73.1030 Notifications concerning interference to radio

astronomy, research and receiving installations.

Form No.: None.

Type of Review: Extension of existing collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 30.

Estimated Time Per Response: 1 hour.

Total Annual Burden: 30 hour.

Needs and Uses: Section 73.1030 requires licensees to provide simultaneous written notification to the Interference Office at Green Bank, West Virginia, when an application is filed with the FCC proposing to operate a short-term broadcast auxiliary station; or an applicant seeks authority to construct a new broadcast station; or authority to make changes in the frequency, power, antenna height, or antenna directivity of an existing station within the geographical coordinates of the National Radio Astronomy Observatory site in Green Bank, West Virginia; or the Naval Radio Research Observatory site at Sugar Grove, West Virginia. The data are used by the Interference Office to enable them to file comments or objections with the FCC in response to the notification in order to minimize potential harmful interference to the observatories.

OMB Approval Number: 3060–0184.

Title: Section 73.1740 Minimum Operating Schedule.

Form No.: None.

Type of Review: Extension of existing collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 405.

Estimated Time Per Response: 0.5 hours.

Total Annual Burden: 203 hours.

Needs and Uses: Section 73.1740 requires licensees of commercial broadcast stations to notify the FCC in Washington, DC, when events beyond their control make it impossible to continue operation or to adhere to the required operating schedules set forth in this section. In addition, the FCC must be notified when normal operation is resumed. No further authority is needed for limited operation or discontinued operation for a period not exceeding 30 days. Should events beyond the licensees control make it impossible for compliance within the required 30-day time period, an informal written request shall be submitted to the FCC requesting the amount of additional time that the licensee deems necessary. The data are used by FCC staff to authorize temporarily a limited operation or a discontinuance of operation.

OMB Approval Number: 3060–0449.

Title: Section 1.65(c) Substantial and significant changes in information furnished by applicants to the Commission.

Form Number: None.

Type of Review: Extension of existing collection.

Respondents: Business or other for-profit.

Number of Respondents: 6.

Estimated time per response: 1 hour 30 minutes.

Total annual burden: 9.

Needs and Uses: Section 1.65(c) requires broadcast permittees and licensees to report annually any finding or adverse final action that involves conduct bearing on their character qualifications. This information enables the Commission to determine whether broadcast permittees and licensees maintain the requisite character qualifications to be a broadcast permittee or licensee during their license term.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–25955 Filed 10–19–95; 8:45 am]

BILLING CODE 6712–01–F

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission

October 11, 1995.

The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Written comments should be submitted on or before December 19, 1995. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov. Copies may also be obtained via fax by contacting the Commission's Fax on Demand System. To obtain fax copies call 202–418–0177 from the handset on your fax machine, and enter the document retrieval number indicated below for the collection you wish to request, when prompted.

OMB Approval Number: New collection.

Title: Review of Pioneer's Preference Rules, ET Docket No. 93–266.

Form No.: N/A.

Type of Review: New Collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 12.

Estimated Time Per Response: 10 hours.

Total Annual Burden: 120 hours.

Needs and Uses: The information collected will be used to evaluate existing pioneer's preference requests in proceedsings in which tentative decisions have not been made, as well as any new pioneer's preference requests that may be received. Each respondent will be required to submit information to amend their existing pioneer's preference request This is required by the Second Report and Order and Third Report and Order in Docket 93–266.

Fax Document Retrieval Number: 093266.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–25956 Filed 10–19–95; 8:45 am]

BILLING CODE 6712–01–F

Notice of Public Information Collections being Reviewed by the Federal Communications Commission

October 13, 1995.

The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission,

including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Written comments should be submitted on or before December 19, 1995. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov. Copies may also be obtained via fax by contacting the Commission's Fax on Demand System. To obtain fax copies call 202–418–0177 from the handset on your fax machine, and enter the document retrieval number indicated below for the collection you wish to request, when prompted.

OMB Approval Number: 3060–0174.

Title: Section 73.1212, Sponsorship identification; list retention, related requirements.

Form No.: N/A.

Type of Review: Extension of an existing collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 11,342.

Estimated Time Per Response: .1 hours/per response; 4.0 hours/per response.

Total Annual Burden: 43,368.

Needs and Uses: Section 73.1212 requires a broadcast station to identify the sponsore of any matter for which consideration is provided. For matters advertising commercial products or services, generally the mention of the name of the product or service constitutes sponsorship identification. In addition, when an entity rather than an individual sponsors the broadcast of a matter that is of a political or controversail nature, licensee is required to retain a list of the executive officers, or borad of directors, or executive committee, etc., of the organization paying for such matter. Sponsorship announcements are waived with respect to the braodcast of ''want ads'' sponsored by an individual but the licensee shall maintain a list showing the name, address and telephone number of each such advertiser. These lists shall be made available for public inspection. The data is used by the public so that they may know by whom they are being persuaded.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–25957 Filed 10–19–95; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–011516.

Title: Voluntary Intermodal Sealift Rate Agreement

Parties:

American President Lines, Ltd.

Sea-Land Service, Inc.

Synopsis: The proposed Agreement permits the parties to consult and agree upon procedures for the development of uniform rates and charges for ocean and intermodal services to be provided for military preference cargo to be carried between U.S. ports and points and ports and points in the Far East. Adherence to any rates or charges agreed upon will be voluntary. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: October 12, 1995.

Joseph T. Farrell,

Acting Secretary.

[FR Doc. 95–25968 Filed 10–19–95; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (46 U.S.C. § 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Kloster Cruise Limited and Crown Jewel, Inc., Two Alhambra Plaza, 9th Floor, 95 Merrick Way, Coral Gables, Florida 33134

Vessel: LEEWARD

Dated: October 17, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–26005 Filed 10–19–95; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Monwar Hussain, 25761 Marguerite Parkway, Unit-101, Mission Viejo, CA 92692, Sole Proprietor

Maracargo Inc., 2503 ''B'' N.W. 72nd Ave., Miami, FL 33122, Officers: V. Enrique Camejo, President; Pedro Enrique Carcia Arcaya, Vice President.

Dated: October 17, 1995.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 95–26006 Filed 10–19–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Radino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)92) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made be the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION: 091195 AND 092295

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
William G. Bennett, Paul W. Lowden, Sahara Nevada Corp	95–2593	09/11/95
Fund American Enterprises Holdings, Inc., Skandia Insurance Company, Valley Group, Inc	95–2504	09/11/95
PriCellular Corporation, Cellular of Upstate New York, Inc., Cellular of Upstate New York, Inc	95–2509	09/11/95
Onset Corporation, Storage Technology Corporation, Storage Technology Corporation	95–2511	09/11/95
Revenue Properties Company Limited, SunAmerica Inc., Cheyenne Commons Limited Partnership	95–2512	09/11/95
American Industrial Partners Capital Fund II, L.P., RBX Investors Inc., RBX Investors Inc	95–2519	09/11/95
H Group Holding, Inc., Edward H. Linde, Boston Properties Inc	95–2523	09/11/95
H Group Holding, Inc., Mortimer B. Zuckerman, Boston Properties Inc	95–2524	09/11/95
Automatic Data Processing, Inc., Sandy Corporation, Sandy Corporation	95–2526	09/11/95
Lyonnaise Des Eaux, Scott paper Company, Scott Paper Company	95–2532	09/11/95
The Prudential Insurance Company of America, Taisei Corporation, Shoreline Square Associates, L.P	95–2544	09/11/95
Memorial Medical Center, Inc., Healthmaster, Inc., Healthmaster Home Health Care, Inc	95–2546	09/11/95
International Business Machines Corporation, American Practice Management, Inc., American Practice Management, Inc	95–2553	09/11/95
Freedom Communications, Inc., Kenneth R. Thomson, The Thomson Papers	95–2555	09/11/95
Ralph Lauren, Maurice Bidermann, a French citizen, Ralph Lauren Womenswear, Inc	95–2558	09/11/95
Advance Voting Trust, The Oklahoma Publishing Company, American City Business Journals, Inc	95–2421	09/12/95
General Dynamics Corporation, The Fulcrum II Limited Partnership, Bath Iron Works Corporation	95–2426	09/12/95
American Medical Response, Inc., Ambulance Systems of America, Inc., Ambulance Systems of America, Inc	95–2455	09/12/95
Mercury Finance Company, ITT Corporation, ITT Lyndon Life Ins. Co. & ITT Lyndon Property Ins. Co	95–2458	09/12/95
Scitex Corporation Ltd., Carlton Communications PLC, Abekas Video Systems, Inc	95–2514	09/12/95
Textron Inc., SPC Corporation, SPX Credit Corporation	95–2530	09/12/95
CAE Inc. (a Canadian Company) Ransohoff Company, Ransohoff Company	95–2513	09/13/95
Southwestern Public Service Company, Cabot Corporation, TUCO Inc	95–2527	09/13/95
Nestle S.A., RJR Nabisco Holdings Corp., Nabisco, Inc	95–2534	09/13/95
Cape Cod Health Systems, Inc., Falmouth Hospital Foundation, Inc., Falmouth Hospital Foundation, Inc	95–2454	09/14/95
Palmer Communications Incorporation, GTE Corporation, Georgia Metronet, Inc	95–2551	09/14/95
U.S. Office Products Company, Missco Corporation of Jackson, Missco Corporation of Jackson	95–2557	09/14/95
Newell Co., Decorel Incorporated, Decorel Incorporated	95–2559	09/14/95
Bristol-Myers Squibb Company, Carl Icahn, Cadus Parmaceutical Corporation	95–2491	09/15/95
Sterile Concepts Holdings, Inc., John W. Hoffe, Medical Design Concepts, Inc	95–2549	09/15/95
All-Quotes, Inc., Digital Equipment Corporation, Digital Equipment Corporation's text terminal business	95–2567	09/15/95
Paul W. Lowden, William G. Bennett, Gordon Gaming Corporation	95–2494	09/18/95
Automobile Club of Michigan, The American Automobile Association, The American Automobile Association's Wisconsin Div	95–2542	09/18/95
ITC Holding Commany, Inc., Powertel PCS Partners, L.P., Powertel PCS Partners, L.P	95–2561	09/18/95
SCANA Corporation, ITC Holding Co., Inc., InterCel, Inc	95–2562	09/18/95
Sylvan Learning Systems, Inc., R. William Pollock (a resident of Monaco), Office Overload, Inc	95–2574	09/18/95
R. William Pollock (a resident of Monaco), Sylvan Learning Systems, Inc., Sylvan Learning Systems, Inc	95–2575	09/18/95
Sylvan Learning Systems, Inc., Nasser J. Kazeminy, NJK Associates Corp./United School Services of America	95–2576	09/18/95
Nasser J. Kazeminy, Sylvan Learning Systems, Inc., Sylvan Learning Systems, Inc	95–2577	09/18/95
PacificCorp, U S West, U S West Communications, Inc	95–2582	09/18/95
Missionary Sisters of the Sacred Heart of Jesus, Daughters of Charity National Health Systems, Inc., St. Joseph Health Centers and Hospital	95–2587	09/18/95
United Meridian Corporation, Pennzoil Company, Pennzoil Exploration and Production Company	95–2589	09/18/95
Welsh, Carson, Anderson, & Stowe VII, L.P., J.C. Penney Company, Inc., JCPenny Business Services, Inc	95–2590	09/18/95
N.V. Verenigd Bezit VNU (a Dutch company), BankAmerica Corporation, SRDS, L.P	95–2595	09/18/95
Textron Inc., Elco Industries, Inc., Elco Industries, Inc	95–2634	09/18/95
ALLTEL Corporation, ALLTEL Corporation, ALLTEL Southeast Alabama Rural Cellular, L.P	95–2580	09/19/95
Herman T. Wilson, Jr., Case Corporation, Case Power and Equipment Stores	95–2592	09/19/95
Lo Yuk Sui (a Hong King person), Ocwen Financial Corporation, KB Holdings Corporation	95–2602	09/19/95
Paul H. Pfleger, TIE/communications, Inc., TIE/communications, Inc	95–2604	09/19/95
Carl C. Icahn, RJR Nabisco Holdings Corp., RJR Nabisco Holdings Corp	95–2535	09/20/95
The Coastal Corporation, Tesoro Petroleum Corporation, mA888o E & P Company, L.P	95–2594	09/20/95
General Re Corporation, W.R. Berkley Corporation, Signet Star Holdings Inc	95–2430	09/21/95
Kaye International L.P., Kay Holding Corp. (Joint Venture), Kaye Holding Corp. (Joint Venture)	95–2516	09/21/95
U S West, Inc., Capital Guaranty Corporation, Capital Guaranty Corporation	95–2518	09/21/95
Appolo Investment Fund III, L.P., United International Holdings, Inc., United International Holdings, Inc	95–2583	09/21/95

TRANSACTIONS GRANTED EARLY TERMINATION: 091195 AND 092295—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Sprint Corporation, Sprint Corporation, Centel Cellular Company of Hickory Limited Partnership	95–2586	09/21/95
Morgan Stanley Capital Partners III, L.P., Stichting ''The SITA Foundation'', SITA Telecommunications Holdings N.V	95–2591	09/21/95
Mercury Production Company, Union Oil Company of California, Union Oil Company of California	95–2225	09/22/95
BASF AG Aktiengesellschaft, IVAX Corporation, IVAX Corporation	95–2490	09/22/95
Lynch Corporation, Alco Standard Corporation, Unisouce Worldwide, Inc., Central Products Company	95–2554	09/22/95
Reliance Steel & Aluminum Co., Preussag AG, Feralloy Reliance Company, L.P	95–2568	09/22/95
Preussag AG, Reliance Steel & Aluminum Co., Feralloy Reliance Company, L.P	95–2569	09/22/95
River Oaks Hospital, Inc., Mr. Manfred George Krukemeyer, Woman's Hospital	95–2598	09/22/95
James A. Pattison, James L. White, III, Duval News Management Company	95–2605	09/22/95
Vista 2000, Inc., American Consumer Products, Inc., American Consumer Products, Inc	95–2633	09/22/95

FOR FURTHER INFORMATION CONTACT:

Sandra M. Peay or Renee A. Horton, Contact Representatives

Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, D.C. 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95–25980 Filed 10–19–95; 8:45 am]

BILLING CODE 6750–01–M

[Docket No. C–2976]

James H. Haren and International Bartending Institute, Inc.

AGENCY: Federal Trade Commission.

ACTION: Notice of period for public comment on petition to modify consent order.

SUMMARY: James H. Haren, an individual respondent in Docket No. C–2976, and International Bartending Institute, Inc., as successor to International Inventors Inc., East, the corporate respondent in Docket No. C–2976, are subject to an order requiring them, among other things, to give a copy of the order to their ''present of future * * * franchise owners * * * who sell [ ] or promote [ ] the sale of respondents' products or services.'' James H. Haren and International Bartending Institute, Inc. (''IBI'') filed a petition on September 12, 1995, requesting the Commission to reopen and alter, modify or set aside in part the order to the extent that they are required to give a copy of the order to present or future IBI franchise owners. This document announces the public comment period on this petition.

DATES: The deadline for filing comments in this matter is November 13, 1995.

ADDRESSES: Comments should be sent to the Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580. Requests for copies of the petition should be sent to the Public Reference Branch, Room 130.

FOR FURTHER INFORMATION CONTACT:

Elena Paoli, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, (202) 326–2974.

SUPPLEMENTARY INFORMATION: The order in Docket No. C–2976 was issued on July 5, 1979, and reported at 94 F.T.C. 111. The order prohibited Haren and a new-defunct company, International Inventors, Inc., East, from making various misrepresentations regarding the promotion of inventors' ideas. In 1994, the Federal Trade Commission charged Haren and his current company, IBI, a franchisor of bartending schools, with violating the order in Docket No. C–2976 by not providing a copy of the order to the present and future franchise owners of IBI schools. The complaint also charged Haren and IBI with violating the Commission's rule governing Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures, 16 CFR Part 436. Haren and IBI settled the Commission charges by paying a $50,000 civil penalty and signing a consent decree that was filed in federal district court. *See U.S.* v. *International Bartending Institute, Inc., and James H. Haren*, Civ. No. 94–1104–A (E.D. Va., August 22, 1994).

Haren and IBI argue that changed conditions of fact and the public interest require modifying the order in Docket No. C–2976 because the order only applied to present or future franchisees of International Inventors, Inc., East, and because prospective franchisees of IBI receive full disclosure of the Commission's order in IBI's Uniform Franchise Offering Circular. Haren and IBI argue that prospective IBI franchisees are confused by the order because the order involves an invention promotion company and does not involve a bartending school franchise business.

Donald S. Clark,

Secretary.

[FR Doc. 95–25982 Filed 10–19–95; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 94C–0338]

Gist-brocades NV; Withdrawal of a Color 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 color additive petition (CAP 4C0243) proposing that the color additive regulations be amended to provide for the safe use of the inactivated and dried yeast *Phaffia rhodozyma* to provide a pigment source for salmonids.

FOR FURTHER INFORMATION CONTACT: Martha D. Peiperl, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3077.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of October 17, 1994 (59 FR 52306), FDA announced that a color additive petition (CAP 4C0243) had been filed by Gist-brocades NV, Wateringseweg, 2611 XT Delft, The Netherlands. The petition proposed that part 73 *Listing of Color Additives Exempt From Certification* (21 CFR part 73) of the color additive regulations be amended to provide for the safe use of the inactivated and dried yeast *P. rhodozyma* to provide a pigment source for salmonids. Gist-

brocades NV has now withdrawn the petition without prejudice to a future filing (21 CFR 71.6(c)(2)).

Dated: September 22, 1995.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–25971 Filed 10–19–95; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETINGS: The following advisory committee meetings are announced:

Endocrinologic and Metabolic Drugs Advisory Committee

Date, time, and place. November 16 and 17, 1995, 8 a.m., Holiday Inn—Silver Spring, Plaza Ballroom, 8777 Georgia Ave., Silver Spring, MD.

Type of meeting and contact person. Open public hearing, November 16, 1995, 8 a.m. to 8:30 a.m., unless public participation does not last that long; open committee discussion, 8:30 a.m. to 6 p.m.; open public hearing, November 17, 1995, 8 a.m. to 8:30 a.m., unless public participation does not last that long; open committee discussion, 8:30 a.m. to 4 p.m.; Kathleen R. Reedy, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, FAX 301–443–0699, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area) Endocrinologic and Metabolic Drugs Advisory Committee, code 12536.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in endocrine and metabolic disorders.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 10, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On November 16, 1995, in the morning, the committee will hear presentations and discuss data submitted regarding the safety and efficacy of dexfenfluramine hydrochloride, new drug application (NDA) 20–344 (Interneuron Pharmaceuticals, Inc.), for an obesity indication, as followup to the meeting of September 28, 1995. In the afternoon, the committee will hear presentations and discuss data submitted regarding the safety and efficacy of sodium fluoride USP, NDA 19–975 (Slow Fluoride, Texas Southwest Medical Center), for an osteoporosis indication. On November 17, 1995, the committee will discuss data regarding the safety and efficacy of probucol, NDA 17–535 (Lorelco®, Hoechst Marion Roussel), for a lipid altering indication and whether the drug should be withdrawn from the market.

Joint Meeting of the Nonprescription Drugs Advisory Committee and the Pulmonary-Allergy Drugs Advisory Committee

Date, time, and place. November 16, 1995, 8 a.m., Parklawn Bldg., conference rooms D and E, 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 5 p.m.; Lee L. Zwanziger, Liz L. Ortuzar, or Leander B. Madoo, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Nonprescription Drugs Advisory Committee, code 12541.

General function of the committees. The Nonprescription Drugs Advisory Committee reviews and evaluates available data concerning the safety and effectiveness of over-the-counter (nonprescription) human drug products for use in the treatment of a broad spectrum of human symptoms and diseases. The Pulmonary-Allergy Drugs Advisory Committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 10, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their comments.

Open committee discussion. The committees will first discuss data relevant to investigational new drug (IND) 41,743, sponsored by Sandoz Pharmaceuticals Corp., on the efficacy of clemastine fumarate in the common cold. The committees will then discuss a meta-analysis of data on antihistamines and the common cold to address the inclusion of the common cold indication for the over-the-counter antihistamines, which is currently in the tentative final monograph, in the final monograph.

Joint Meeting of the Nonprescription Drugs Advisory Committee and the Dermatologic and Ophthalmic Drugs Advisory Committee

Date, time, and place. November 17, 1995, 8 a.m., Parklawn Bldg., conference rooms D and E, 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 4 p.m.; Lee L. Zwanziger, Liz L. Ortuzar, or Ermona McGoodwin, Center

for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Nonprescription Drugs Advisory Committee, code 12541.

General function of the committees. The Nonprescription Drugs Advisory Committee reviews and evaluates available data concerning the safety and effectiveness of over-the-counter (nonprescription) human drug products for use in the treatment of a broad spectrum of human symptoms and diseases. The Dermatologic and Ophthalmic Drugs Advisory Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of dermatologic and ophthalmic disorders.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 10, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their comments.

Open committee discussion. The committees will discuss data relevant to NDA 19–501 to switch Rogaine® (minoxidil 2% topical solution, The Upjohn Co.), for use as a hair regrowth treatment for persons with androgenetic alopecia, from prescription to over-the-counter marketing status.

National Task Force on AIDS Drug Development

Date, time, and place. November 20, 1995, 8:30 a.m.; Hubert H. Humphrey Bldg., rm. 800, 200 C St. NW., Washington, DC.

Type of meeting and contact person. Open task force discussion, 8:30 a.m. to 4:30 p.m.; open public hearing, 4:30 p.m. to 5:30 p.m., unless public participation does not last that long; Heidi C. Marchand or Kimberley M. Thornton, Office of AIDS and Special Health Issues (HF–12), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–0104, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), National Task Force on AIDS Drug Development, code 12602.

General function of the task force. The task force shall identify any barriers and provide creative options for the rapid development and evaluation of treatments for the human immunodeficiency virus (HIV) infection and its sequelae. The task force also advises on issues related to such barriers, and it provides options for the elimination of these barriers.

Open task force discussion. The task force will present, hear, and discuss recommendations made at previous meetings and discuss the future of the task force.

Agenda—Open public hearing. Interested persons may present information or views, orally or in writing, on issues pending before the task force. Those desiring to make formal presentations should notify the contact person before November 15, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Immunology Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. November 30 and December 1, 1995, 8 a.m., Holiday Inn—Gaithersburg, Grand Ballroom, Two Montgomery Village Ave., Gaithersburg, MD. A limited number of overnight accommodations have been reserved at the hotel. Attendees requiring overnight accommodations may contact the hotel at 301–948–8900 and reference the FDA Panel meeting block. Reservations will be confirmed at the group rate based on availability. Attendees with a disability requiring special accommodations should contact Ed Rugenstein, Sociometrics, Inc., 301–608–2151. The availability of appropriate accommodations cannot be assured unless prior written notification is received.

Type of meeting and contact person. Open public hearing, November 30, 1995, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 6 p.m.; open public hearing, December 1, 1995, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 5 p.m.; Peter E. Maxim, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–1293, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Immunology Devices Panel, code 12516.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 15, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On November 30, 1995, the committee will discuss general issues relating to the review of two premarket approval applications for: (1) An in situ hybridization assay to measure a prognostic marker in breast tumor tissues; and (2) an assay to measure a urinary marker to aid in the detection of recurrence in bladder cancer patients. On December 1, 1995, the committee will discuss a citizen's petition to reclassify from Class III to Class II all serum tumor markers that are intended for monitoring recurrence in previously treated cancer patients.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures

for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: October 16, 1995.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 95–26053 Filed 10–19–95; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

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MEETINGS: The following advisory committee meetings are announced:

Antiviral Drugs Advisory Committee

Date, time, and place. November 6 and 7, 1995, 8:30 a.m., and November 8, 1995, 8 a.m., Quality Hotel, Maryland Ballroom, 8727 Colesville Rd., Silver Spring, MD.

Type of meeting and contact person. Open committee discussion, November 6, 1995, 8:30 a.m. to 11:30 a.m.; open public hearing, 11:30 a.m. to 12 m., unless public participation does not last that long; open committee discussion, 12 m. to 5 p.m.; open committee discussion, November 7, 1995, 8:30 a.m. to 11:30 a.m.; open public hearing, 11:30 a.m. to 12 m., unless public participation does not last that long; open committee discussion, 12 m. to 5 p.m.; open committee discussion, November 8, 1995, 8 a.m. to 10 a.m.; open public hearing, 10 a.m. to 10:30 a.m., unless public participation does not last that long; open committee discussion, 10:30 a.m. to 12:30 p.m.; closed committee deliberations, 12:30 p.m. to 4 p.m.; Lee L. Zwanziger or Liz Ortuzar, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Antiviral Drugs Advisory Committee, code 12531.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of acquired immune deficiency syndrome (AIDS), AIDS-related complex (ARC), and other viral, fungal, and mycobacterial infections.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify a contact person before October 31, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On November 6, 1995, the committee will discuss data relevant to new drug applications (NDA's) 20–564 (tablets) and 20–596 (oral solution) for lamivudine (Epivir™, also known as 3TC), sponsored by Glaxo Wellcome. On November 7, 1995, the committee will discuss data relevant to NDA 20–628 for saquinavir (Invirase™), sponsored by Hoffman-La Roche. On November 8, 1995, the committee will discuss confirmatory trials of stavudine (Zerit™, also known as d4T), sponsored by Bristol-Myers Squibb. All products listed above are for the treatment of human immunodeficiency virus infection.

Closed committee deliberations. On November 8, 1995, the committee will discuss trade secret and/or confidential commercial information relevant to pending NDA's. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Biological Response Modifiers Advisory Committee

Date, time, and place. November 13, 1995, 8 a.m., Parklawn Bldg., conference rooms D and E, 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 8 a.m. to 9 a.m., unless public participation does not last

that long; open committee discussion, 9 a.m. to 1 p.m.; open public hearing, 1 p.m. to 1:15 p.m., unless public participation does not last that long; open committee discussion, 1:15 p.m. to 4:15 p.m.; closed committee deliberations, 4:15 p.m. to 6 p.m.; William Freas or Pearline K. Muckelvene, Center for Biologics Evaluation and Research (HFM–21), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Biological Response Modifiers Advisory Committee, code 12388.

General function of the committee. The committee reviews and evaluates data relating to the safety, effectiveness, and appropriate use of biological response modifiers which are intended for use in the prevention and treatment of a broad spectrum of human diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 5, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss: (1) Product license application supplement, reference number 95–0100, for GM–CSF Immunex Corp., for peripheral stem cell mobilization; and (2) product license application supplement, reference number 95–0475, for G–CSF, Amgen Inc., also for the same indication (peripheral stem cell mobilization).

Closed committee deliberations. The committee will discuss trade secret and/or confidential commercial information relevant to pending investigational new drug applications. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Pulmonary-Allergy Drugs Advisory Committee

Date, time, and place. November 17, 1995, 8 a.m., Parklawn Bldg., conference rooms G, H, I, and J, 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 4 p.m.; closed committee deliberations, 4 p.m. to 5 p.m.; Leander B. Madoo, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Pulmonary-Allergy Drugs Advisory Committee, code 12545.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 9, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will be briefed on the Pediatric Labeling Rule and the data necessary to support pediatric labeling of drugs. The committee will discuss NDA 20–114, Astelin nasal spray (azelastine), for seasonal allergic rhinitis. The sponsor is Carter-Wallace, Inc.

Closed committee deliberations. The committee will review trade secret and/or confidential commercial information relevant to pending investigational new drug applications and NDA's. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b (c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so

designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: October 17, 1995.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 95–26151 Filed 10–19–95; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Notice of filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92–463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committee has been filed with the Library of Congress:

Advisory Committee on Infant Mortality

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue SE., Washington, DC. Copies may be obtained from: Ms. Kerry P. Nesseler, Maternal & Child Health Bureau, Health Resources and Services Administration, Room 18–20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–2204.

Date: October 17, 1995.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 95–26052 Filed 10–19–95; 8:45 am]

BILLING CODE 4160–15–P

Proposed Data Collections Available for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Projects:

1. Organ Procurement and Transplantation Network Regulations—42 CFR Part 121 (Final Rule)

(OMB No. 0915–0184)—Extension and Revision—This final rule establishes the policies governing the Organ Procurement and Transplantation Network (OPTN). These rules will regulate the operation of the OPTN in four major areas: membership requirements, patient listing, organ allocation, and record maintenance and recording. The final rule contains three requirements not currently approved under the Paperwork Reduction Act, as indicated in the table below (footnote 2). The burden estimates are as follows:

Title	Number of respondents	Frequency of response	Hours per response	Total burden hours
121.3(a)(6)(ii) (Reporting) Submission of Policies & Procedures	1	4	0.5	2
121.3(a)(6)(ii) [2] (Disclosure) Sending policies & procedures to OPOs	1	16	75	1,200
121.3(d)(1) (Reporting) Application requirements for OPOs, hospitals, & others	2,774	[3] 1	0.5	1,387
121.5(c) [2] (Reporting) Submitting criteria for organ accept.	115	1	0.1	12
121.5(c) [2] (Disclosure) Sending criteria to OPOs	115	1	0.1	12
121.6(b)(4) (Reporting) Reasons for refusal	828	14	0.1	1,200
121.7(e) (Reporting) Transplant to prevent organ wastage	278	4	0.1	111
121.8(b) (Reporting) Application requirements for transplant centers:				
A. Medicare/Medicaid Approved programs & VA Hospitals	308	[3] 1	0.5	154
B. Other programs	350	[3] 1	2.0	700

Title	Number of respondents	Frequency of response	Hours per response	Total burden hours
121.11(b)(2): [1]				
Transplant Candidate Registration	66	536	0.1	3,540
Donor Registration	66	131	0.2	1,730
Potential Recipient Registration	66	469	0.1	3,096
Donor Histocompatability	51	206	0.1	1,051
Transplant Recipient Histocompatability	41	369	0.1	1,881
Transplant Recipient Registration	828	25	0.25	5,191
Transplant Recipient Follow-up	828	138	0.14	16,003

NOTE: Estimated Total Annual Burden: 37,270 hours.
[1] The data collection forms for these activities have been approved by the Office of Management and Budget under the Paperwork Reduction Act (OMB No. 0915–0157).
[2] These requirements will be submitted for OMB approval.
[3] This application burden is expected to occur almost entirely in the first year; the application burden for years 2 and 3 is expected to be about 0.1 of the first-year burden.

The proposed rules also require OPOs and transplant hospitals to maintain records, as follows:

Section	Requirement
121.6(b)(4)	Documentation of reason for refusal.
121.6(c)(2)	Documentation of suitability tests.
121.11(a)(2)	Maintain records on organ donors and recipients.

According to staff of OPOs and transplant hospitals, such recordkeeping is integral to the operation of these facilities. Therefore, these recordkeeping requirements impose no additional burden.

Send comments to Patricia Royston, HRSA Reports Clearance Officer, Room 14–36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: October 16, 1995.

J. Henry Montes,

Associate Administrator for Policy Coordination.

[FR Doc. 95–25970 Filed 10–19–95; 8:45 am]

BILLING CODE 4160–15–P

Funding Notice for Grant Programs Administered by the Division of Associated, Dental and Public Health Professions, Bureau of Health Professions for Fiscal Year 1996

The Health Resources and Services Administration (HRSA) announces that applications will be accepted for four grant programs for fiscal year (FY) 1996 under the authority of title VII of the Public Health Service (PHS) Act, as amended by the Health Professions Education Extension Amendments of 1992, Pub. L. 102–408, dated October 13, 1992. These programs include:

Grants for Residency Training and Advanced Education in the General Practice of Dentistry (section 749, PHS Act)

Public Health Traineeships to Schools of Public Health and Other Public and Nonprofit Private Institutions (section 761, PHS Act)

Grants for the Health Administration Traineeships and Special Projects Program (section 771, PHS Act)

Grants for Interdisciplinary Training for Health Care for Rural Areas (section 778, PHS Act)

This program announcement is subject to reauthorization of this legislative authority and to the appropriation of funds. Applicants are advised that this program announcement is a contingency action being taken to assure that should authority and funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year. At this time, given a continuing resolution and the absence of FY 1996 appropriations for title VII programs, the amount of available funding for these specific grant programs cannot be estimated.

The purpose and eligibility for each of these programs are listed below.

Grants for Residency Training and Advanced Education in the General Practice of Dentistry

Purpose

Section 749 of the PHS Act authorizes the Secretary to make grants to any public or nonprofit private school of dentistry or accredited postgraduate dental training institution (e.g., hospitals and medical centers) to plan, develop, and operate an approved residency or an approved advanced educational program in the general practice of dentistry; to provide financial assistance to participants in such a program who are in need of financial assistance and who plan to specialize in the practice of general dentistry; and to fund innovative, nontraditional models for the provision of postdoctoral General Dentistry training.

Eligible Applicants

To be eligible for a Grant for Residency Training and Advanced Education in the General Practice of Dentistry, the applicant shall:

(a) Be a public or nonprofit private school of dentistry or an accredited postgraduate dental training institution (hospital, medical center, or other entity) and be accredited by the appropriate accrediting body, and

(b) Be located in any one of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

To receive support, programs must meet the requirements of final regulations at 42 CFR Part 57, subpart L. The period of Federal support should not exceed 3 years.

Additional details concerning the administration of this program, including funding preferences and priorities, have been published in the Federal Register at 60 FR 6138, dated February 1, 1995 and at 59 FR 54614, dated November 1, 1994.

Public Health Traineeships to Schools of Public Health and Other Public and Nonprofit Private Institutions

Purpose

Section 761 of the Public Health Service Act authorizes the Secretary to award Public Health Traineeship grants to accredited schools of Public Health and to other public or nonprofit private institutions accredited to provide graduate or specialized training in public health, for the purpose of providing traineeships to individuals

who are pursuing a course of study in a health professions field in which there is a severe shortage of health professionals (epidemiology, environmental health, biostatistics, toxicology, public health nutrition, and maternal and child health). Funds may be used only for student support.

The period of Federal support is 1 year. Applicants may compete for funding for additional years.

This program is governed by regulations at 42 CFR part 58, subpart C to the extent to which these regulations are not inconsistent with the amended statute.

Eligible Applicants

Eligible applicants include (1) Schools of Public Health that have been accredited by the Council on Education for Public Health and (2) other public or nonprofit private institutions accredited by a body recognized for this purpose by the Secretary of the Department of Education when requesting support for grant-targeted programs (epidemiology, environmental health, biostatistics, toxicology, public health nutrition, and maternal and child health). The accredited school or program must be located in a State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, or the Federated States of Micronesia.

Additional details concerning the administration of this program have been published in the Federal Register at 58 FR 19272, dated April 13, 1993 and at 58 FR 32711, dated June 11, 1993.

Grants for the Health Administration Traineeships and Special Projects Program

Purpose

Section 771 of the Public Health Service Act authorizes the Secretary to:

(1) Award grants which provide traineeships for students enrolled in an accredited program of health administration, hospital administration, or health policy analysis and planning programs; and

(2) Assist programs of health administration in the development or improvement of programs to prepare students for employment with public or nonprofit private entities.

The period of Federal support is 1 year. Applicants must compete annually for additional funding.

This program is governed by regulations at 42 CFR part 58, subpart D to the extent to which these regulations are not inconsistent with the amended statute.

Eligible Applicants

Eligible applicants are public or nonprofit private educational entities (including graduate schools of social work but excluding accredited schools of public health) that offer a graduate program in health administration, hospital administration, or health policy analysis and planning which is accredited by the Accrediting Commission on Education in Health Services Administration. Applicants must assure that, in providing traineeships, priority will be given to students who demonstrate a commitment to employment with public or nonprofit private entities in the fields with respect to which the traineeships are awarded.

Additional details concerning the administration of this program, including any funding preferences and priorities, have been published in the Federal Register at 58 FR 19269, dated April 13, 1993 and at 58 FR 32711, dated June 11, 1993.

Grants for Interdisciplinary Training for Health Care for Rural Areas

Purpose

Section 778 of the Public Health Service Act, as amended, authorizes the Secretary to award grants for interdisciplinary training projects designed to provide or improve access to health care in rural areas. Specifically, projects funded under this authority shall be designed to:

(a) Use new and innovative methods to train health care practitioners to provide services in rural areas;

(b) Demonstrate and evaluate innovative interdisciplinary methods and models designed to provide access to cost-effective comprehensive health care;

(c) Deliver health care services to individuals residing in rural areas;

(d) Enhance the amount of relevant research conducted concerning health care issues in rural areas; and

(e) Increase the recruitment and retention of health care practitioners in rural areas and make rural practice a more attractive career choice for health care practitioners.

A recipient of funds may use various methods in carrying out the projects described above. The legislation cites the following methods as examples:

(a) The distribution of stipends to students of eligible applicants;

(b) The establishment of a postdoctoral fellowship program;

(c) The training of faculty in the economic and logistical problems confronting rural health care delivery systems; or

(d) The purchase or rental of transportation and telecommunication equipment where the need for such equipment due to unique characteristics of the rural area is demonstrated by the recipient.

Eligibility. To be eligible for a Grant for Interdisciplinary Training for Health Care for Rural Areas, each applicant must be located in a State and be:

1. A local health department, or

2. A nonprofit organization, or

3. A public or nonprofit college, university or school of, or program that specializes in nursing, mental health practice, optometry, public health, dentistry, osteopathic medicine, physician assistants, pharmacy, podiatric medicine, allopathic medicine, chiropractic, or allied health professions.

Applicants eligible to obtain funds under this grant program shall not include for-profit entities, either directly or through a subcontract or subgrant.

Each application must be jointly submitted by at least two eligible applicants. One of the applicants must be an academic institution. Each application must demonstrate the need and demand for health care services, knowledge of available resources and the most significant service and educational gaps within its targeted geographic area. One applicant must be designated the principal organization responsible and accountable for the conduct of the proposed project.

Support may be requested for this grant program for a project period of not more than three years.

Additional details concerning the administration of this program, including any funding preferences and priorities, have been published in the Federal Register at 59 FR 771, dated January 6, 1994.

National Health Objectives for the Year 2000

The Public Health Service urges applicants to submit work plans that address specific objectives of Healthy People 2000. Potential applicants may obtain a copy of *Healthy People 2000* (Full Report; Stock No. 017–001–00474–0) or *Healthy People 2000* (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (Telephone 202–783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Application Availability

Application materials are available on the World Wide Web at address: http://www.os.dhhs.gov/hrsa/. Click on the file name you want to download to your computer. It will be saved as a self-extracting WordPerfect 5.1 file.

Applications also can be obtained from the Bureau of Health Professions (BHPr) Electronic Bulletin Board. Use your computer and modem to call (301) 443–5913. Set your modem parameters to 2400 baud, parity to none, data bits to 8, and stop bits to 1. Set your terminal emulation to ANSI or VT–100. After November 1, 1995, the BHPr BBS will be able to accept phone speeds up to 28,000 bps.

You may also access the BHPr Bulletin Board through the FedWorld Bulletin Board. Dial (703) 321–3339. If you have not used FedWorld before, then at the initial prompt, type NEW instead of your user ID. At the prompts, establish your first and last name, then your password. At the <Q> quit to prompt <N> scroll, RETURN to continue prompt, press the ENTER key.

At the There is mail in your mailbox, RETURN to continue prompt, press the ENTER key. The system will take you to the FedWorld mail menu. At the Please select an option from above and press <return>: prompt, enter U. This will take you to the Utilities and FedWorld Modules Menu.

At the Please select an option from above and press <return>: prompt, enter D. This will take you to the Gateway System Menu.

At the Please select an option from above and press <return>: prompt, enter D for Connect to Govt Sys/Database. At the Select a System # to connect, ? for entire Gateway list, or X to exit prompt, enter 111. You will then see the Establishing connection to BHPr-BBS(HHS) ... message. Within 15 seconds, the system will log you into the BHPr BBS.

If you need further help with the FedWorld gateway system, please contact their technical support on (703) 487–4608 weekdays from 10:00 am to 4:00 pm.

Once you have accessed the BHPr Bulletin Board, you will be asked for your first and last name. It will also ask you to choose a password. REMEMBER YOUR PASSWORD! The first time you logon you ''register'' by answering a number of other questions. The next time you logon, BHPr's Bulletin Board will know you.

Press (F) for the (F)iles Menu and (L) to (L)ist Files. Press (L) again to see a list of numbered file areas. To see a list of files in any area, type the number corresponding to that area. Competitive application materials for grant programs administered by the Bureau of Health Professions are located in the File Area item ''B'' titled Grants Announcements.

To (R)ead a file or (D)ownload a file, you need to know its exact name as listed on BHPr's Bulletin Board. Press (R) to (R)ead a file and type the name of the file. Press (D) to (D)ownload a file to your computer. You need to know how your communications software accomplishes downloading.

When you have completed your tour of BHPr's Bulletin Board for this session, press (G) for (G)oodbye and press <enter>.

For assistance in accessing the system or for any technical questions about BHPr's Bulletin Board, please call Mr. Larry DiGiulio, Systems Operator for BHPr BBS at (301) 443–2850 or ''ldigiuli@hrsa.ssw.dhhs.gov''.

Questions regarding grants policy and business management issues should be directed to Mrs. Brenda Selser, Chief, Residency and Advanced Grants Sections (bselser@hrsa.ssw.dhhs.gov) or Ms. Wilma Johnson, Acting Chief, Centers and Formula Grants Section (wjohnson@hrsa.ssw.dhhs.gov), Grants Management Branch, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857. If you are unable to obtain the application materials from the BHPr Bulletin Board, you may obtain application materials in the mail by sending a written request to the Grants Management Branch at the address above. Written requests may also be sent via FAX (301) 443–6343 or via the internet addresses listed above. Completed applications should be returned to the Grants Management Branch at the above address. Please see Table 1 for specific name and phone number for each grant program.

If additional programmatic information is needed, please contact the Division of Associated, Dental and Public Health Professions, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8–101, 5600 Fishers Lane, Rockville, Maryland 20857. Please see Table 1 for specific names and phone numbers for each grant program.

TABLE 1

PHS Title VII section No./program title/CFDA No.	Grants management contact/phone No. FAX: (301) 443–6343	Programmatic contact/ phone No. FAX: (301) 443–1164	Deadline date for competing applications
749, Residency Training and Advanced Education in the General Practice of Dentistry—93.897.	Brenda Selser (301) 443–6960.	Kathy Hayes (301) 443–6896.	1/2/96
761, Public Health Traineeships—93.964	Wilma Johnson (301) 443–6880.	Anne Kahl (301) 443–6896.	12/15/95
771, Health Administration Traineeships and Special Projects—93.962	Wilma Johnson (301) 443–6880.	Kathy Hayes (301) 443–6896.	12/15/95
778, Rural Interdisciplinary Training for Health Care—93.192	Brenda Selser (301) 443–6960.	Judy Arndt (301) 443–6763.	12/15/95

Paperwork Reduction Act

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB Clearance Number is 0915–0060.

The deadline dates for receipt of applications for each of these grant programs are shown in Table 1. Applications will be considered to be ''on time'' if they are either:

(1) *Received on or before* the established deadline date, or

(2) *Sent on or before* the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications not accepted for processing will be returned to the applicant. In addition, applications which exceed the page limitation and/or do not follow format instructions will not be accepted for processing and will be returned to the applicant.

These programs are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100) and are not subject to the Public Health System Reporting Requirements.

Dated: October 17, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95–26142 Filed 10–19–95; 8:45 am]

BILLING CODE 4160–15–P

Funding Notice for General Internal Medicine and General Pediatrics Grant Programs for Fiscal Year 1996

The Health Resources and Services Administration (HRSA) announces that applications will be accepted for General Internal Medicine and General Pediatrics grant programs for fiscal year (FY) 1996 under the authority of section 748, title VII of the Public Health Service Act (the Act), as amended by the Health Professions Education Extension Amendments of 1992, Pub. L. 102–408, dated October 13, 1992. These grant programs include:

Grants for Faculty Development in General Internal Medicine and General Pediatrics (section 748, PHS Act)

Grants for Residency Training in General Internal Medicine and General Pediatrics (section 748, PHS Act)

This program announcement is subject to reauthorization of this legislative authority and to the appropriation of funds. Applicants are advised that this program announcement is a contingency action being taken to assure that should authority and funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year. At this time, given a continuing resolution and the absence of FY 1996 appropriations for title VII programs, the amount of available funding for these specific grant programs cannot be estimated.

The purpose and eligibility for each of these programs are listed below.

Grants for Faculty Development in General Internal Medicine and General Pediatrics

Purpose

Section 748 of the Public Health Service Act authorizes Federal assistance to schools of medicine and osteopathic medicine, public or private nonprofit hospitals or other public or private nonprofit entities for planning, developing and operating programs for the training of physicians who plan to teach in general internal medicine or general pediatrics training programs. These grants are intended to promote the development of faculty skills in physicians who are currently teaching or who plan teaching careers in general internal medicine or general pediatrics training programs. These grants also provide financial assistance in meeting the cost of supporting physicians who are trainees in such programs.

In addition, section 748 authorizes the award of grants to support general internal medicine or general pediatrics residency training programs and a separate grant program exists for this purpose.

Eligibility

Eligible applicants are accredited schools of medicine and osteopathic medicine, public and private nonprofit hospitals, or other public or private nonprofit entities.

To receive support, applicants must meet the requirements of final regulations as specified in 42 CFR part 57, subpart FF and section 791(b) of the PHS Act. The period of Federal support will not exceed 3 years.

Funding factors for this program remain unchanged. Additional details concerning the administration of this program have been published in the Federal Register at 58 FR 51090, dated September 30, 1993, 59 FR 18140, dated April 15, 1994 and 60 FR 2976, dated January 12, 1995.

Grants for Residency Training in General Internal Medicine and General Pediatrics

Purpose

Section 748 authorizes the award of grants for planning, developing, operating or participating in approved residency training programs which emphasize the training for the practice of general internal medicine or general pediatrics. In addition, section 748 authorizes assistance in meeting the cost of supporting residents who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of general internal medicine or general pediatrics. A separate grant program is in effect for the faculty development component of this provision.

Eligibility

Eligible applicants are accredited schools of medicine and osteopathic medicine, public and private nonprofit hospitals, or other public or private nonprofit entities.

To receive support, programs must meet the requirements of regulations as set forth in 42 CFR part 57, subpart FF, and section 791(b) of the PHS Act. The period of Federal support will not exceed 3 years.

Funding factors for this program remain unchanged. Additional details concerning the administration of these programs have been published in the Federal Register at 58 FR 51838, dated October 5, 1993, 59 FR 19731, dated April 25, 1994, and 60 FR 2976, dated January 12, 1995.

TABLE 1

PHS Title VII section No./ program title/CFDA No./program regulations	Grants management contact/phone No. (FAX: (301) 443–6343)	Programmatic contact/ phone No. (FAX: (301) 443–8890)	Deadline date for competing applications
748 Faculty Development Training in General Internal Medicine and General Pediatrics—93.900—42 CFR part 57, subpart FF.	Brenda Selser (301) 443–6960.	Elsie Quinones (301) 443–1467.	12/18/95
748 Residency Training in General Internal Medicine and General Pediatrics 93.884 42 CFR part 57, subpart FF.	Brenda Selser (301) 443–6960.	Brenda Williamson (301) 443–1467.	12/18/95

National Health Objectives for the Year 2000

The Public Health Service urges applicants to submit work plans that address specific objectives of Healthy People 2000. Potential applicants may obtain a copy of *Healthy People 2000* (Full Report; Stock No. 017–001–00474–0) or *Healthy People 2000* (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (Telephone 202–783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Application Availability

Application materials are available on the World Wide Web at address: http://www.os.dhhs.gov/hrsa/. Click on the file name you want to download to your computer. It will be saved as a self-extracting WordPerfect 5.1 file.

Applications can also be obtained from the Bureau of Health Professions (BHPr) Electronic Bulletin Board. Use your computer and modem to call (301) 443–5913. Set your modem parameters to 2400 baud, parity to none, data bits to 8, and stop bits to 1. Set your terminal emulation to ANSI or VT–100. After November 1, 1995, the BHPr BBS will be able to accept phone speeds up to 28,000 bps.

You may also access the BHPr Bulletin Board through the FedWorld Bulletin Board. Dial (703) 321–3339. If you have not used FedWorld before, then at the initial prompt, type NEW instead of your user ID. At the prompts, establish your first and last name, then your password. At the <Q> quit to prompt <N> scroll, RETURN to continue prompt, press the ENTER key.

At the There is mail in your mailbox, RETURN to continue prompt, press the ENTER key. The system will take you to the FedWorld mail menu. At the Please select an option from above and press <return>: prompt, enter U. This will take you to the Utilities and FedWorld Modules Menu.

At the Please select an option from above and press <return>: prompt, enter D. This will take you to the Gateway System Menu.

At the Please select an option from above and press <return>: prompt, enter D for Connect to Govt Sys/Database. At the Select a System # to connect, ? for entire Gateway list, or X to exit prompt, enter 111. You will then see the Establishing connection to BHPr-BBS(HHS) . . . message. Within 15 seconds, the system will log you into the BHPr BBS.

If you need further help with the FedWorld gateway system, please contact their technical support on (703) 487–4608 weekdays from 10 am to 4 pm.

Once you have accessed the BHPr Bulletin Board, you will be asked for your first and last name. It will also ask you to choose a password. REMEMBER YOUR PASSWORD! The first time you logon you ''register'' by answering a number of other questions. The next time you logon, BHPr's Bulletin Board will know you.

Press (F) for the (F)iles Menu and (L) to (L)ist Files. Press (L) again to see a list of numbered file areas. To see a list of files in any area, type the number corresponding to that area. Competitive application materials for grant programs administered by the Bureau of Health Professions are located in the File Area item ''B'' titled Grants Announcements.

To (R)ead a file or (D)ownload a file, you need to know its exact name as listed on BHPr's Bulletin Board. Press (R) to (R)ead a file and type the name of the file. Press (D) to (D)ownload a file to your computer. You need to know how your communications software accomplishes downloading.

When you have completed your tour of BHPr's Bulletin Board for this session, press (G) for (G)oodbye and press <enter>.

For assistance in accessing the system or for any technical questions about BHPr's Bulletin Board, please call Mr. Larry DiGiulio, Systems Operator for BHPr BBS at (301) 443–2850 or ''ldigiuli@hrsa.ssw.dhhs.gov''.

Questions regarding grants policy and business management issues should be directed to Mrs. Brenda Selser, Chief, Residency and Advanced Grants Sections (bselser@hrsa.ssw.dhhs.gov), Grants Management Branch, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857. If you are unable to obtain the application materials from the BHPr Bulletin Board, you may obtain application materials in the mail by sending a written request to the Grants Management Branch at the address above. Written requests may also be sent via FAX (301) 443–6343 or via the internet address listed above. Completed applications should be returned to the Grants Management Branch at the above address.

If additional programmatic information is needed, please contact the Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 9A–20, 5600 Fishers Lane, Rockville, Maryland 20857. Please see Table 1 for specific names and phone numbers for each grant program.

Paperwork Reduction Act

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for these grant programs have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB Clearance Number is 0915–0060.

Deadline Dates

The deadline date for receipt of applications for each of these grant programs is shown in Table 1. Applications will be considered to be ''on time'' if they are either:

(1) *Received on or before* the established deadline date, or

(2) *Sent on or before* the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications not accepted for processing will be returned to the applicant. In addition, applications which exceed the page limitation and/or do not follow format instructions will not be accepted for processing and will be returned to the applicant.

These grant programs are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). Also, these grant programs are not subject to the Public Health System Reporting Requirements.

Dated: October 17, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95–26141 Filed 10–19–95; 8:45 am]

BILLING CODE 4160–15–P

Funding Notice for Grant Programs Funded Under Title VIII of the Public Health Service Act for Fiscal Year 1996

The Health Resources and Services Administration (HRSA) announces that applications will be accepted for fiscal year (FY) 1996 grants funded under the authority of title VIII of the Public Health Service Act, as amended by the Nurse Education and Practice Improvement Amendments of 1992, title II of Public Law 102–408, Health Professions Education Extension Amendments of 1992, dated October 13, 1992. These grant programs include:

Nursing Special Projects (section 820)
Advanced Nurse Education Programs (section 821)
Nursing Education Opportunities for Individuals from Disadvantaged Backgrounds (section 827)
Professional Nurse Traineeships (section 830)
Grants for Nurse Anesthetist (section 831)

No competitive grant cycles are planned in FY 1996 for the Nurse Practitioner/Nurse-Midwifery Programs or for the Nurse Anesthetist Education Program.

This program announcement is subject to reauthorization of this legislative authority and to the appropriation of funds. Applicants are advised that this program announcement is a contingency action being taken to assure that should authority and funds become available for this purpose, awards can be made in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year. At this time, given a continuing resolution and the absence of FY 1996 appropriations for title VIII programs, the amount of available funding for these specific grant programs cannot be estimated.

Additional details concerning the administration of these programs have been published in the Federal Register at 59 FR 37764, dated July 25, 1994. You are encouraged to refer to this notice which includes the funding preferences and priorities for each of the programs.

The purpose and eligibility for the grant programs announced in this funding notice are listed below:

Nursing Special Projects

Purpose: Section 820(a) of the PHS Act authorizes the Secretary to make grants for the purpose of assisting schools in increasing the number of students enrolled in programs of professional nursing.

Section 820(b) of the PHS Act authorizes the Secretary to make grants for the establishment or expansion of nursing practice arrangements in noninstitutional settings to demonstrate methods to improve access to primary health care in medically underserved communities.

Section 820(c) of the PHS Act authorizes the Secretary to make grants for the purpose of providing continuing education for nurses serving in medically underserved communities.

Section 820(d) of the PHS Act authorizes the Secretary to make grants for the purpose of providing fellowships to individuals who are employed by nursing facilities or home health agencies as nursing paraprofessionals.

The request for initial support may not exceed 3 years.

Eligibility: Eligible applicants for projects under section 820(a) are public and nonprofit private schools of nursing with programs of education in professional nursing. To receive support under 820(a) the school must agree to make available non-Federal contributions in an amount that is at least 10 percent of the project costs for the first fiscal year, at least 25 percent of the project costs for the second fiscal year, at least 50 percent of the project costs for the third fiscal year, and at least 75 percent of the project costs for the fourth or fifth fiscal years.

Eligible applicants for projects under section 820(b) are public and nonprofit private schools of nursing. To receive support under 820(b) the program proposed must be operated and staffed by the faculty and students of the school and must be designed to provide at least 25 percent of the students of the school with a structured clinical experience in primary health care.

Eligible applicants for projects under section 820(c) are public and nonprofit private entities.

Eligible applicants for projects under section 820(d) are public and nonprofit private entities that operate accredited programs of education in professional nursing, or State-board approved programs of practical or vocational nursing. To receive support under 820(d), the applicant must agree that, in providing fellowships, preference will be given to eligible individuals who (A) are economically disadvantaged individuals, particularly such individuals who are members of a minority group that is underrepresented among registered nurses; or (B) are employed by a nursing facility that will assist in paying the costs or expenses. The applicant must also agree that the fellowships provided will pay all or part of the costs of (A) the tuition, books, and fees of the program of nursing with respect to which the fellowship is provided; and (B) reasonable living expenses of the individual during the period for which the fellowship is provided.

Advanced Nurse Education Programs

Purpose: Section 821 of the Public Health Service Act authorizes assistance to meet the costs of projects to: (1) Plan, develop and operate new programs, or (2) significantly expand existing programs leading to advanced degrees that prepare nurses to serve as nurse educators or public health nurses, or in other clinical nurse specialties determined by the Secretary to require advanced education. The period of Federal support should not exceed 3 years.

Eligibility: To be eligible to receive a grant, a school must be a public or nonprofit private collegiate school of nursing and be located in a state.

Nursing Education Opportunities for Individuals From Disadvantaged Backgrounds

Purpose: Section 827 of the Public Health Service Act authorizes grants to

increase opportunities for individuals from disadvantaged backgrounds to pursue a nursing education. Students who may have an associate degree in nursing would be eligible to receive funding under this section if they are financially, educationally or culturally disadvantaged.

For purposes of Grants for Nursing Education Opportunities for Individuals from Disadvantaged Backgrounds, ''an individual from a disadvantaged background'' is one who: (1) Comes from an environment that has inhibited the individual from obtaining the knowledge, skills, and abilities required to enroll in and graduate from a school of nursing; or (2) comes from a family with an annual income below a level based on low-income thresholds according to family size published by the U.S. Bureau of Census, adjusted annually for changes in the Consumer Price Index, and multiplied by a factor to be determined by the Secretary for adaptation to this program (42 CFR 57.2904).

The following income figures determine what constitutes a low income family for purposes of Grants for Nursing Education Opportunities for Individuals from Disadvantaged Backgrounds for FY 1996.

Size of parents' family [1]	Income level [2]
1	$10,000
2	12,900
3	15,400
4	19,700
5	23,200
6 or more	26,100

[1] Includes only dependents listed on Federal income tax forms.

[2] Adjusted gross income for calendar year 1994, rounded to $100.

Grants may be awarded to eligible applicants to meet the costs of special projects to increase nursing education opportunities for individuals from disadvantaged backgrounds:

1. By identifying, recruiting and selecting such individuals;

2. By facilitating the entry of such individuals into schools of nursing;

3. By providing counseling or other services designed to assist such individuals to complete successfully their nursing education;

4. By providing, for a period prior to the entry of such individuals into the regular course of education at a school of nursing, preliminary education designed to assist them to complete successfully such regular course of education;

5. By paying such stipends as the Secretary may determine for such individuals for any period of nursing education;

6. By publicizing, especially to licensed vocational or practical nurses, existing sources of financial aid available to persons enrolled in schools of nursing or who are undertaking training necessary to qualify them to enroll in such schools; and

7. By providing training, information or advice to the faculty of such schools with respect to encouraging such individuals to complete the programs of nursing education in which the individuals are enrolled.

The period of Federal support should not exceed 3 years.

Eligibility: Public and nonprofit private schools of nursing and other public or nonprofit private entities are eligible for grant support.

Professional Nurse Traineeships

Purpose: Section 830 of the Public Health Service Act authorizes the Secretary to award grants to meet the cost of traineeships for individuals in advanced-degree programs in order to educate the individuals to serve in and prepare for practice as nurse practitioners, nurse midwives, nurse educators, public health nurses, or in other clinical nursing specialties determined by the Secretary to require advanced education. Federal support must be requested annually.

Eligibility: Eligible applicants are public or private nonprofit entities which provide (1) advanced-degree programs to educate individuals as nurse practitioners, nurse-midwives, nurse educators, public health nurses or as other clinical nursing specialists; or (2) nurse-midwifery certificate programs that conform to guidelines established by the Secretary under section 822(b).

Applicants must agree that:

(a) In providing traineeships, the applicant will give preference to individuals who are residents of health professional shortage areas designated under section 332 of the Act;

(b) The applicant will not provide a traineeship to an individual enrolled in a master's of nursing program unless the individual has completed basic nursing preparation, as determined by the applicant; and

(c) Traineeships provided with the grant will pay all or part of the costs of the tuition, books, and fees of the program of nursing with respect to which the traineeship is provided and reasonable living expenses of the individual during the period for which the traineeship is provided.

Grants for Nurse Anesthetists

Purpose: Section 831 of the Public Health Service Act authorizes the Secretary to award grants to (1) cover the costs of traineeships for licensed registered nurses to become nurse anesthetists (traineeships); (2) cover the costs of projects to develop and operate, maintain or expand programs for the education of nurse anesthetists (education programs)—There Will Be No Competing Cycle in FY 1996 for the Education Program; and (3) provide financial assistance to certified registered nurse anesthetists (CRNA) who are faculty members in accredited programs to enable such nurse anesthetists to obtain advanced education relevant to their teaching functions (faculty fellowships). For traineeship or faculty fellowship grants, applicants must compete for Federal support annually.

Eligibility: Eligible applicants for Grants for Nurse Anesthetists are public or private nonprofit institutions which provide registered nurses with full-time nurse anesthetist training and are accredited by an entity or entities designated by the Secretary of Education.

National Health Objectives for the Year 2000

The Public Health Service urges applicants to submit work plans that address specific objectives of Healthy People 2000. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (Telephone 202–783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Application Availability

Application materials are available on the World Wide Web at address: http://www.os.dhhs.gov/hrsa/. Click on the file name you want to download to your computer. It will be saved as a self-extracting WordPerfect 5.1 file.

Applications can also be obtained from the Bureau of Health Professions (BHPr) Electronic Bulletin Board. Use your computer and modem to call (301) 443–5913. Set your modem parameters to 2400 baud, parity to none, data bits to 8, and stop bits to 1. Set your terminal emulation to ANSI or VT–100. After November 1, 1995, the BHPr BBS will be able to accept phone speeds up to 28,000 bps.

You may also access the BHPr Bulletin Board through the FedWorld Bulletin Board. Dial (703) 321–3339. If you have not used FedWorld before, then at the initial prompt, type NEW instead of your user ID. At the prompts, establish your first and last name, then your password. At the <Q> quit to prompt <N> scroll, RETURN to continue prompt, press the ENTER key.

At the There is mail in your mailbox, RETURN to continue prompt, press the ENTER key. The system will take you to the FedWorld mail menu. At the Please select an option from above and press <return>: prompt, enter U. This will take you to the Utilities and FedWorld Modules Menu.

At the Please select an option from above and press <return>: prompt, enter D. This will take you to the Gateway System Menu.

At the Please select an option from above and press <return>: prompt, enter D for Connect to Govt Sys/Database. At the Select a System # to connect, ? for entire Gateway list, or X to exit prompt, enter 111. You will then see the Establishing connection to BHPr-BBS(HHS) * * * message. Within 15 seconds, the system will log you into the BHPr BBS.

If you need further help with the FedWorld gateway system, please contact their technical support on (703) 487–4608 weekdays from 10 am to 4 pm.

Once you have accessed the BHPr Bulletin Board, you will be asked for your first and last name. It will also ask you to choose a password. *Remember Your Password*! The first time you logon you ''register'' by answering a number of other questions. The next time you logon, BHPr's Bulletin Board will know you.

Press (F) for the (F)iles Menu and (L) to (L)ist Files. Press (L) again to see a list of numbered file areas. To see a list of files in any area, type the number corresponding to that area. Competitive application materials for grant programs administered by the Bureau of Health Professions are located in the File Area item ''B'' titled Grants Announcements.

To (R)ead a file or (D)ownload a file, you need to know its exact name as listed on BHPr's Bulletin Board. Press (R) to (R)ead a file and type the name of the file. Press (D) to (D)ownload a file to your computer. You need to know how your communications software accomplishes downloading.

When you have completed your tour of BHPr's Bulletin Board for this session, press (G) for (G)oodbye and press <enter>.

For assistance in accessing the system or for any technical questions about BHPr's Bulletin Board, please call Mr. Larry DiGiulio, Systems Operator for BHPr BBS at (301) 443–2850 or ''ldigiuli@hrsa.ssw.dhhs.gov''.

Questions regarding grants policy and business management issues should be directed to Mrs. Brenda Selser, Chief, Residency and Advanced Grants Sections (bselser@hrsa.ssw.dhhs.gov) or Ms. Wilma Johnson, Acting Chief, Centers and Formula Grants Section (wjohnson@hrsa.ssw.dhhs.gov), Grants Management Branch, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857. If you are unable to obtain the application materials from the BHPr Bulletin Board, you may obtain application materials in the mail by sending a written request to the Grants Management Branch at the address above. Written requests may also be sent via FAX (301) 443–6343 or via the internet addresses listed above. Completed applications should be returned to the Grants Management Branch at the above address. Please see Table 1 for specific name and phone number for each grant program.

If additional programmatic information is needed, please contact the Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 9–36, 5600 Fishers Lane, Rockville, Maryland 20857. Please see Table 1 for specific names and phone numbers for each grant program.

Application Forms

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for these grant programs have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB Clearance Number is 0915–0060.

Deadline Dates

The deadline dates for receipt of applications for these grant programs are shown in Table 1. Applications will be considered to be ''on time'' if they are either:

(1) *Received on or before* the established deadline date, or

(2) *Sent on or before* the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications not accepted for processing will be returned to the applicant. In addition, applications which exceed the page limitation and/or do not follow format instructions will not be accepted for processing and will be returned to the applicant.

TABLE 1

PHS Title VIII section No./program title/CFDA No.	Grants management contact/phone No.(FAX: (301) 443–6343)	Programmatic contact/phone No.(FAX: (301) 443–8586)	Deadline date for competing applications
820, Nursing Special Projects—93.359	Ms. Wilma Johnson (301) 443–6880.	Ms. Elaine Cohen (301) 443–6193.	12/15/95
821, Advanced Nurse Education—93.299	Ms. Brenda Selser (301) 443–6960.	Dr. Thomas P. Phillips (301) 443–6333.	02/01/96
827, Nursing Education Opportunities for Individuals from Disadvantaged Backgrounds—93.178.	Ms. Wilma Johnson (301) 443–6880.	Ms. Helen Lotsikas (301) 443–5763.	12/15/95
830, Professional Nurse Traineeships—93.358	Ms. Wilma Johnson (301) 443–6880.	Ms. Marcia Starbecker (301) 443–6193.	12/15/95

TABLE 1—Continued

PHS Title VIII section No./program title/CFDA No.	Grants management contact/phone No.(FAX: (301) 443–6343)	Programmatic contact/ phone No.(FAX: (301) 443–8586)	Deadline date for competing applications
831,[1] Nurse Anesthetist Programs—93.124, 93.916, 93.907	Ms. Wilma Johnson (301) 443–6880.	Ms. Marcia Starbecker (301) 443–6193.	12/15/95

[1] No competing cycle in FY 1996 for Nurse Anesthetist Education Programs.

These title VIII grant programs are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). Also, these grant programs are not subject to the Public Health System Reporting Requirements.

Dated: October 17, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95–26140 Filed 10–19–95; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: October 29, 1995.

Time: 5 p.m.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Angela L. Redlingshafer, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: October 31, 1995.

Time: 1 p.m.

Place: Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Shirley H. Maltz, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: November 1, 1995.

Time: 10 a.m.

Place: Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Shirley H. Maltz, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: November 2, 1995.

Time: 10:45 a.m.

Place: Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Phyllis D. Artis, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less then fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: October 16, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–25969 Filed 10–19–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Amended Notice of Meeting

Notice is hereby given of a change in the October 27, 1995 meeting of the Deafness and Other Communication Disorders Programs Advisory Committee, which was published in the Federal Register on October 5, 1995, 60 FR 52199.

The committee was to have convened at 8:00 a.m. on October 27 in Building 31C, Conference Room 6, 900 Rockville Pike, Bethesda, MD. The meeting has been changed to a telephone conference call, and will be held from 10:30 a.m.–1:00 p.m. EST, in Building 31C, Room 3C05.

The entire meeting will be open to the public, with attendance limited to space available.

Dated: October 17, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–26187 Filed 10–19–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Aging; Notice of Meeting of the Board of Scientific Counselors

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute on Aging (NIA), October 24–25, 1995, to be held at the Gerontology Research Center, Baltimore, Maryland. The meeting will be open to the public from 8:45 a.m. until 12:30 p.m.; and again from 1:45 until 4:30 p.m. on Tuesday, October 24. On Wednesday, October 25, the meeting will be open from 8:30 a.m. until 12:00 p.m.; and again from 1:30 until adjournment. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 24, from 8:15 to 8:45 a.m.; from 12:30 to 1:45 p.m.; and again from 4:30 until recess. On October 25, the meeting will be closed from 12:00 to 1:30 p.m. for the review, discussion, and evaluation of individual programs and projects conducted by the National Institute on Aging, NIH, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute clearly unwarranted invasion of personal privacy.

Ms. June McCann, Committee Management Officer, NIA, Gateway Building, Room 2C218, National Institutes of Health, Bethesda, Maryland 20892, (301/496–9322), will provide a summary of the meeting and a roster of committee members upon request.

Dr. Dan L. Longo, Scientific Director, NIA, Gerontology Research Center, 4940 Eastern Avenue, Baltimore, Maryland 21224, will furnish substantive program information.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Scientific Director in advance of the meeting.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing

limitations imposed by the intramural research review cycle.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: October 17, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–26188 Filed 10–19–95; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Drug Testing Advisory Board of the Center for Substance Abuse Prevention in December 1995.

The meeting agenda will include discussion of announcements and reports of administrative, legislative, and program developments. It will also include reviews of sensitive National Laboratory Certification Program (NLCP) internal operating procedures and program development issues. Therefore, a portion of this meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with 5 U.S.C. 552b(c)(2), (4), and (6) and 5 U.S.C. Appendix 2, section 10(d).

A summary of this meeting and roster of committee members may be obtained from: Ms. Vera L. Jones, Committee Management Officer, CSAP, Rockwall II Building, Room 7A 140, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–9542.

Substantive program information may be obtained from the contact whose name, room number, and telephone number is listed below.

Committee Name: Drug Testing Advisory Board.

Meeting Date(s): December 7, 1995.

Place: DoubleTree Hotel, 1750 Rockville Pike, Rockville, Maryland 20857.

Open: December 7, 1995, 8:30 a.m.–10:00 a.m.

Closed: December 7, 1995, 10:00 a.m.–Adjournment.

Contact: Donna M. Bush, Ph.D.; Parklawn Building, Room 13A–54; Telephone: (301) 443–6014.

Dated: October 17, 1995.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 95–26051 Filed 10–19–95; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR–3778–N–59]

Federal Property Suitable as Facilities To Assist the Homeless

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

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.) .

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available, or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the Federal Register, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: GSA: Ed Guilford, Federal Property Resources Services, GSA, 18th and F Streets NW, Washington, DC 20405; (202) 501–2059; Dept. of Interior: Lola D. Knight, Property Management Specialist, Dept.

of Interior, 1849 C St. NW, Mailstop 5512–MIB, Washington, DC 20240; (202) 208–4080; Dept. of Transportation: Ronald D. Keefer, Director, Administrative Services & Property Management, DOT, 400 Seventh St. SW, room 10319, Washington, DC 20590; (202) 366–4246; U.S. Army: Elaine Sims, CECPW–FP, U.S. Army Center for Public Works, 7701 Telegraph Road, Alexandria, VA 22310–3862; (703) 355–3475; Corps of Engineers: Bob Swieconek, Headquarters, Army Corps of Engineers, Attn: CERE–MC, Room 4224, 20 Massachusetts Ave. NW, Washington, DC 20314–1000; (202) 761–1753; (These are not toll-free numbers).

Correction: Property #779520014, 144 Family Facilities in Adak, Alaska, are now subject to the Base Closure Community Redevelopment and Homeless Act of 1994.

Dated: October 13, 1995.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for 10/20/95

Suitable/Available Properties

Buildings (by State)

Iowa

Bldg. 685
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520084
Status: Unutilized
Comment: 864 sq. ft., most recent use—garage.

Bldg. 759A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520085
Status: Unutilized
Comment: 384 sq. ft., most recent use—garage.

Bldg. 760A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520086
Status: Unutilized
Comment: 384 sq. ft., most recent use—garage.

Bldg. 761A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520087
Status: Unutilized
Comment: 576 sq. ft., most recent use—garage.

Bldg. 762A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520088
Status: Unutilized
Comment: 384 sq. ft., most recent use—garage.

Bldg. 764A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520089
Status: Unutilized
Comment: 576 sq. ft., most recent use—garage.

Bldg. 768A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520090
Status: Unutilized
Comment: 576 sq. ft., most recent use—garage.

Bldg. 769A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520091
Status: Unutilized
Comment: 576 sq. ft., most recent use—garage.

Bldg. 770A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520092
Status: Unutilized
Comment: 864 sq. ft., most recent use—garage.

Bldg. 771A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520093
Status: Unutilized
Comment: 384 sq. ft., most recent use—garage.

Bldg. 772A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520094
Status: Unutilized
Comment: 864 sq. ft., most recent use—garage.

Bldg. 773A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520095
Status: Unutilized
Comment: 576 sq. ft., most recent use—garage.

Bldg. 774A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520096
Status: Unutilized
Comment: 576 sq. ft., most recent use—garage.

Bldg. 775A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520097
Status: Unutilized
Comment: 576 sq. ft., most recent use—garage.

Bldg. 779A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520098
Status: Unutilized
Comment: 576 sq. ft., most recent use—garage.

Bldg. 781A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520099
Status: Unutilized
Comment: 384 sq. ft., most recent use—garage.

Bldg. 782A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520100
Status: Unutilized
Comment: 576 sq. ft., most recent use—garage.

Bldg. 783A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520101
Status: Unutilized
Comment: 576 sq. ft., most recent use—garage.

Bldg. 784A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520102
Status: Unutilized
Comment: 576 sq. ft., most recent use—garage.

Bldg. 785A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520103
Status: Unutilized
Comment: 576 sq. ft., most recent use—garage.

Bldg. 786A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520104
Status: Unutilized
Comment: 576 sq. ft., most recent use—garage.

Bldg. 791A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520105
Status: Unutilized
Comment: 576 sq. ft., most recent use—garage.

Bldg. 792A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520106
Status: Unutilized
Comment: 576 sq. ft., most recent use—garage.

Bldg. 793A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army

Property Number: 219520107
Status: Unutilized
Comment: 576 sq. ft., most recent use—garage.

Bldg. 794A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520108
Status: Unutilized
Comment: 576 sq. ft., most recent use—garage.

Bldg. 795A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520109
Status: Unutilized
Comment: 384 sq. ft., most recent use—garage.

Bldg. 796A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520110
Status: Unutilized
Comment: 864 sq. ft., most recent use—garage.

Bldg. 797A
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520111
Status: Unutilized
Comment: 576 sq. ft., most recent use—garage.

10 Residential Facilities
Iowa Army Ammunition Plant
Bldgs. 708, 711, 715–717, 725–729
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520137
Status: Excess
Comment: 958–1992 sq. ft., 1–2 story, some need rehab, possible asbestos & lead base paint.

10 Residential Facilities
Iowa Army Ammunition Plant
Bldgs. 697–699, 701–707
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520138
Status: Excess
Comment: 1247–2845 sq. ft., 2-story each, possible asbestos & lead base paint.

10 Residential Facilities
Iowa Army Ammunition Plant
Bldgs. 683–684, 686–690, 692–693, 696
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520139
Status: Excess
Comment: 1457–2989 sq. ft., 2-story each, possible asbestos & lead base paint.

Bldg. 731
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520140
Status: Excess
Comment: 741 sq. ft., most recent use—residence, possible asbestos & lead base paint.

Bldg. 732
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520141
Status: Excess
Comment: 741 sq. ft., most recent use—residence, possible asbestos & lead base paint.

Bldg. 733
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520142
Status: Excess
Comment: 741 sq. ft., most recent use—residence, possible asbestos & lead base paint.

Bldg. 734
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520143
Status: Excess
Comment: 741 sq. ft., most recent use—residence, possible asbestos & lead base paint.

Bldg. 738
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520144
Status: Excess
Comment: 741 sq. ft., most recent use—residence, possible asbestos & lead base paint.

Bldg. 740
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520145
Status: Excess
Comment: 741 sq. ft., most recent use—residence, possible asbestos & lead base paint.

Bldg. 741
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520146
Status: Excess
Comment: 741 sq. ft., most recent use—residence, possible asbestos & lead base paint.

Bldg. 742
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520147
Status: Excess
Comment: 741 sq. ft., most recent use—residence, possible asbestos & lead base paint.

744
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520148
Status: Excess
Comment: 2238 sq. ft., most recent use—residence, possible asbestos & lead base paint.

Bldg. 810
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520188
Status: Unutilized
Comment: 71 sq. ft., 1-story, needs rehab, most recent use—recrea. bldg., presence of asbestos & lead base paint.

Bldg. 827
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520189
Status: Unutilized
Comment: 7205 sq. ft., 1-story, most recent use—recrea. bldg., possible asbestos & lead base paint.

Bldg. 828
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219520190
Status: Excess
Comment: 672 sq. ft., 1-story, most recent use—snack bar, needs rehab, possible asbestos & lead base paint.

Silo
Tract 100, Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530033
Status: Excess
Comment: Concrete block, 1 story, presence of asbestos/lead paint, most recent use—storage, off-site use only.

Shed
Tract 100, Camp Dodge
Johnston Co: Polk IA 50131
Landholding Agency: COE
Property Number: 319530034
Status: Excess
Comment: Wood frame, off-site use only, most recent use—dog house.

White Shed
Tract 130, Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530035
Status: Excess
Comment: 144 sq. ft., fair condition, presence of asbestos/lead paint, off-site use only, most recent use—storage.

Play House
Tract 130, Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530036
Status: Excess
Comment: 120 sq. ft., good condition, presence of asbestos/lead paint, off-site use only.

Corn Crib
Tract 136, Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530037
Status: Excess
Comment: Most recent use—storage, fair condition, off-site use only.

Pole Shed
Tract 137, Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530038
Status: Excess
Comment: 720 sq. ft., fair condition, off-site use only, most recent use—storage.

Storage Shed
Tract 138, Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530039
Status: Excess
Comment: 100 sq. ft., fair condition, presence of asbestos/lead paint, off-site use only, most recent use—storage.

Shed
Tract 138, Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530040
Status: Excess
Comment: 384 sq. ft., fair condition, presence of asbestos/lead paint, off-site use only, most recent use—storage.

Barn
Tract 138, Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530041
Status: Excess
Comment: 1280 sq. ft., needs rehab, presence of asbestos/lead paint, off-site use only.

House
Tract 126, Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530042
Status: Excess
Comment: 3583 sq. ft., wood frame, presence of asbestos/lead paint, off-site use only.

Grain Bin
Tract 139, Camp Dodge
Johnston Co: Polk IA 50131–
Landholding Agency: COE
Property Number: 319530043
Status: Excess
Comment: Most recent use—grain bin/storage, fair condition, off-site use only.

Land (by State)

Arizona

ACDC Tract No. T–71A
Along the Arizona Canal
Glendale Co: Maricopa AZ 85306–
Landholding Agency: Interior
Property Number: 619530001
Status: Excess
Comment: 3.15 acres.

Unsuitable Properties

Buildings (by State)

Georgia

Coast Guard Station
St. Simons Island Co: Glynn GA 31522–0577
Landholding Agency: DOT
Property Number: 579540002
Status: Unutilized
Reason: Extensive deterioration.

Virginia

Tidewater Agriculture Station
6321 Holland Road
Suffolk VA 23437–
Landholding Agency: GSA
Property Number: 549540002
Status: Excess
Reason: Other.
Comment: No legal access.
GSA Number: 4–A–VA–709.

Land (by State)

West Virginia

Tract 1118—Matewan Project
Matewan Co: Mingo. WV 25678–
Landholding Agency: GSA
Property Number: 549540003
Status: Excess
Reason: Floodway
GSA Number: 4–D–WV–0524.

[FR Doc. 95–25899 Filed 10–19–95; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–010–06–1220]

Meeting of the Bakersfield Resource Advisory Council

AGENCY: Bureau of Land Management.

ACTION: Meeting of the Bakersfield Resource Advisory Council.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (public law 92–463) and the Federal Land Policy and Management Act of 1976 (sec. 309), the Bureau of Land Management Bakersfield District Resource Advisory Council will meet in Bishop, California.

DATES: November 8–9, 1995. 8:00 a.m. to 5:00 p.m. both days.

ADDRESSES: Los Angeles Department of Water and Power Conference Room, 300 Mandich Street, Bishop, California.

SUPPLEMENTARY INFORMATION: The Bakersfield Resource Advisory Council is a 12 member council appointed by the Secretary of the Interior to give counsel and advice regarding planning and management of public land resources to the District Manager of the Bureau of Land Management Bakersfield District. The Council will meet to discuss standards and guidelines for grazing operators on public land, and Native American issues in the eastern Sierra and elsewhere. If time allows there will be a field trip to Fish Slough. The meeting is open to the public, but private transportation must be arranged in order to take part in the field trip. Anyone wishing to address the Council about any public land issue may do so during the public comment period beginning at 1 p.m., November 9, 1995 or at any time during the meting at the discretion of the designated federal officer. Written comments may be submitted at the meeting, or to the address below.

FOR FURTHER INFORMATION CONTACT: Larry Mercer, Public Affairs Officer, Bureau of Land Management, Bakersfield District, 3801 Pegasus Drive, Bakersfield, CA 93308, telephone 805–391–6010.

Dated: October 11, 1995.

John Skibinski,

Acting District Manager.

[FR Doc. 95–26036 Filed 10–19–95; 8:45 am]

BILLING CODE 4310–40–M

[WY–985–06–0777–72]

Resource Advisory Council Meeting, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Wyoming Resource Advisory Council.

SUMMARY: This notice sets forth the schedule and agenda of the meeting of the Wyoming Resource Advisory Council (RAC).

DATES: November 8 and 9, 1995, 8:30 a.m. until 5 p.m.

ADDRESSES: Fremont County Library, Riverton Branch, 1330 West Park, Riverton, WY 82501.

FOR FURTHER INFORMATION CONTACT: Terri Trevino, RAC Coordinator, Wyoming Bureau of Land Management, P.O. Box 1828, Cheyenne, WY 82003, (307) 775–6020.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include:

1. Adopt RAC ground rules.
2. Standards and guidelines (definitions, scope, process).
3. Discussion regarding formation of sub groups and technical review teams.
4. Prioritize issues submitted by RAC members.
5. A discussion by RAC members of the opportunities for training from sources including BLM, UW, and private sector natural resource specialists.
6. A comparative presentation by BLM of the process used in Grass Creek with the one being used for the Buffalo RMP.
7. Responsibilities charged by the Interior Secretary and the Charter on issues other than standards and guidelines.
8. Public comment.
9. Set next meeting.

This meeting is open to the public. Interested persons may make oral statements to the Council or file written statements for the council's consideration. Anyone wishing to make an oral statement should notify the RAC Coordinator, at the above address by November 3, 1995.

Depending on the number of persons wishing to make oral statements, a time limit, per person, may be established by

the Chair of the Resource Advisory Council.

Robert A. Bennett,

Acting State Director.

[FR Doc. 95–25992 Filed 10–19–95; 8:45 am]

BILLING CODE 4310–22–M

[CA–060–1430–01; CACA 35721]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following public lands in Riverside County, California have been examined and found suitable for classification for lease or conveyance to the City of Canyon Lake under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The City of Canyon Lake proposes to use the lands for a natural recreation area thereby utilizing the lands for hiking, walking, equestrian trails, and picnic grounds for day use only,

San Bernardino Meridian, Riverside County, California

T. 5 S., R. 4 W.,
Sec. 26, S½
Sec. 34, SE¼NE¼, E½SE¼, SW¼SE¼
Containing 480 acres, more or less.

The lands are not required for any Federal purposes. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945);

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe;

and will be subject to prior valid existing rights.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Palm Springs-South Coast Resource Area, 63–500 Garnet Avenue, North Palm Springs, California.

Upon publication of this notice in the Federal Register, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice in the Federal Register, interested persons may submit comments regarding the proposed lease/conveyance or classification of the lands to the Area Manager, Palm Springs-South Coast Resource Area Office, P.O. Box 2000, North Palm Springs, CA 92258–2000.

CLASSIFICATION COMMENTS: Interested parties may submit comments involving the suitability of the land for a natural recreation area. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

APPLICATION COMMENTS: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a natural recreation park.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the Federal Register.

Dated: October 11, 1995.

Julia Dougan,

Area Manager.

[FR Doc. 95–26033 Filed 10–19–95; 8:45 am]

BILLING CODE 4310–40–M

[ID–030–5101–00–D013]

Intent To Prepare a Travel Plan Amendment to the Pocatello Resource Area Management Plan, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: Pursuant to 43 CFR 1610.3–1(d) and 8342.2(a), notice is hereby given that the Pocatello Resource Area, Bureau of Land Management, intends to conduct an environmental assessment for the purposes of amending its Resource Management Plan with the designation of a road suitable for vehicle use.

With improvements, the proposed road will be located within the following boundaries of public lands:

T. 14 S., R. 40 E.,
Section 9: SE¼NE¼, & E½SE¼, Boise Meridian, Franklin County, Idaho.

FOR FURTHER INFORMATION CONTACT: Jeff Steele, Pocatello Resource Area Manager, Bureau of Land Management, 1111 N. 8th St., Pocatello, Idaho, 83201 (208) 236–6860.

SUPPLEMENTARY INFORMATION: The proposed amendment for the Pocatello Resource Area Management Plan would designate approximately 4000 feet of improved road as suitable for vehicle use while simultaneously providing a grant for right-of-way along the same route. Issues anticipated from the proposal include; Wild and Scenic Eligibility status, recreational use conflicts, and possible restrictions on public use. The following resources will be considered in preparing the travel plan amendment; land status, wildlife, soils, safety, research natural area, range, threatened and endangered plants and animals species, watershed, cultural, recreation and visual. The amendment and accompanying environmental assessment (EA) will provide the basis for modifying the recreation travel plan. The times and schedules for public meetings and written comments will be announced in local news media and through the postal service. Relevant documents will be available for public review at the BLM, Pocatello Resource Area Office, Pocatello, Idaho.

Dated: September 20, 1995.

Mary Gaylord,

District Manager, Upper Snake River.

[FR Doc. 95–26028 Filed 10–19–95; 8:45 am]

BILLING CODE 4310–GG–P

National Park Service

Development Concept Plan, Channel Islands National Park, Santa Rosa Island, Santa Barbara County, CA; Notice of Availability of Final Environmental Impact Statement

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190 as amended), the National Park Service, Department of the Interior, has prepared a final environmental impact statement (FEIS) assessing the potential impacts of the proposed Development Concept Plan for Santa Rosa Island, Channel Islands National Park, Santa Barbara County, California.

The plan proposes the development of infrastructure and facilities to support

maintenance and protection of resources and historic structures, research and further study of both natural and cultural resources, limited experimental restoration of natural systems, and the provision of limited visitor use opportunities. Maintenance and housing facilities would be provided in two locations. Minor changes in the plan, including relocation of the housing area to an environmentally less sensitive site, have been made to accommodate concerns raised by the public during review of the draft environmental impact statement. The other alternative analyzed, no-action, would mean continued substandard living conditions for employees and would make it difficult and inefficient to carry out needed maintenance, research, and services for public visitors.

DATES: The no-action period for the plan will commence when the Environmental Protection Agency formally announces the availability of the FEIS in the Federal Register, and end 30 days thereafter.

ADDRESSES: Inquiries and comments on the FEIS should be directed to: Superintendent, Channel Islands National Park, 1901 Spinnaker Drive, Ventura, Ca. 93001. The telephone number for the park is (805) 658–5700.

Copies of the plan and FEIS are available at the park headquarters at the above address. Copies are also available for inspection at libraries located in the Park's vicinity.

Dated: October 10, 1995.

Stanley T. Albright,

Field Director, Pacific West Area.

[FR Doc. 95–25986 Filed 10–19–95; 8:45 am]

BILLING CODE 4310–70–P

Preparation of 1996 Strategic Plan for the National Park Service

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of public consultation workshops.

SUMMARY: Under the provisions of Section 3 of the Government Performance and Results Act (GPRA), the National Park Service is preparing a strategic plan that will provide direction for the organization into the 21st century. The strategic plan will include a mission statement; general ''outcome-related'' goals and objectives for the major functions and operations of the National Park Service; descriptions of how the goals and objectives will be achieved; and identification of key external factors that could affect achievement of the goals and objectives. The strategic plan is due by September 30, 1996; will cover at least a five-year period; and will be updated every three years.

The National Park Service has periodically set goals to guide its activities in carrying out its mission. In 1991, the National Park Service undertook a process of self-evaluation, culminating in a symposium that identified changes needed to improve service to the American people. Those recommendations were published as National Parks for the 21st Century: The Vail Agenda. In 1994, the National Park Service Strategic Plan: Vision was published to provide broad, long-term direction for the Service. That document will serve as a starting point for the strategic plan to be prepared in compliance with GPRA by September 1996. Summaries and complete copies of the 1994 strategic plan will be available at the public workshops and can also be obtained by writing to Office of Strategic Planning, National Park Service, Post Office Box 25287 WASO-STP, Denver, Colorado 80225–0287.

DATES: Public workshops will be held in San Francisco, California, on Wednesday, October 25, 1995; in Denver, Colorado, on Thursday, October 26, 1995; and in Washington, D.C., on Monday, October 30, 1995.

Workshop Times and Locations

Wednesday, October 25, 1995, from 4:00 p.m. to 7:00 p.m: First Floor Conference Room, Building 201, Fort Mason, Franklin and Bay Streets, San Francisco, California.

Thursday, October 26, 1995, from 7:00 p.m to 10:00 p.m.: Zenith Room, Sixth Floor, Tivoli Student Union, Auraria Campus, 900 Auraria Parkway, Denver, Colorado.

Monday, October 30, 1995, from 2:30 p.m. to 5:00 p.m: Large Buffet Room of the Cafeteria, Main Department of the Interior Building, 1849 C Street, NW, Washington, D.C.

FOR FURTHER INFORMATION: Contact Office of Strategic Planning, National Park Service, (303) 969–7013.

Dated: October 13, 1995.

Heather A. Huyck,

Director, Office of Strategic Planning, National Park Service.

[FR Doc. 95–26058 Filed 10–19–95; 8:45 am]

BILLING CODE 4310–70–P

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–55 (Sub-No. 514X)]

CSX Transportation, Inc.—Abandonment Exemption—in Monroe and Owen Counties, IN

CSX Transportation, Inc. (CSXT), has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its line of railroad between milepost Q–203.13 at Gosport and milepost Q–213.41 at Ellettsville, a distance of approximately 10.28 miles, in Monroe and Owen Counties, IN. CSXT proposes to consummate the abandonment on November 22, 1995.

CSXT has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line is pending either with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 19, 1995, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking

[1] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made before the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

requests under 49 CFR 1152.29[3] must be filed by October 30, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 9, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, Senior Counsel, CSX Transportation, Inc., 500 Water Street, J150, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

CSXT has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by October 25, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: October 12, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–26165 Filed 10–19–95; 8:45 am]

BILLING CODE 7035–01–P

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

[Finance Docket No. 32781]

Gulf Coast Rail Service, Inc. d/b/a Orange Port Terminal Railway—Acquisition and Operation Exemption—Lines of Southern Pacific Transportation Company

Gulf Coast Rail Service, Inc. d/b/a Orange Port Terminal Railway (OPTR), a noncarrier, has filed a notice of exemption to acquire and operate approximately 1.834 miles of rail line owned by Southern Pacific Transportation Company, known as the Old City Lead Track at Orange, TX, consisting of the Front Street Lead from milepost 0.076+/- to milepost 1.17+/- and the Market Street Lead between milepost 0.0+/- to milepost 0.74+/-. The proposed acquisition and operation transactions were expected to be consummated on or after September 29, 1995.

This proceeding is related to Finance Docket No. 32782, *Russell A. Peterson—Continuance in Control Exemption—Gulf Coast Rail Service, Inc. d/b/a Orange Port Terminal Railway*, wherein Russell A. Peterson has concurrently filed a notice of exemption to continue in control of OPTR when OPTR becomes a rail carrier upon consummation of the transaction described in this notice.

Any comments must be filed with the Commission and served on: Keith G. O'Brien, 1920 N Street, NW, Suite 420, Washington, DC 20036.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: October 10, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–26163 Filed 10–19–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32782]

Russell A. Peterson—Continuance in Control Exemption—Gulf Coast Rail Service, Inc., d/b/a Orange Port Terminal Railway

Russell A. Peterson (Peterson) has filed a notice of exemption to continue in control of Gulf Coast Rail Service, Inc. d/b/a Orange Port Terminal Railway (OPTR), upon OPTR becoming a rail carrier.

OPTR has concurrently filed a notice of exemption in Finance Docket No. 32782, *Gulf Coast Rail Service, Inc., d/b/a Orange Port Terminal Railway*, to acquire and operate approximately 1.834 miles of line from Southern Pacific Transportation Company, known as the Old City Lead Track in Orange County, TX.

Peterson also controls through stock ownership, two nonconnecting class III rail carriers: Southwest Pennsylvania Railroad Company and Camp Chase Industrial Railroad Corporation. Peterson indicates that: the properties operated by these carriers do not connect with each other; (2) the continuance in control is not a part of a series of anticipated transactions that would connect the railroads with each other or any other railroad in their corporate family; and (3) the transaction does not involve a class I carrier. The transaction therefore is exempt from the prior approval requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Keith G. O'Brien, 1920 N Street, NW, Suite 420, Washington DC 20036.

Decided: October 10, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–26164 Filed 10–19–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Notice of Lodging of De Minimis Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act and the Resource Conservation and Recovery Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Supplemental Early *De Minimis* Consent Decree in *United States and State of Connecticut* v. *Able Marine, Inc., et al.*, Civil Action Nos. 3:95 CV 2107 and 3:95 2108 was lodged on September 29, 1995 with the United States District Court for the District of Connecticut. The complaint in this action seeks (1) to recover, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601 *et seq.*, response costs incurred and to be incurred by EPA at the Solvents Recovery Service of New England, Inc. Superfund Site located in the Town of Southington, Connecticut (''Site''); and (2) injunctive relief under section 106 of CERCLA, 42 U.S.C. 9606, and section 7003 of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 9673.

The proposed Supplemental Early *De Minimis* Consent Decree embodies an agreement with 46 potentially responsible parties (''PRPs'') at the Site pursuant to section 122(g) of CERCLA, 42 U.S.C. 9622(g) to reimburse EPA and

the State of Connecticut for a portion of their past and future response costs at the Site. Of the $503,325 generated by the settlement, $100,665 will be used for the partial funding of a non-time-critical removal action (''NTCRA'') being performed at the Site by the larger-volume generator PRPs and the remaining $402,660 will be set aside for the funding of future remedial actions at the Site. The NTCRA comprises, *inter alia,* the installation and operation of a groundwater containment system designed to prevent further migration from the Site of contaminated groundwater. The Supplemental Early *De Minimis* Consent Decree also provides the settling defendants with a release for civil liability for EPA's and the State's past and future CERCLA response costs and natural resource damages at the Site for resources under the trusteeship of the Secretary of the Interior and the Secretary of Commerce, through the National Oceanic and Atmospheric Administration.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Early *De Minimis* Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, PO Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States and State of Connecticut* v. *Able Marine, Inc., et al.,* DOJ Ref. No. 90–7–1–23E. In addition, pursuant to section 7003(d) of RCRA, 42 U.S.C. 6973(d), any member of the public who desires a public meeting in the area affected by the proposed consent decree in order to discuss the proposed consent decree prior to its final entry by the court may request that such a meeting be held. Any such request for a public meeting should be submitted within fifteen (15) days from the date of this publication and sent to the same address and bear the same reference as indicated above for submission of comments.

The proposed consent decree may be examined at the Office of the United States Attorney, 157 Church Street, 23rd Floor, New Haven, Connecticut 06510; the Region I Office of the Environmental Protection Agency, Region I Records Center, 90 Canal Street, First Floor, Boston, MA 02203; and at the Consent Decree Library, 1120 G Street, NW., Fourth 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, Fourth Floor, NW., Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $26.25 (25 cents per page reproduction costs), payable to the Consent Decree Library. If you wish to receive a copy without the settlers' signature pages, please so indicate, and enclose a check in the amount of $13.75 payable to the Consent Decree Library.

Bruce S. Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–26025 Filed 10–20–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9622(i)

Notice is hereby given that a proposed consent decree in *United States* v. *Amtel, Inc., et al.,* Civil Action No. 91–CV–10366–BC, was lodged on October 6, 1995 with the United States District Court for the Eastern District of Michigan, Northern Division. The Proposed Consent Decree resolves the United State's claims against Amtel, Inc., for unreimbursed past costs incurred in connection with the Hedblum Superfund Site located in Oscoda, Michigan.

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, D.C. 20530, and should refer to *United States* v. *Amtel, Inc., et al.,* DOJ Ref. #90–11–2–475.

The proposed consent decree may be examined at the office of the United States Attorney, 1000 Washington Street, 203 Federal Building, Bay City, Michigan 48707; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $6.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–26024 Filed 10–19–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

Consistent with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Chevron U.S.A., Inc., et al.,* Civil Action No. 95–4737(WGB), was lodged on September 18th, 1995 with the United States District Court for the District of New Jersey. Defendant Chevron U.S.A., Inc. is the owner and operator of an oil refinery in Perth Amboy, New Jersey. Defendants PJS Construction Company, Inc., Mayer Pollock Steel Corporation, and Falcon Associates, Inc. are a mechanical construction contractor, a demolition contractor, and asbestos removal contractor, respectively. In removing asbestos-containing material from the Chevron oil refinery, defendants violated the Asbestos NESHAP regulations under the Clean Air Act.

Under the terms of the proposed decree, defendants will pay the United States a civil penalty in the sum of $155,000. Chevron U.S.A., Inc. further agrees to remain in compliance with the Clean Air Act.

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. *Chevron U.S.A., Inc. et al.,* D.J. reference #90–5–2–1–1738.

The proposed consent decree may be examined at the Office of the United States Attorney for the District of New Jersey, 970 Broad Street, Room 501, Newark, New Jersey; the Region II Office of the Environmental Protection Agency, 290 Broadway Avenue, New York, New York; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, D.C., 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW 4th Floor, Washington, DC. In requesting a copy, please enclose a check in the amount of $2.75 (25 cents per page

reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environment Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–26021 Filed 10–19–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

Consistent with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *F & H Manufacturing Corporation,* Civil Action No. CV88–1067, was lodged on October 11, 1995 with the United States District Court for the Eastern District of New York. Defendant F & H Manufacturing Corporation is the owner and operator of a metal parts fabrication facility in Happauge, New York. In operating the facility, F & H violated the surface coating regulations of the New York State Implementation Plan and the Clean Air Act.

Under the terms of the proposed decree, F & H Manufacturing will pay the United States a civil penalty in the sum of $90,000. F & H further agrees to remain in compliance with the Clean Air Act and governing State of New York 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. *F & H Manufacturing Corporation,* D.J. reference #90–5–2–1–1193.

The proposed consent decree may be examined at the Office of the United States Attorney for the Eastern District of New York, One Pierrepont Plaza, 14th floor, Brooklyn, New York; the Region II Office of the Environmental Protection Agency, 290 Broadway Avenue, New York, New York; 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. In requesting a copy, please enclose a check in the amount of $2.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–26026 Filed 10–19–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Partial Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that a proposed Partial Consent Decree in *United States* v. *Kenneth L. Thomas et al.*, Civil Action No. 93–4098–JLF (S.D. Ill.) entered into by the United States and defendant Robert McKee, was lodged on October 10, 1995, with the United States District Court for the Southern District of Illinois. The proposed Partial Consent Decree resolves certain claims of the United States under section 107 of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9607, with respect to the M.T. Richards, Inc. Site (''Site'') in Crossville, Illinois. Under terms of the Partial Consent Decree, Robert McKee will pay the United States $5,200, plus interest, as specified in the Partial Consent Decree in return for the government's covenant not to sue Mr. McKee for past costs incurred at the Site.

The Department of Justice will receive comments relating to the proposed Partial Consent Decree for 30 days following publication of this Notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, PO Box 7611, Ben Franklin Station, Washington, DC 20044–7611, and should refer to *United States* v. *Kenneth L. Thomas et al.*, D.J. Ref. No. 90–11–3–1112. The proposed Partial Consent Decree may be examined at the Office of the United States Attorney for the Southern District of Illinois, IL–S USA, Suite 300, 9 Executive Drive, Fairview Heights, Illinois 62208; the Region V Office of the United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, telephone no. (202) 624–0892. A copy of the proposed Partial Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $6.00 (25 cents per page for reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–26027 Filed 10–19–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

Notice is hereby given that a proposed consent decree in *United States* v. *TMG Enterprises, Inc., et al.*, Civil Action No. C–94–0544–L–S, was lodged on October 2, 1995, with the United States Court for the Western District of Kentucky. The Complaint, brought pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (CERCLA), 42 U.S.C. 9607, seeks recovery of past response costs incurred by the United States in connection with the Sonora Burn Superfund Site and the Carlie Middleton Metal Yard Site, near Sonora, Kentucky (the Sites). The Sites are situated in Hardin County, Kentucky. The Sites were used from the mid-1970's until 1989 as metal reclamation burn sites.

The Consent Decree in *United States* v. *TMG Enterprises, Inc., et al* provides that the Kentucky Association of Electrical Cooperatives, Inc. will pay a total of $250,000. The United States is proceeding with litigation in this case to collect the remainder of the past response costs at the two Sites from six other defendants.

The Department of Justice will receive, for a period of 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. *TMG Enterprises, Inc. et al*, DOJ Ref. #90–11–2–874.

The proposed consent decree may be examined at the office of the United States Attorney, Western District of Kentucky, 510 West Broadway, 10th Floor, Louisville, Kentucky 40202; the Region 4 Office of the Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365; 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 $4.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–26023 Filed 10–19–95; 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 and 28 CFR 50.7, notice is hereby given that on October 3, 1995, a partial consent decree in *United States* v. *City of Watertown et al.,* Civil Action No. 95–1018 was lodged with the United States District Court for the District of South Dakota.

This partial consent decree settles certain injunctive relief claims brought pursuant to section 309 (b) and (d) of the Clean Water Act (the ''Act''), 33 U.S.C. 1319 (b) and (d). Under the terms of the partial consent decree, the City of Watertown must properly operate, staff and maintain its water treatment facility, promptly implement and enforce an Industrial Pretreatment Program, cease all unpermitted discharges, and enter into a compliance schedule that requires full compliance with all National Pollution Discharge Elimination System (''NPDES'') permit limits by December 31, 1997. This partial consent decree does not settle the civil penalty portion of this action.

The Department of Justice will receive comments relating to the proposed partial consent decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of Watertown et al.,* Civil Action No. 95–1018, Ref. No. 90–5–1–1–5087. The proposed partial consent decree may be examined at the Office of the United States Attorney, District of South Dakota, Shriver Square, 230 South Phillips Avenue, Sioux Falls, South Dakota 57102. Copies of the partial consent decree may also be examined and obtained by mail at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005 (202–624–0892) and the offices of the Environmental Protection Agency, Region VIII 999 18th Street, Suite 500, Denver, Colorado 80202–2466. When requesting a copy by mail, please enclose a check in the amount of $7.25 (twenty-five cents per page reproduction costs) payable to the ''Consent Decree Library.''

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–26022 Filed 10–19–95; 8:45 am]

BILLING CODE 4410–01–M

National Institute of Corrections

Advisory Board Meeting

Time and Date: 8:00 a.m., Tuesday, November 14, 1995.

Place: Raintree Plaza Hotel and Conference Center, 1900 Ken Pratt Boulevard, Longmont, Colorado.

Status: Open.

Matters to be Considered: Office of Justice Programs' update on the Violent Offender and Truth In Sentencing Grant Program, update on the Crime Bill provisions assigned to NIC, an education/information paper on emerging issues in corrections, a panel discussion on Meta Evaluation, a redraft of the Board's position statement on the mentally ill in jails, report on the NIC FY 1996 appropriation and the expected future of NIC, and NIC's budget and funding.

CONTACT PERSON FOR MORE INFORMATION: Larry Solomon, Deputy Director, (202) 307–3106, ext. 155.

Morris L. Thigpen,

Director.

[FR Doc. 95–26038 Filed 10–19–95; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 30, 1995.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 30, 1995.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 2nd day of October, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 10/02/95]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
31,473	Brown Shoe Company (Wkrs)	Dyer, TN	09/20/95	Ladies' Shoes.
31,474	Brown Shoe Company (Wkrs)	Lexington, TN	09/20/95	Ladies' Shoes.
31,475	Berklee Manufacturing (UNITE)	Allentown, PA	09/21/95	Ladies' Nightgowns, Bath Robes.
31,476	ATAPCO Office Products (Comp)	Kosciusko, MS	09/19/95	Office Products.
31,477	International Jensen Inc. (Wkrs)	Punxsutawney, PA	09/21/95	Speaker Components and Speakers.

APPENDIX—Continued

[Petitions instituted on 10/02/95]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
31,478	J.H. Enterprise (Comp)	Shreveport, LA	09/14/95	Scrap Metals.
31,479	Reidbord Bros. Co. (Comp)	Pittsburgh, PA	09/21/95	Men's Polyester Trousers.
31,480	Meehan Tooker Inc. (Comp)	East Rutherford, NJ	09/18/95	Commercial Printing.
31,481	Brittany Fashion (UNITE)	Jersey City, NJ	09/20/95	Ladies' Coats.
31,482	Clara Fashions (UNITE)	Jersey City, NJ	09/20/95	Ladies' Coats.
31,483	Elsan Fashions Inc. (UNITE)	East Newark, NJ	09/20/95	Ladies' Coats.
31,484	ComPac Industries (Wkrs)	North Bergen, NJ	09/21/95	Industrial Tape.
31,485	Quantum Corp. (Co.)	Colorado Springs, CO	09/19/95	Disk Drive Memory Units.
31,486	Taylorsville Enterprises (Co.)	Taylorsville, MS	09/22/95	Jeans—Men, Women, Children.
31,487	Rex-Rosenlow, Inc. (Wkrs)	Teterboro, NJ	09/13/95	Plastic Stretch Wrap.
31,488	Pine & Co. (UNITE)	Pottsville, PA	09/26/95	Ladies' Blouses.
31,489	Kenton Custom Molding (Wkrs)	Kenton, TN	09/20/95	Shoe Components.
31,490	Alura Fashions (Wkrs)	Carbondale, PA	09/21/95	Children's Dresses and Sportswear.
31,491	Henry Vogt Machine Co. (Co.)	Sapulpa, OK	09/22/95	Power Plant Steam Generators.
31,492	Finish Contractor Corp. (Wkrs)	Hialeah, FL	09/22/95	Ladies' Lingerie.
31,493	Moorman's, Inc. (Wkrs)	Quincy, IL	09/20/95	Livestock Feed and Supplements.
31,494	I. Appel Corp. (Wkr)	New York, NY	06/30/95	Sleepwear.
31,495	U and H Starfleet (Wkrs)	Spring, TX	09/11/95	Ambulances.
31,496	P.Q. Corp. (USWA)	Butler, NJ	09/15/95	Hydrous Britesil, Hydrous Sodium.
31,497	The Columbia Corp. (Co.)	Chatham, NY	09/13/95	Recycled Paperboard.
31,498	The Columbia Corp. (Co.)	Valatie, NY	09/13/95	Recycled Paperboard.
31,499	General Electric Co. (Wkrs)	Fort Edward, NY	09/18/95	Capacitors.
31,500	South Boston Mfg. (Co.)	South Boston, VA	09/15/95	Children's Apparel.
31,501	Owens-Brockway Closures (Co.)	North Riverside, IL	09/15/95	Plastic Trigger Pump Sprayers.

[FR Doc. 95–26014 Filed 10–19–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,985]

FHF Apparel, Miami, Florida; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued an Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on August 29, 1995, applicable to all workers of FHF Apparel, Miami, Florida, and 500 Fashion Group locations in Northampton, Whitehall, and Philadelphia, Pennsylvania. The amended notice was published in the Federal Register on September 11, 1995 (60 FR 47184).

At the request of petitioners, the Department is again amending the certification to cover the workers at the Fashion 500 Group facility located in Egypt, Pennsylvania. The workers produce men's tailored clothing.

The intent of the Department's certification is to include all workers of FHF Apparel and the 500 Fashion Group who were adversely affected by imports.

The amended notice applicable to TA–W–30,985 is hereby issued as follows:

All workers of FHF Apparel, Miami, Florida (TA–W–30,985), and the 500 Fashion Group, Northampton, Pennsylvania (TA–W–30,985A), Whitehall, Pennsylvania (TA–W–30,985B), Philadelphia, Pennsylvania (TA–W–30,985C), and Egypt, Pennsylvania (TA–W–30,985D) who became totally or partially separated from employment on or after April 24, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 5th day of October 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–26017 Filed 10–19–95; 8:45 am]

BILLING CODE 4510–30–M

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of September and October, 1995.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met:

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

None

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–31,403; Liz Claiborne, Russ, Crazy Horse, Villager (RTVCH), Elizabeth Divisions, New York, NY

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–31,288; General Motors Acceptance Corp., Motor Insurance Corp, Somerset, NJ

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–31,396; Nylomatic, Fallsington, PA

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–31,266; Weyerhaeuser Co., North Bend, OR, TA–W–31,447; Gimpel Corp., Langhorne, PA

The investigations revealed that criterion (2) and (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location for each determination references the impact date for all workers for such determination.

TA–W–31,450; Idea Courier, Tempe, AZ: September 11, 1994.

TA–W–31,402; Copper Range Co., White Pine, MI: August 21, 1994

TA–W–31,405; Woodwork Corporation of America, WCA Industries, Inc., Merrill, WI: August 29, 1994.

TA–W–31,401, TA–W–31,404; Oxford Industries, Inc., Lanier Clothes Divl., Decherd, TN and Winchester, TN: August 31, 1994.

TA–W–31,460, A & B: Irwin B. Schwabe, Division of Movie Star, Inc., New Albany, MS, Tishomingo (Paden), MS and Sardis, MS: September 11, 1994.

TA–W–31,439; Prestwych LTD, Thomson, GA: September 5, 1994.

TA–W–31,439A; Prestwych LTd Annex, Thomson, GA: September 5, 1994.

TA–W–31,439B; Prestwych LTD, New York, NY: September 5, 1994.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of September and October, 1995.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) that imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) that there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations AFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–00557; Paul and Robert Wampler, Inc., Klamath Falls, OR

NAFTA–TAA–00588; Kerotest Manufacturing Corp., Pittsburgh, PA

NAFTA–TAA–00597; Gimpel Corp., Langhorne, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–00610; Rowley Lumber and Hardware Co., Inc., Hudson, MI

The investigation revealed that the workers of the subject firm do not produce an article within the meaning of section 250(a) of the Trade Act, as amended.

NAFTA–TAA–00576; Nylomatic, Fallsington, PA

The investigation revealed that criteria (2) has not been met. Investigative findings show there was no shift in production from the workers' firm to Mexico or Canada.

Affirmative Determinations NAFTA–TAA

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

NAFTA–TAA–00592; Lincoln Brass Works, Inc., Waynesboro Div., Waynesboro, TN: August 10, 1994.

NAFTA–TAA–00613; Sierra Western International Apparel, Inc., El Paso, TX: September 21, 1994.

NAFTA–TAA–00582; Creative Forests Products, Salmon, ID: August 25, 1994.

NAFTA–TAA–00593; Idea Courier, Tempe, AZ: September 11, 1994.

NAFTA–TAA–00605; Andover Togs, Inc., South Boston, VA: September 15, 1994.

NAFTA–TAA–00579; Woodwork Corporation of America, WCA Industries, Inc., Merril, WI: August 29, 1994.

NAFTA–TAA–00607; Loral Corporation (Formerly UNISYS Corp), Pueblo, CO: September 18, 1994.

NAFTA–TAA–00574; A–1 Broom and Supply, Inc., Los Angeles, CA: August 2, 1994.

NAFTA–TAA–00590; Davol, Inc. Mansfield, MA: August 31, 1994.

I hereby certify that the aforementioned determinations were issued during the month of September and October, 1995. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: October 6, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade, Adjustment Assistance.

[FR Doc. 95–26015 Filed 10–19–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,429 and TA–W–31,429A

Pine Shirt Company, Pottsville, Pennsylvania and New York, New York; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the

Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 22, 1995, applicable to all workers at the subject firm located in Pottsville, Pennsylvania. The notice will soon be published in the Federal Register.

At the request of the company, the Department reviewed the certification for the subject firm. New findings show that the workers at the Pine Shirt Company location in New York, New York were excluded from the certification. The Department is amending the certification to cover these workers.

The intent of the Department's certification is to include all workers of Pine Shirt Company adversely affected by increased imports.

The amended notice applicable to TA–W–31,429 is hereby issued as follows:

All workers of Pine Shirt Company, Pottsville, Pennsylvania (TA–W–31,429) and New York, New York (TA–W–31,329A) who became totally or partially separated from employment on or after September 5, 1994 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC., this 5th day of October 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–26016 Filed 10–19–95; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA–00484]

Farah Manufacturing Company, Farah USA, Inc., El Paso, TX; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Notice of Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on July 21, 1995, applicable to all workers at the subject firm.

At the request of the State agency, the Department reviewed the certification. Workers are engaged in the production of men's and boy's trousers and slacks. New findings show that workers at the subject firm performing cutting operations were excluded from the certification.

It is the Department's intent to provide coverage to all workers of Farah Manufacturing adversely affected by increased imports. Accordingly, the Department is amending the certification to cover all workers.

The amended notice applicable to NAFTA—00484 is hereby issued as follows:

All workers of Farah Manufacturing Company, Farah USA, Inc. located in El Paso, Texas who became totally or partially separated from employment on or after June 8, 1994, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC, this 6th day of October 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–26018 Filed 10–19–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,295 and TA–W–31,296]

PORTAC Incorporated of Tacoma, Beaver, WA and Forks, WA; Affirmative Determination Regarding Application for Reconsideration

By letter of September 13, 1995, the petitioners requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers of the subject firm. The denial notice was signed on September 5, 1995 and published in the Federal Register on September 19, 1995 (60 FR 48525).

The petitioners claim that the Department's survey of Portac's customer base was inadequate.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 6th day of October 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–26019 Filed 10–19–95; 8:45 am]

BILLING CODE 4510–30–M

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing

Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' are listed by Volume and State:

Volume II

Virginia
VA950114 (Oct. 20, 1995)
VA950115 (Oct. 20, 1995)

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

New Jersey
NJ950003 (Feb. 10, 1995)

Volume II

Washington
DC950003 (Feb. 10, 1995)
Virginia
VA950104 (Feb. 10, 1995)
Index

Volume III

None

Volume IV

Michigan
MI950001 (Feb. 10, 1995)
MI950002 (Feb. 10, 1995)
MI950003 (Feb. 10, 1995)
MI950004 (Feb. 10, 1995)
MI950005 (Feb. 10, 1995)
MI950007 (Feb. 10, 1995)
MI950012 (Feb. 10, 1995)
MI950031 (Feb. 10, 1995)
MI950046 (Feb. 10, 1995)
MI950049 (Feb. 10, 1995)
MI950060 (Feb. 10, 1995)
Wisconsin
WI950002 (Feb. 10, 1995)

Volume V

None

Volume VI

California
CA950028 (Feb. 10, 1995)
CA950030 (Feb. 10, 1995)
Colorado
CO950004 (Feb. 10, 1995)
CO950006 (Feb. 10, 1995)
CO950007 (Feb. 10, 1995)
CO950009 (Feb. 10, 1995)
CO950014 (Feb. 10, 1995)
Nevada
NV950002 (Feb. 10, 1995)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the county.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (2020 512–1800.

Whe ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since, subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. that 13th day of October 1995.

Philip J. Gloss,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 95–25914 Filed 10–19–95; 8:45 am]

BILLING CODE 4510–27–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8027]

Decommissioning of Sequoyah Fuels Corporation Uranium Conversion Facility in Gore, Oklahoma: Notice of Intent To Prepare an Environmental Impact Statement and To Conduct a Scoping Process

AGENCY: Nuclear Regulatory Commission.

SUMMARY: The NRC intends to prepare an Environmental Impact Statement (EIS) for the decommissioning of the Sequoyah Fuels Corporation's (SFC) uranium conversion facility located in Gore, Oklahoma. From 1970 until 1993, SFC operated a uranium conversion facility at a site located in Gore, Oklahoma, under the authority of an NRC license issued pursuant to 10 CFR part 40. The main process was the conversion of uranium oxide (yellowcake) to uranium hexafluoride. A second process, begun in 1987, consisted of the conversion of depleted uranium hexafluoride to uranium tetrafluoride.

SFC supplied formal notice of its intent to seek license termination in accordance with 10 CFR 40.42(e) in a letter dated February 16, 1993. Based on available information, at least some of the identified waste and contamination at the site is known to exceed NRC's existing radiological criteria for decommissioning. Therefore, SFC is required to remediate the SFC facility to meet the NRC's decommissioning criteria, as described in the Site Decommissioning Management Plan (SDMP) Action Plan (April 16, 1992, 57 FR 13389). In the Preliminary Plan for the Completion of Decommissioning of February 1993, however, SFC identified on-site disposal using the criteria developed for uranium mill tailings sites (10 CFR part 40, appendix A), as appropriate for the SFC facility because of similarity of materials at the mills and at SFC. The uranium mill tailings criteria exceed the criteria has generally found acceptable for decommissioning nuclear facilities other than uranium mill tailings disposal sites.

This notice indicates NRC's intent to prepare an EIS in conjunction with this proposed action and to conduct a scoping process that will include a public scoping meeting. The EIS will consider the licensee's proposed approach for onsite disposal along with alternatives. NRC will consider the EIS in reaching a decision on the acceptability of the licensee's proposed approach.

DATES: Written comments on matters covered by this notice received by March 29, 1996, will be considered in developing the scope of the EIS. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date. The comment period has been extended to allow public consideration of important site characterization information, which is expected to be submitted to NRC and other agencies in December 1995 and January 1996.

A public scoping meeting will be held at the Gore High School Auditorium in Gore, Oklahoma on November 15, 1995 from 7 to 10 p.m.

ADDRESSES: Written comments on the matters covered by this notice and/or the scoping meeting should be sent to: Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555. ATTN: Docketing and Services Branch. Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland 20852, between 7:45 a.m. and 4:15 p.m., on Federal workdays.

The scoping meeting will be held in the auditorium of the Gore, Oklahoma High School, Gore, OK on November 15, 1995.

FOR FURTHER INFORMATION CONTACT: Jim Shepherd, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, Telephone: 301–415–6712 or 800–368–5462; fax 301–415–6712; e-mail JCS2@NRC.GOV.

SUPPLEMENTARY INFORMATION:

Background

The NRC has the statutory responsibility for protection of public health and safety and the environment related to the use of source, byproduct, and special nuclear material under the Atomic Energy Act. The NRC believes that one portion of this responsibility is to assure safe and timely decommissioning of nuclear facilities which it licenses. This responsibility can be partially fulfilled by providing guidance to licensees on how to plan for and prepare their sites for decommissioning. Decommissioning, as defined in the NRC's regulations in 10 CFR 40.4, for example, means to remove nuclear facilities safely from service and to reduce residual radioactivity to a level that permits release of the property for unrestricted use and termination of the license.

Once licensed activities have ceased, licensees are required, in existing NRC regulations, to decommission their facilities so that their licenses can be terminated. This requires that radioactivity in buildings, equipment, soil, groundwater, and surface water resulting from the licensed operation be reduced to acceptably low levels that allow the property to be released for unrestricted use. Licensees must then demonstrate, by a site radiological survey, that residual contamination in all facilities and environmental media have been properly reduced or eliminated and that, except for any residual radiological contamination found to be acceptable to remain at the site, radioactive material has been transferred to authorized recipients. Confirmatory surveys are conducted by NRC, where appropriate, to verify that sites meet NRC radiological criteria for decommissioning.

Need for Proposed Action

From 1970 until 1993, SFC operated a uranium conversion facility at a site located in Gore, Oklahoma, under the authority of an NRC license issued pursuant to 10 CFR part 40. The main process was the conversion of uranium oxide (yellowcake) to uranium hexafluoride. A second process, begun in 1987, consisted of the conversion of depleted uranium hexafluoride to uranium tetrafluoride. In November 1992, following an uncontrolled release of nitrous oxide from the main process, SFC notified the NRC that SFC had terminated operations. At this same time, SFC stated they would not restart the main process of yellowcake conversion, and that SFC would cease all conversion processes by July 1993.

During the time of operations, SFC disposed of contaminated material in trenches, constructed and utilized numerous settling and storage ponds, and spilled radioactive material into the ground contaminating surrounding soil and groundwater. In response to concerns about the extent of environmental contamination in the early 1990s, SFC developed a Facility Environmental Investigation (FEI). The FEI provides detailed information about the extent of contamination at the facility. SFC is also conducting a comprehensive site characterization program to identify existing radiological and chemical contamination in partial fulfillment of NRC and U.S. Environmental Protection Agency (EPA) requirements.

On August 4, 1993, SFC and EPA, Region VI, signed an Administrative Order on Consent, establishing a schedule for compliance with Section 3008(h) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. In partial fulfillment of that order, SFC is collecting and assessing information on site characteristics. SFC is required to submit its site characterization report to EPA in December 1995.

SFC is also conducting additional site characterization in fulfillment of NRC's decommissioning requirements. This additional information will supplement currently available information described in the FEI and other site documents. SFC has committed to provide NRC with this additional site characterization information in January 1996.

NRC and EPA are cooperating in the regulatory review of the decommissioning and remediation of the SFC facility. In September 1995, the agencies completed a Memorandum of Understanding that describes the respective roles and responsibilities of the agencies along with procedures for coordination oversight activities.

The SFC facility has been listed in NRC's Site Decommissioning Management Plan (SDMP) because NRC has determined that it warrants special NRC oversight to ensure timely and safe decommissioning. The SFC facility is contaminated with radioactive materials, including depleted and natural uranium. Specifically, the site contains large amounts of contaminated soil, unused settling ponds, and burial grounds for radioactive waste that may be difficult to decommission. In addition, the site has also been listed in the SDMP because there is groundwater contamination from onsite wastes and the ability of SFC to pay for decommissioning is limited. At least some of the waste is known to exceed NRC's existing radiological criteria for decommissioning. Therefore, NRC is requiring the licensee to remediate the SFC facility to meet the NRC's decommissioning criteria, as described in the SDMP Action Plan (April 16, 1992, 57 FR 13389).

In the Preliminary Plan for the Completion of Decommissioning of February 1993, however, SFC identified on-site disposal using the criteria developed for uranium mill tailings sites (10 CFR part 40, appendix A), as appropriate for the SFC facility because of similarity of materials at the mills and at SFC. The uranium mill tailings criteria exceed the criteria has generally found acceptable for decommissioning nuclear facilities other than uranium mill tailings disposal sites.

The NRC has determined that approval of on-site disposal of the radioactive waste in excess of NRC decommissioning criteria constitutes a major federal action and, therefore, warrants preparation of an EIS in accordance with the National

Environmental Policy Act (NEPA) and the NRC's implementing requirements in 10 CFR part 51. Concentrations of uranium, at the site exceed NRC's current criteria for allowing release of sites for unrestricted use. These criteria are listed in NRC's Action Plan to Ensure Timely Cleanup of SDMP Sites (57 FR 13389, April 16, 1992). As described in the Action Plan, the criteria are applied on a site-specific basis with emphasis on residual contamination levels that are as low as is reasonably achievable.

Consequently, if NRC approved on-site disposal of the radioactive material, land use restrictions or other institutional controls may be necessary to ensure long-term protection of the public and the environment. NRC expects that SFC would have to apply for and obtain an exemption from NRC's present requirements because NRC's current requirements for decommissioning do not allow for land use restrictions (see definition of Decommissioning in 10 CFR 40.4).

In addition to the issues discussed above that fall under NRC's jurisdiction, there are other environmental issues associated with decommissioning the SFC facility that are regulated by other agencies, including the EPA, which has regulatory authority over hazardous wastes and releases at the facility. The scoping process and EIS will not only aid NRC in reaching decisions about the decommissioning of the SFC facility, but should also be useful to EPA in discharging its duties.

Description of Proposed Action

The proposed action is the construction of a facility to isolate contained materials in an engineered on-site cell and the development of site specific remediation criteria for contamination left in place.

Preparation of an Environmental Impact Statement

Under the NEPA, all Federal agencies must consider the effect of their actions on the environment. Section 102(1) of NEPA requires that the policies, regulations, and public laws of the United States be interpreted and administered in accordance with the policies set forth in NEPA. It is the intent of NEPA to have Federal agencies incorporate consideration of environmental issues into their decision-making processes. NRC regulations implementing NEPA are contained in 10 CFR part 51. To fulfill NRC's responsibilities under NEPA, the NRC intends to prepare an EIS that will analyze the environmental impacts of the proposed action, as well as environmental impacts of alternatives to the proposed action and the costs associated with both the proposed action and the alternatives. All reasonable alternatives to the proposed action will be analyzed. The scope of the EIS includes consideration of both radiological and non-radiological impacts associated with the alternative actions.

This notice announces the NRC's intent to prepare an EIS. The principal intent of the EIS is to provide a document describing environmental consequences that will be available to the Agency's decision makers in reviewing the licensee's remediation proposal and future decommissioning plan for the SFC facility.

The Scoping Process

The Commission's regulations in 10 CFR part 51 contain requirements for conducting a scoping process prior to preparation of an EIS. In accordance with 10 CFR 51.26, whenever the NRC determines that an EIS will be prepared by NRC in connection with a proposed action, NRC will publish a notice of intent in the Federal Register stating that an EIS will be prepared and conduct an appropriate scoping process. In addition, this scoping process may include the holding of a public scoping meeting.

NRC also describes, in 10 CFR 51.27, the content of the notice of intent and requires that the notice describe the proposed action and also, to the extent that sufficient information is available, possible alternatives. In addition, the notice of intent is to describe the proposed scoping process, including the role of participants, whether written comments will be accepted, and whether a public scoping meeting will be held. In accordance with §§ 51.26 and 51.27, the proposed action and possible alternative approaches are discussed below. The role of participants in the scoping process for this EIS includes the following:

(1) Participants may attend and provide oral discussion on the proposed action and possible alternatives at the public scoping meeting at the Gore High School, Gore Oklahoma, on November 15, 1995, from 7 to 10 p.m.

(2) The Commission will also accept written comments on the proposed action and alternatives from the public. Written comments should be submitted by March 29, 1996, and should be sent to: Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555. ATTN: Docketing and Services Branch. Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland between 7:45 a.m. and 4:15 p.m. on Federal workdays. This comment has been extended compared with the normal duration of such comment periods to allow consideration of additional site characterization information that is expected to be available in December 1995 and January 1996.

According to 10 CFR 51.29, the scoping process is to be used to address the topics which follow. Participants may make written comments, or verbal comments at the scoping meeting, on the following (current preliminary NRC staff approaches with regard to each topic are included for information):

(a) *Define the proposed action to be the subject of the EIS.* The proposed action is the construction of a facility to isolate radioactive materials in an engineered on-site disposal cell and the development of site specific remediation criteria for contamination left in place at the SFC facility in Gore, Oklahoma.

(b) *Determine the scope of the EIS and the significant issues to be analyzed in depth.* The NRC is proposing to analyze the costs and impacts associated with the proposed action and alternative decommissioning approaches. The following proposed outline for the EIS reflects the current NRC staff view on the scope and major topics to be dealt with in the EIS:

Proposed Outline: Environmental Impact Statement

Abstract

Executive Summary

Table of Contents

1. Introduction
   - 1.1 Background
   - 1.2 Purpose and Need for Proposed Action
   - 1.3 Description of Proposed Action
   - 1.4 Approach in Preparation of the Draft EIS
   - 1.5 tructure of the Draft EIS
2. Alternatives including the Proposed Action
   - 2.1 Factors Considered in Evaluating Alternatives
   - 2.2 Alternatives
   - 2.3 Regulatory Compliance
3. Affected Environment
   - 3.1 Introduction
   - 3.2 Description of the SFC facility
   - 3.3 Land Use
   - 3.4 Geology/Seismicity
   - 3.5 Meteorology and Hydrology
   - 3.6 Ecology
   - 3.7 Socioeconomic Characteristics
   - 3.8 Radiation
   - 3.9 Cultural Resources
   - 3.10 Environmental Justice
   - 3.11 Other Environmental Features
4. Decommissioning Alternatives Analyzed and Method of Approach for the Analysis

4.1 General Information on Approach and Method of Analysis of Decommissioning Alternatives
4.2 Alternatives Considered—each of the alternatives represent alternate decommissioning approaches.
(a) Alternative 1, *On-site isolation of radioactive waste in an engineered disposal cell and development of site specific remediation criteria* (Licensee's proposed alternative) This alternative would also likely include land use restrictions and/or other institutional controls to prevent or reduce potential intrusion into the waste and to monitor the long-term effectiveness of the disposal and take mitigative measures as necessary to protect the public and environment.
(b) Alternative 2, *Disposal of radioactive waste at an off-site, licensed facility.* All radioactive wastes above release criteria, including sludge, uranium compounds in the ground, contaminated equipment and structures, scrap materials, and exhumed wastes would be packaged and shipped to a licensed disposal facility.
(c) Alternative 3, *Disposal at new off-site facility.* Disposal of radioactive wastes at an alternate, licensed disposal site authorized in accordance with the NRC's requirements.
(d) Alternative 4, *Above grade, retrievable storage on-site.* All radioactive wastes, in excess of release criteria, would be packaged and stored in a retrievable form in an above grade facility. Institutional controls would continue to apply during the storage period until the waste is removed for disposal.
(e) Alternative 5, *No Action.* This alternative is mandated by NEPA and will identify the impacts of no remediation at the facility.
4.3 Method of Analysis of Alternatives
(a) Define a range of alternatives;
(b) Evaluate the alternative decommissioning approaches with respect to: (1) The incremental impact to workers, members of the public, and the environment, both radiological and nonradiological, resulting from each alternative, and (2) the costs associated with each alternative. Evaluations of impacts and costs are contained in Sections 5 and 6 below;
(c) Perform a comparative evaluation of the decommissioning approaches based on the impacts and costs of each alternative from 4.3(b).
5. Environmental Consequences, Monitoring, and Mitigation
5.1 Construction and Remediation Consequences
5.2 Monitoring Programs
5.3 Mitigation Measures
5.4 Unavoidable Adverse Environmental Impacts
5.5 Relationship between Short-Term Uses of the Environment and Long-Term Productivity
5.6 Irreversible and Irretrievable Commitments of Resources
6. Costs and Benefits Associated with Decommissioning Alternatives
6.1 General
6.2 Quantifiable Socioeconomic Impacts
6.3 The Benefit-Cost Summary
6.4 Staff Assessment
7. List of Preparers
8. List of Agencies, Organizations, and Persons Receiving Copies of the Draft EIS
9. References
Appendix A—RESERVED FOR COMMENTS ON DEIS
Appendix B—Results of Scoping Process

(c) *Identify and eliminate from detailed study issues which are not significant or which are peripheral or which have been covered by prior environmental review.* The NRC has not yet eliminated any nonsignificant issues. However, NRC is considering elimination of the following issues from the scope of this EIS because they have been previously analyzed in a previous Generic Environmental Impact Statement (GEIS) (NUREG–0586) and included in an earlier rulemaking (53 FR 24018, June 28, 1988): (i) planning necessary to conduct decommissioning operations in a safe manner; (ii) the time period in which decommissioning should be completed; and (iii) whether facilities should not be left abandoned, but instead remediated to appropriate levels. In addition, requirements were recently imposed in a separate rulemaking regarding timeliness of decommissioning for 10 CFR parts 30, 40, and 70 licensees (58 FR 4099, January 13, 1993). NRC also proposed establishing radiological criteria for decommissioning, which are supported by a draft generic environmental impact statement (NUREG–1496; 59 FR 43700, August 22, 1994).

(d) *Identify any Environmental Assessments or EISs which are being or will be prepared that are related but are not part of the scope of this EIS.* An Environmental Assessment on the timeliness of decommissioning has been prepared as part of a separate rulemaking on decommissioning timeliness (59 FR 36026; July 15, 1994). NRC has developed a GEIS (NUREG–1496) to support a rulemaking to establish generic radiological criteria for decommissioning (59 FR 43200, August 22, 1994). In addition, NRC is presently developing EIS's for decommissioning projects involving proposals for onsite disposal at sites owned by Shieldalloy Metallurgical Corporation at Cambridge, Ohio and Newfield, New Jersey; by Babcox and Wilcox at Parks Township, Pennsylvania; and by the U.S. Army at Jefferson Proving Ground, Indiana.

(e) *Identify other environmental review or consultation requirements related to the proposed action.* NRC will consult with other Federal, State, Tribal, and local agencies that have jurisdiction over the SFC site decommissioning. For example, NRC has already been coordinating its reviews of decommissioning actions at the SFC facility with EPA Region VI, Oklahoma Department of Environmental Quality, U.S. Army Corps of Engineers, and the U.S. Geologic Survey. NRC anticipates continued consultation with these and other agencies, as appropriate, during the development of the EIS.

(f) *Indicate the relationship between the timing of the preparation of environmental analysis and the Commission's tentative planning and decision making schedule.* NRC intends to prepare and issue for public comment a draft EIS in early to mid 1997. The comment period would be for 90 days. The final EIS is scheduled for publication in fall of 1997. This schedule may be impacted by the availability and adequacy of site information. Subsequent to completion of the final EIS, the NRC would review and act on a license amendment from the licensee requesting authorization for decommissioning the site, including the decommissioning plan as required in 10 CFR § 40.42(c)(2).

(g) *Identify cooperating agencies and, as appropriate, assignments and schedules.* The EPA will be invited to be a cooperating agency in this EIS, as will the U.S. Corps of Engineers that is responsible for property adjacent to SFC. The Cherokee Nation, the U.S. Geological Survey, the U.S. Fish and Wildlife Service, and agencies of the State of Oklahoma will also be invited to participate as cooperating agencies. Specific assignments and schedules will be identified after agency commitments are received and completion of scoping.

(h) *Describe the means by which the EIS will be prepared.* NRC will prepare the draft EIS according to the requirements in 10 CFR part 51. Specifically, in accordance with 10 CFR 51.71, the draft EIS will consider comments submitted to NRC as part of the scoping process and will include a preliminary analysis which considers and balances the environmental and other effects of the proposed action and the alternatives available for reducing or avoiding adverse environmental and other effects, as well as the environmental, economic, technical, and other benefits of the proposed action.

The EIS will be prepared by the NRC staff and an NRC contractor. NRC is arranging a project with Oak Ridge National Laboratory to provide technical assistance in the preparation of the EIS. In addition, NRC anticipates requesting specific information from the licensee to support preparation of the EIS. Any information received from the licensee

related to the EIS will be available for public review, unless the information is protected from public disclosure in accordance with NRC requirements in 10 CFR § 2.790.

In the scoping process, participants are invited to speak or submit written comments, as noted above, on any or all of the areas described above. In accordance with 10 CFR 51.29, at the conclusion of the scoping process, NRC will prepare a concise summary of the determinations and conclusions reached, including the significant issues identified, and will send a copy to each participant in the scoping process.

Dated at Rockville, MD., this 13th day of October 1995.

For the U.S. Nuclear Regulatory Commission.

Michael F. Weber,

Chief, Decommissioning and Regulatory Issues Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 95–25978 Filed 10–19–95; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on November 2–4, 1995, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the Federal Register on Tuesday, August 22, 1995 (60 FR 43619).

Thursday, November 2, 1995

8:30 a.m.–8:45 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting and comment briefly regarding items of current interest. During this session, the Committee will discuss priorities for preparation of ACRS reports.

8:45 a.m.–10:45 a.m.: Watts Bar Unit 1 Operating License Application (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the applicant (Tennessee Valley Authority) on the status of resolution of issues associated with the review of the operating license application for Watts Bar Unit 1 nuclear plant.

Representatives of the public will participate, as appropriate.

11:00 a.m.–12:30 p.m: BWR Core Power Stability/ATWS (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and BWR Owners Group (BWROG) regarding the proposed revisions to emergency procedure guidelines developed by the BWROG for mitigation of an ATWS event compounded by core power instability.

A portion of this session may be closed to discuss General Electric Nuclear Energy proprietary information applicable to this matter.

1:30 p.m.–3:00 p.m.: Advanced Control Room Design Review Guidelines (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed Revision 1 to NUREG–0700, ''Human-System Interface Design Review Guideline''.

Representatives of the industry will participate, as appropriate.

3:15 p.m.–4:15 p.m.: Reliability of Safety Systems (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the methods/means used by the staff for reviewing the reliability of safety systems.

Representatives of the industry will participate, as appropriate.

4:30 p.m.–6:45 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting, as well as a proposed ACRS report on the Resolution of Generic Issue 78, ''Monitoring of Fatigue Transient Limits for the Reactor Coolant System''.

Friday, November 3, 1995

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting.

8:35 a.m.–9:45 a.m.: Proposed Final Regulatory Guide 1.164, ''Time Response Design Criteria for Safety-Related Operator Actions'' (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding proposed final Regulatory Guide 1.164.

Representatives of the industry will participate, as appropriate.

9:45 a.m.–10:30 a.m.: Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, and organizational and personnel matters relating to the ACRS staff members.

A portion of this session may be closed to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of this Advisory Committee, and matters the release of which would constitute a clearly unwarranted invasion of personal privacy.

10:45 a.m.–11:30 a.m.: Future ACRS Activities (Open)—The Committee will select topics for consideration during future ACRS meetings.

11:30 a.m.–11:45 a.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss responses expected from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports.

11:45 a.m.–12:00 Noon: Subcommittee Activities (Open)—The Committee will hear a report by the Subcommittee Chairman regarding the October 26–27, 1995 meeting on Individual Plant Examinations/Probabilistic Risk Assessment.

1:00 p.m.–6:30 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports on matters considered during this meeting, as well as a proposed ACRS report on the Resolution of Generic Issue 78, ''Monitoring of Fatigue Transient Limits for Reactor Coolant System''.

Saturday, November 4, 1995

8:30 a.m.–10:30 a.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports on matters considered during this meeting and on the other matter noted above.

10:45 a.m.–12 Noon: Strategic Planning (Open)—The Committee will discuss items that are of significant importance to NRC, including rebaselining of the Committee activities for fiscal year 96–97.

12:00 Noon–12:15 p.m.: Miscellaneous (Open)—The Committee will discuss miscellaneous matters related to the conduct of Committee activities.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 5, 1994 (59 FR 50780). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during the open portions of the meeting, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Mr. Sam Duraiswamy, Chief, Nuclear Reactors Branch, at least five days before the meeting, if possible, so that appropriate arrangements can be made

to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Chief of the Nuclear Reactors Branch prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Chief of the Nuclear Reactors Branch if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d) P.L. 92–463, I have determined that it is necessary to close portions of this meeting noted above to discuss matters that relate solely to the internal personnel rules and practices of this Advisory Committee per 5 U.S.C. 552b(c)(2), to discuss General Electric Nuclear Energy proprietary information per 5 U.S.C. 552b(c)(4), and to discuss matters the release of which would constitute a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Sam Duraiswamy, Chief, Nuclear Reactors Branch (telephone 301–415–7364), between 7:30 A.M. and 4:15 P.M. EDT.

ACRS meeting notices, meeting transcripts, and letter reports are now available on FedWorld from the ''NRC MAIN MENU.'' Direct Dial Access number to FedWorld is (800) 303–9672; the local direct dial number is 703–321–3339.

Dated: October 16, 1995.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 95–25977 Filed 10–19–95; 8:45 am]

BILLING CODE 7590–01–M

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Consideration; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice; correction.

SUMMARY: This document corrects a biweekly notice appearing in the Federal Register on October 11, 1995 (60 FR 52927). This notice is necessary to correct placement of an individual notice.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, telephone (301) 415–7163.

SUPPLEMENTARY INFORMATION: On page 52935, in the first column, the individual notice entitled, ''Rochester Gas and Electric Corporation, Docket No. 50–244, W.E. Ginna Nuclear Power Plant, Wayne County, New York'' should have been printed in alphabetical order under the section entitled, ''Previously Published Notices of Consideration of Issuance of Amendment to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing,'' which begins on page 52937. Dated at Rockville, MD, this day of October 1995.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 95–25979 Filed 10–19–95; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Intent To Prepare a Programmatic Environmental Assessment: Priority Mail Processing System

AGENCY: Postal Service.

ACTION: Notice of intent.

SUMMARY: To aid in planning, the Postal Service intends to prepare a Programmatic Environmental Assessment (PEA) for its proposed Priority Mail Processing System, pursuant to the National Environmental Policy Act (NEPA). This PEA will assess the impact of this proposed system on the human environment, both physical and cultural, which includes the postal working environment.

DATES: Suggestions regarding issues or concerns to be addressed in the PEA must be received on or before October 31, 1995.

ADDRESSES: Mail or deliver written comments to the Manager, Operations Networks Redesign, U.S. Postal Service, 425 L'Enfant Plaza SW, Washington, DC 20260–7165.

FOR FURTHER INFORMATION CONTACT: Anthony M. Pajunas, (202) 268–3669.

SUPPLEMENTARY INFORMATION: The proposed Priority Mail Processing System would implement a new Priority Mail processing and distribution concept in several new Priority Mail centers along the East Coast. This proposed system is needed to improve service because on-time delivery performance is below the targeted level. This system would both segregate Priority Mail from other mail classes and process and distribute Priority Mail through dedicated facilities. Although in a few instances new construction may be required, the facilities would be preferably housed in existing commercial or industrial buildings.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 95–26162 Filed 10–18–95; 1:19 pm]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

Proposed Data Collection Available for Public Comment and Recommendations

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of Information Collection

Repayment of Debt

When the Railroad Retirement Board (RRB) determines that an overpayment of Railroad Retirement Act (RRA) benefits has occurred, it initiates prompt action to notify the annuitant of the overpayment and to recover the money owed the RRB. In addition to the customary form of repayment (check, money order, annuity withholding), repayment of a debt owed the RRB can also be made by means of a credit card. To effect payment by credit card the RRB utilizes Form G–421f, Repayment by Credit Card. One form will be

completed by each respondent. Minor editorial changes are being proposed to G–421f. RRB procedures pertaining to benefit overpayment determinations and the recovery of such benefits are prescribed in 20 CFR 320.9, 340.1 and 340.5.

Estimate of Annual Respondent Burden

The estimated annual respondent burden is as follows:

Form Nos.	Annual re-sponses	Time (Min)	Burden (Hrs)
G–421f	300	5	25

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRS Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 95–26030 Filed 10–19–95; 8:45 am]

BILLING CODE 7905–01–M

Proposed Data Collection Available for Public Comment and Recommendations

SUMMARY: In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of Information Collection

Statement Regarding Contributions and Support

Under Section 2 of the Railroad Retirement Act, dependency on an employee for one-half support at the time of an employee's death can be a condition affecting eligibility for a survivor annuity.

One-half support is also a condition which may negate the public service pension offset in Tier I for a spouse or widow(er). The Railroad Retirement Board (RRB) utilizes Form G–134, Statement Regarding Contributions and Support, to secure evidence of the claimed support from an applicant. One form will be completed by each respondent. Without the use of Form G–134 the RRB would not have the means to adequately determine if an applicant meets the one-half requirement. Minor editorial changes are being proposed to Form G–134.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

[The estimated annual respondent burden is as follows]

Form No.	Annual re-sponses	Time (Min)	Burden (Hrs)
G–134:			
With as-sistance	200	15	50
Without assist-ance	100	25	42
Total	300	.....	92

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 95–26032 Filed 10–19–95; 8:45 am]

BILLING CODE 7505–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36353; File No. SR–Amex–95–35]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Amex's Enforcement Authority Over Members' Transactions Effected on Other Options Exchanges

October 10, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 25, 1995, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend (1) Amex Rule 900(a), ''Applicability,'' to confirm the Exchange's enforcement authority over Amex members' options transactions effected on another options exchange; and (2) Amex Rules 904, ''Position Limits,'' and 905, ''Exercise Limits,'' to clarify the Exchange's enforcement authority with respect to the enforcement of the Amex's position and exercise limit rules.[2]

The text of the proposal is available at the Office of the Secretary, Amex, and at the Commission.

[1] The Amex clarified that it will apply the interpretations and policies of another exchange when applying that exchange's position and exercise limit rules to an Amex's members transactions on that exchange. In addition, the Amex indicated that the Amex will follow its own rules when taking a disciplinary action against an Amex member who violates the position and exercise limits of another exchange. *See* Letter from Claire P. McGrath, Managing Director and Special Counsel, Derivative Securities, Amex, to Michael Walinskas, Branch Chief, Derivatives Regulation, Office of Self-Regulatory Oversight, Division of Market Regulation, Commission, dated September 19, 1995 (''Amendment No. 1'').

[2] The Amex will apply the interpretations and policies of another exchange when applying that exchange's position and exercise limit rules to an Amex's members transactions on that exchange. *See* Amendment No. 1, *supra* note 1.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) *Purpose.*

In August 1994, the Commission set aside an Exchange disciplinary action taken against a registered representative of an Amex member firm who had been found guilty by an Exchange disciplinary panel of violating the Exchange's options suitability and discretionary trading rules (Amex Rules 923, ''Suitability,'' and 924 ''Discretionary Accounts,'') in connection with the trading on the Philadelphia Stock Exchange (''PHLX'') of Swiss Franc options listed on the PHLX.[3] The Commission stated that under Amex rules, as presently written, options trading rules, including options suitability and discretionary trading rules, could only be applied to options transactions effected on the Amex, not to options transactions effected on another options exchange. The Commission also rejected the Exchange's subsequent request for reconsideration of that decision.[4] In its Order Denying Reconsideration, the Commission suggested that the Exchange submit a rule amendment to clarify its authority in this regard. Accordingly, the Amex proposes to amend Amex Rule 900(a) to confirm and clearly specify the Exchange's enforcement authority over options transactions effected by Amex members on another exchange.[5]

Another issue concerning the Exchange's enforcement authority has arisen with respect to the enforcement of the Exchange's position limit and exercise limit rules. Specifically, Amex Rule 904 prohibits Amex members from effecting, for any account in which the member has an interest or for any customer account, transactions in options contracts dealt in on the Exchange that would exceed its established position limits. Similarly, Amex Rule 905 prohibits members from exercising, for any account in which the member has an interest or for any customer account, a long position in option contracts dealt in on the Exchange that exceeds its established exercise limits. As presently written, Amex Rules 904 and 905 apply only to option classes traded on the Amex and not to opening transactions or exercises in option classes traded on another options exchange. The Amex notes that since each option exchange only has jurisdiction over its own members, a jurisdictional loophole exists where, for example, an Amex member exceeds position or exercise limits on another options exchange of which it is not a member in an option class not listed on the Amex. In such situations, the Amex cannot take disciplinary action against its member for violating the position and exercise limit rules in an option class traded on another options exchange. Similarly, the other options exchange where the option class is traded cannot bring an action since it does not have jurisdiction over a non-member.

Therefore, the Amex proposes to amend Exchange Rules 904 and 905 to close this jurisdictional loophole. According to the Amex, the proposed amendments will allow the Amex to extend its disciplinary jurisdiction over its members when they violate position and exercise limits in option contracts dealt in on any options exchange, not just the Amex. This extension of jurisdiction will apply only when the Amex member is not a member of the other options exchange. In addition, the Amex will apply the applicable position and exercise limit rules of the other exchange, as well as the interpretations and policies of that exchange,[6] not the Amex.

(b) *Basis.*

The Amex believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the

[3] *See* Securities Exchange Act Release No. 34622 (August 31, 1995), 57 SEC Docket 1254.

[4] *See* Securities Exchange Act Release No. 35658 (May 2, 1995), 59 SEC Docket 0620 (''Order Denying Reconsideration'').

[5] Amex Rule 900(a) as amended, will provide: ''The Rules in this Part V shall be applicable to (i) The trading on the Exchange of option contracts issued by the Options Clearing Corporation, (ii) the terms and conditions and the exercise and settlement of option contracts so traded, and (iii) the handling of orders, and the conduct of accounts and other matters, relating to option contracts dealt in by any member or member organization on any exchange.''

[6] *See* Amendment No. 1, *supra* note 1.

above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 10, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–25959 Filed 10–19–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36373; File No. SR–CHX–95–18]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Priority and Precedence of Agency and Professional Orders

October 16, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 14, 1995, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On July 26, 1995, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add interpretation and policy .05 to Rule 2 of Article XXX of the Exchange's Rules. The text of the proposed rule change is as follows [new text is italicized]

Article XXX—*Precedence to Orders in Book*

Rule 2. No change in text.

* * * interpretations and policies.

.05 Interaction between professional limit orders and agency limit orders that are not professional orders (''Agency Orders'').

In the event that a professional order ''has the post,'' i.e., is the highest priority order in the specialist's book at a given price, the professional order is not required to yield precedence to an Agency Order at the same price that has not established time priority over the professional order. Notwithstanding anything in the previous sentence to the contrary, in the event that such Agency Order is due a fill under the Exchange's Best Rule, that Agency Order shall be filled even though the professional order which had a higher priority on the book is not filled.

In the event that a specialist's own order ''has the post,'' i.e., an order which originates with the specialist as dealer is the highest priority order in the specialist's book at a given price, and a professional order and an Agency Order are subsequently entered in the book at the same price, the professional order must yield precedence to the Agency Order if the specialist's own order yields precedence to the Agency Order.

Example 1:

CHX Specialist's Book in XYZ stock.

Entry time	Order entered
9:00	Buy 1,000 shares XYZ @ 20¼ (Professional Order).
9:05	Buy 1,000 shares XYZ @ 20¼ (Agency Order).

Primary Market Quote in XYZ: 20¼–20½; 50 × 50

1. If the primary market prints 6,000 shares of XYZ at 20¼, the entire CHX Agency Order will be filled at 20¼ with the professional order remaining unfilled.

2. If a 1,000 share sell order at 20¼ (or market order to sell) is offered at the specialist's post, it will be matched with the professional order at 20¼ with the agency order remaining unfilled.

Example 2:

CHX Specialist's Book in XYZ stock.

Entry time	Order/quote entered
9:00	Buy 1,000 shares XYZ @ 20¼ (specialist bid).
9:05	Buy 1,000 shares XYZ @ 20¼ (Professional Order).
9:10	Buy 1,000 shares XYZ @ 20¼ (Agency Order).

Primary Market Quote in XYZ stock: 20¼–20½; 50 × 50 The book is effectively realigned to show the Agency Order first, the specialist bid second, and the professional order third.

1. If the primary market prints 6,000 shares of XYZ at 20¼, the entire Agency Order will be filled at 20¼ with the specialist bid and Professional Order remaining unfilled.

2. If a 1,000 share sell order at 20¼ (or market order to sell) is offered at the specialist's post, it will be matched against the Agency Order with the specialist bid and professional order remaining unfilled.

3. If a 2,000 share sell order at 20¼ (or market order to sell) is offered at the specialist's post, it will be matched against both the Agency Order (1,000 shares) and the specialist bid (1,000 shares) with the professional order remaining unfilled.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under current Exchange Rules, agency orders do not have priority over professional orders, and professional orders that have established time priority do not have to give precedence (*i.e.*, yield) to agency orders.[2] However, while specialists must always give precedence to agency orders, they may retain priority over professional orders provided certain conditions are met (''Specialist Priority Rule'').[3] Finally, the Exchange's Best Rule requires specialists to give primary market protection to agency orders.[4] This Rule does not, however, apply to professional orders. Professional orders receive post protection only.

The interplay between the Specialist Priority Rule and the Exchange's Best Rule often results in the unintended anomaly of giving the professional order the benefit of the Best Rule. For example, assume the specialist accepts a professional order for his book and thereafter, an agency order is entered on the book at the same price. Under current rules, if that agency is due a fill because of prints in the primary market (*i.e.*, due a fill under the Best Rule), the professional order must also be filled because it has a higher priority in the book. Due to this anomaly, specialists are hesitant to accept professional orders. (Specialists are not required to accept professional orders for the

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[7] 17 CFR 200.30–3(a)(12) (1994).

[1] *See* letter from David Rusoff, Foley & Lardner, to Glen Barrentine, Senior Counsel, Division of Market Regulation, SEC, dated July 26, 1995. In Amendment No. 1, the Exchange notifies the Commission that the proposed rule change was approved by the Exchange's Executive Committee on July 20, 1995. The Amendment No. 1 also makes the appropriate changes to Item 6 and consents to an extension of the period of time specified in Section 19(b)(2) of the Act until thirty-five days after the submission of Amendment No. 1.

[2] *See* CHX Article XX, Rules 15 (Precedence of Bids); 16 (Precedence of Bids at Same Price); 17 (Precedence of Offers); 18 (Precedence of Offers at Same Price); 19 (Precedence of Offers to Buy ''Seller's Option''); and 20 (Claim of Prior or Better Bid).

[3] *See* CHX Article XXX, Rule 2.

[4] *See* CHX Article XX, Rule 37.

book.)[5] As a result, the purpose of the proposed rule change is to give specialists an incentive to accept professional orders for inclusion in the book.

Under proposed interpretation and policy .05 to Rule 2 of Article XXX, when a professional order ''has the post,'' it will not be displaced by a subsequent agency order. For example, an incoming MAX order[6] will be filled against the professional order and not subsequent agency orders that have not established time priority. However, because the professional order will only have post protection (and not primary market protection), agency orders will still get the benefit of the full panoply of protections afforded by the Best Rule without the need to fill the professional order.

In addition, under the proposed interpretation and policy, when a specialist's own dealer order ''has the post,'' professional orders that have time priority will be displaced by subsequent agency orders if the agency order displaces the specialist's order. This will allow the agency order to displace the specialist's order, while at the same time allow the specialist's order to retain priority over the professional order in accordance with the Specialist Priority Rule.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

[5] *See* CHX Article XXX, Rule 2.

[6] Midwest Automated Execution System (''MAX'') is the Exchange's automated routing and execution system. *See* Article XX, Rule 37(b) of the CHX's rules for a complete description of the MAX system.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the application of this notice in the Federal Register or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Upon an initial review of the proposed rule change, it preliminarily appears to the Commission that the Exchange proposes to significantly modify the time priority of professional orders and public agency orders in a such manner that professional orders would not realize certain benefits associated with the Exchange's Best Rule, and would allow specialists' bids to retain priority over professional orders under certain circumstances. Therefore, the Commission specifically requests comment on whether the proposed rule change, which distinguishes broker-dealer orders from public customer orders for purposes of priority of executions, is consistent with Section 6(b)(5) of the Act. In assessing the proposed rule change commenters may wish to consider what impact, if any, the Commission's recently proposed rules on order execution obligations may have on the operation of the CHX's proposed rule change.[7]

Persons making written submissions should file six copies thereof, with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 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–95–18 and should be submitted by November 13, 1995.

[7] *See* Securities Exchange Act Release No. 36310 (Sept. 29, 1995).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–26001 Filed 10–19–95; 8:45 am]

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[Release No. 34–36371; File No. SR–CBOE–95–42]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to Proposed Rule Change by the Chicago Board Options Exchange, Inc., To Add Two Position and Exercise Limit Tiers for Qualifying Equity Option Classes and To Expand the Equity Option Hedge Exemption

October 13, 1995.

I. Introduction

On August 7, 1995, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Rule 4.11 (Position Limits) and Rule 4.12 (Exercise Limits) to add two upper position and exercise limit[3] tiers for those equity option classes that meet certain criteria for high liquidity in the underlying stocks. In addition, the CBOE proposed to expand its current equity option hedge exemption from twice to three times the standard or base position limit.[4]

Notice of the proposed rule change appeared in the Federal Register on

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] Position limits impose a ceiling on the aggregate number of option contracts on the same side of the market that an investor, or group of investors acting in concert, may hold or write. Similarly, exercise limits impose a ceiling on the aggregate long positions in option contracts that an investor, or group of investors acting in concert, can or will have exercised within five consecutive business days.

[4] The equity hedge exemption currently exempts certain specified equity options positions from the stated (or base) position limits in Exchange Rule 4.11 where the option contracts are hedged by 100 shares of stock or securities convertible into such stock (or hedged by the same number of shares represented by an adjusted option contract), up to a maximum allowable position of twice the standard or base limit.

August 28, 1995.[5] Two comment letters were received in response to the proposal.[6] The Exchange subsequently filed Amendment No. 1 to the proposed rule change on October 2, 1995.[7]

II. Background and Description

Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of options contracts that a member or customer could hold or exercise. These rules are intended to prevent the establishment of large options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. In particular, position and exercise limits are designed to minimize the potential for mini-manipulations[8] and for corners or squeezes of the underlying market. In addition, they serve to reduce the possibility for disruption of the options market itself, especially in illiquid options classes.

In establishing position and exercise limits, the Commission has been careful to balance two competing concerns. First, the Commission has recognized that the limits must be sufficient to prevent investors from disrupting the market for the underlying security by acquiring and exercising a number of options contracts disproportionate to the deliverable supply and average trading volume of the underlying security. At the same time, the Commission has realized that limits must not be established at levels that are so low as to discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market makers from adequately meeting their obligations to maintain a fair and orderly market.[9]

In October 1980, the Commission approved proposed rule changes by the options exchanges to increase position and exercise limits from 1,000 to 2,000 contracts for all individual equity options classes.[10] In conjunction with the approval, the Commission received commitments from the options exchanges to study the effects of the increased limits. The Commission indicated that the experience gained under the increased limits, if coupled with adequate monitoring and surveillance procedures, could serve as a basis for considering further position and exercise limit modifications.

In July 1983, the Commission approved a further increase in position and exercise limits for individual stock options based on a tiering approach.[11] Limits for options on stocks with the greatest trading volume and public float were increased to 4,000 contracts and limits on all other options classes were increased to 2,500 contracts.[12] In approving the increased limits under a two-tiered framework, the Commission noted that tiering was consistent with the gradual, evolutionary approach that the Commission and the exchanges have adopted in increasing position and exercise limits.

In 1985, the Commission approved a further increase in position and exercise limits for individual equity options. This approval extended the tiering approach commenced by the options exchanges in 1983.[13] The Commission noted in the 1985 Release that liberalizing position and exercise limits would further increase the potential depth and liquidity of the individual stock options markets without significantly increasing concerns regarding intermarket manipulations or disruptions of the market for the options or underlying securities.

Lastly, in December 1993, the Commission approved the CBOE's existing position and exercise limit framework for individual equity options.[14] Depending on certain criteria related to the trading volume of the underlying stock or a combination of both the trading volume and the number of shares outstanding of the underlying stock, the Exchange's current position and exercise limits were established at levels of 10,500 contracts, 7,500 contracts, and 4,500 contracts.[15]

The Exchange proposes to add two position and exercise limit tiers at 25,000 and 20,000 contract levels. The criterion to qualify for the proposed 25,000 contract limit will require that the underlying security must have at least 300 million shares outstanding with 75 million shares traded in the past six months, or have 100 million shares traded in the past six months. To qualify for the proposed 20,000 contract limit, the underlying security must have at least 240 million shares outstanding with 60 million shares traded in the past six months, or have 80 million shares traded in the past six months.

According to the Exchange, the number of equity option classes currently listed on the CBOE that would qualify for either of these new higher position and exercise limit tiers is small. The Exchange represents that based on

[5] *See* Securities Exchange Act Release No. 36124 (August 18, 1995), 60 FR 44524 (August 28, 1995).

[6] *See* Letter from CS First Boston, Goldman, Sachs & Co., J.P. Morgan Securities, Lehman Brothers, Merrill Lynch & Co., Morgan Stanley & Co., PaineWebber Incorporated, and Salomon Brothers Inc., to Jonathan G. Katz, Secretary, Commission, dated September 18, 1995 (''Working Group Letter''); and letter from Peter A. Ianello, President, and Patricia Levy, Executive Director, Swiss Bank Corporation Capital Markets, Inc., to Jonathan G. Katz, Secretary, Commission, dated September 28, 1995 (supporting views expressed in Working Group Letter).

[7] In Amendment No. 1, the CBOE stated its intention to restrict the use of the new position and exercise limit tiers and the expanded hedge exemption to option classes which solely trade on the Exchange and are not multiply traded. Implementation of the proposed rule change for multiply traded option classes will be delayed until the Commission approves similar proposals by the other options exchanges or the Commission otherwise determines that implementation is appropriate. *See* letter from Mary L. Bender, Senior Vice President, Division of Regulatory Services, CBOE, to Holly Smith, Associate Director, Division of Market Regulation (''Division''), Office of Market Supervision (''OMS''), Commission, dated October 2, 1995 (''Amendment No. 1'').

[8] Mini-manipulation is an attempt to influence, over a relatively small range, the price movement in a stock to benefit a previously established derivatives position.

[9] *See* H.R. Rept. No. IFC–3, 96th Cong., 1st Sess. at 189–91 (Comm. Print 1978) (''Options Study'').

[10] *See* Securities Exchange Act Release No. 17237 (October 22, 1980), 45 FR 71454 (October 28, 1980) (''1980 Release'').

[11] *See* Securities Exchange Act Release No. 19975 (July 15, 1983), 48 FR 33389 (July 21, 1983) (''1983 Release'').

[12] To be eligible for the 4,000 contract limit an underlying security was required to have had either (i) trading volume of at least 20 million shares during the most recent six month trading period; or (ii) trading volume of at least 15 million shares during the most recent six month trading period and at least 60 million shares currently outstanding. All other options not meeting these requirements were subject to the 2,500 contract limits.

[13] *See* Securities Exchange Act Release No. 21907 (March 29, 1985), 50 FR 13440 (April 4, 1985) (''1985 Release''). The 1985 Release created a three-tiered system of position and exercise limits of 8,000, 5,500, and 3,000 contracts. To be eligible for the 8,000 contract limit an underlying security was required to have had either (i) trading volume of at least 40 million shares during the most recent six month trading period; or (ii) trading volume of at least 30 million shares during the most recent six month trading period and at least 120 million shares currently outstanding. To be eligible for the 5,500 contract limit an underlying security was required to have had either (ii) trading volume of at least 20 million shares during the most recent six month trading period; or (ii) trading volume of at least 15 million shares during the most recent six month trading period and at least 40 million shares currently outstanding. All other options not meeting these requirements were subject to the 3,000 contract limits.

[14] *See* Securities Exchange Act Release No. 33283 (December 3, 1993), 58 FR 65204 (December 13, 1993) (''1993 Release'').

[15] To be eligible for the 10,500 contract limit an underlying security must have either (i) trading volume of at least 40 million shares during the most recent six month trading period; or (ii) trading volume of at least 30 million shares during the most recent six month trading period and at least 120 million shares currently outstanding. To be eligible for the 7,500 contract limit an underlying security must have either (i) trading volume of at least 20 million shares during the most recent six month trading period; or (ii) trading volume of at least 15 million shares during the most recent six month trading period and at least 40 million shares currently outstanding. All other options not meeting these requirements are subject to the 4,500 contract limits.

available statistics, as of June 30, 1995, approximately 73 classes would qualify for the 25,000 contract tier. Similarly, approximately 22 classes would satisfy the requirements for the 20,000 contract tier, out of approximately 580 equity option classes currently listed on the CBOE.

In addition to the proposed 25,000 and 20,000 contract tiers, the CBOE is also proposing to expand the equity hedge exemption in Rule 4.11, Interpretation and Policy .04. Under this proposal, the maximum allowable position, after exempting from the base limit specified positions where the option contract is hedged by 100 shares of stock or securities convertible into stock, will be three times instead of twice the standard or base limit currently provided.[16]

As set forth in greater detail in a recent report prepared by the Exchange (''Study''),[17] the CBOE has represented that position and exercise limit tiers can be added and that the equity hedge exemption can be expanded to the benefit of investors without increasing the potential for market disruption.[18]

III. Summary of Comments

The Commission received two comment letters on the proposed rule change.[19] The commenters, in general, expressed support for the proposed changes noting that there is a demonstrated need for the higher tiers and that the higher tiers and expanded hedge exemption will not increase market disruptions. Although believing that the proposals are a ''good first step'' in reducing the undue constraints imposed by position limits, the commenters state that further expansion of position limits is required. Specifically, the commenters note that the depth and liquidity of the markets for many of the most highly capitalized and actively traded stocks support the allowance of large options positions and that increased levels will not raise concerns about manipulation or disruption of the market for the underlying stock. Moreover, the commenters state that due to the sophisticated surveillance systems currently in place in the markets, any efforts to manipulate the market with large positions in options would be readily detectable. In this light, the commenters believe that further increases in tier size are warranted.

In addition, the commenters stated that any limitation on the ability of market participants to use options to hedge their positions exposes participants to unnecessary risk on the unhedged portion of their portfolios. In this regard, the commenters believe that the adoption of an uncapped hedge exemption (*i.e.*, the ability to accumulate an unlimited number of options contracts provided that such contracts are properly hedged) is appropriate.[20]

IV. Discussion

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5).[21] Specifically, the Commission believes that the proposed addition of position and exercise limit tiers of 25,000 contracts and 20,000 contracts for qualifying equity options, and the proposed expansion of the equity hedge exemption to three times the standards or base limit will accommodate the needs of investors and market participants. The Commission also believes that the proposed rule changes will increase the potential depth and liquidity of the equity options market as well as the underlying cash market without significantly increasing concerns regarding intermarket manipulations or disruptions of the market for the options or underlying securities. Accordingly, as discussed below, the rule proposal is consistent with the requirements of Section 6(b)(5) that Exchange rules facilitate transactions in securities while continuing to further investor protection and the public interest.

In approving the increased limits, the Commission recognizes that securities with active and deep trading markets, as well as with broad public ownership, are more difficult to manipulate or disrupt than securities having less active and deep markets and having smaller public floats.[22] The proposed additional position and exercise limit tiers recognize this by seeking to minimize the restraints on those options classes that can accommodate larger limits without significantly increasing manipulation concerns.[23] In particular, the proposed limit of 25,000 contracts and 20,000 contracts for options on the most actively traded, widely held securities, permits the Commission to avoid placing unnecessary restraints on those options where the manipulative potential is the least and the need for increased positions likely is the greatest. Accordingly, the Commission believes that the additional position and exercise limit tiers and the expanded equity hedge exemption is warranted.

The Commission believes that the proposed additions to the CBOE's position and exercise limit tiers and increased hedge exemption appear to be both appropriate and consistent with the Commission's gradual, evolutionary approach. There are no ideal limits in the sense that options positions of any given size can be stated conclusively to be free of any manipulative concerns. The Commission, however, is relying on the absence of discernible manipulation problems under the current framework as an indicator that the proposed additional limit tiers and expanded hedge exemption is justified.

The Commission does not believe that the addition of the two new higher limit tiers and the expanded hedge exemption will have any adverse effects on the options markets. In approving the two-tiered system in 1983, the Commission stated that it did not believe that requiring traders to keep track of two

[16] The Commission notes that the proposed increase in the maximum hedge exemption will apply to all position limit tiers, not just to the proposed 25,000 and 20,000 contract tiers.

[17] *See* Letter from Mary Bender, Senior Vice President, Division of Regulatory Services, CBOE, to Holly Smith, Associate Director, OMS, Division, Commission, dated April 28, 1995 (market analysis of increased limits and expanded hedge exemption).

[18] *See* Securities Exchange Act Release No. 36124 (August 18, 1995), 60 FR 44524 (August 28, 1995) (notice of File No. SR–CBOE–95–42) (summarizing findings of Study).

[19] *See supra* note 6.

[20] The Commission notes that prior to the CBOE submitting its proposed rule change, the Exchange received six letters from member firms supporting an increase in the current position limit levels. Further, the CBOE received comments from member firm representatives and customers who stated that they did not have adequate hedging capabilities under the current position limit tiers. Lastly, the CBOE received comment from money managers who believed that the current equity option position limits were too restrictive with respect to the size of assets managed.

[21] 15 U.S.C. 78f(b)(5) (1988).

[22] The Commission notes that the quantitative options listing and maintenance standards require: (1) A minimum of 7 and 6.3 million shares outstanding, respectively, which are owned by persons other than ''insiders,'' as defined in Section 16 of the Act; (2) a minimum of 2,000 and 1,600 shareholders, respectively; (3) trading volume of at least 2.4 and 1.8 million shares, respectively, during the past twelve months; (4) for an original listing, the market price per share of the underlying security must have closed at or above $7.50 during the majority of business days over the preceding three months; and (5) to maintain its listing, the market price per share of the underlying security must have closed at or above $5 during the majority of business days over the preceding six months. *See* CBOE Rule 5.4, Interpretation and Policy .01.

[23] The Commission continues to believe that proposals to increase position and exercise limits must be justified and evaluated separately. After reviewing the proposed exercise limits, along with the eligibility criteria for the two new tiers, the Commission has concluded that the proposed exercise limit additions do not raise manipulation problems or increase concerns over market disruption in the underlying securities.

limits rather than one was burdensome or confusing or would lead to accidental violations.[24] The Commission does not believe that a change from the current three tiers to five tiers should change this conclusion. Similarly, as the Commission views the expansion of the equity hedge exemption as consistent with its steady progression in this area, the enactment of the proposed rule change should not prove difficult to implement or cumbersome to monitor.

The Commission believes that although position and exercise limits for options must be sufficient to protect the options and related markets from disruptions by manipulations, the limits must not be established at levels that are so low as to discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent market makers from adequately meeting their obligations to maintain a fair and orderly market. In this regard, the CBOE has noted that customers and member firms view the current position and exercise limits for certain options classes as too low. The Commission believes that the CBOE's proposal is a reasonable and appropriately tailored effort to accommodate the identified needs of options market participants.[25] In this regard it is important to note that the proposal only adds higher position and exercise limit tiers for classes of options overlying the most liquid stocks. As a result, the proposal currently affects only 95 of the existing 580 classes of equity options that are traded on the CBOE.

In 1988, the Commission approved a pilot program proposed by the CBOE which provided exemptions from position limits for certain fully hedged equity option positions.[26] The pilot program created an exemption from equity option position and exercise limits for accounts that had established one of the four most commonly used hedged positions.[27] Under this exemption, the maximum position limit (including the allowable exemptions) could not exceed twice the established option position limit.[28]

The Exchange currently proposes to increase the hedge exemption to three times the applicable position limits. According to the CBOE, as institutional accounts are unable to fully hedge their stock holdings due to the restrictive limits, investors are unnecessarily forced to keep a portion of their portfolio at risk.

The Commission believes that the CBOE's proposal to expand the hedge exemption is an appropriate method to accommodate the identified needs of options market participants.[29] By increasing the hedge exemption, the Commission believes, large hedge funds and institutional accounts will be provided with the means necessary to adequately hedge their stock holdings without adding risk to the options market.

Lastly, the Commission notes that despite an appreciable growth in equity options trading and the sophisticated and automated surveillance procedures employed by the Exchange, the last change in position limits occurred in 1993. Based on the CBOE's experience, the Commission believes that the proposed increased hedge exemption and additional limit tiers should result in little or no additional risk to the marketplace.[30]

As noted above, Amendment No. 1 states that the CBOE will only initially implement the changes being approved in this order for those classes of options solely traded on the CBOE and that the revised limits for multiply traded classes will only be effected uniformly on all the options exchanges at an agreed upon date after Commission approval of all necessary rule filing. The Commission believes this approach is reasonable and balances the market need to expand position and exercise limits and the hedge exemption, while continuing to ensure that uniform position and exercise limits will exist among the options exchanges for multiply traded classes.[31]

The Commission finds good cause to approve Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Specifically, by limiting the implementation of the increase in position and exercise limits and the expanded hedge exemption to only qualifying non-multiply traded options, pending approval of similar proposals by the other options markets, Amendment No. 1 will ensure that uniform position and exercise limits among the options exchanges will exist for all multiply traded classes. Accordingly, the Commission believes that it is consistent with Section 6(b)(5) of the Act to approve Amendment No. 1 to the proposal on an accelerated basis.

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1 to the rule proposal. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–95–42 and should be submitted by November 13, 1995.

V. Conclusion

For the foregoing reasons, the Commission finds that the CBOE's proposal to add two position and position and exercise limit tiers for qualifying equity option classes and to expand the equity option hedge exemption, as well as to delay the implementation of the proposal for multiply traded options classes, is consistent with the requirements of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[32] that the proposed rule change (SR–CBOE–95–

[24] In this regard, the Commission notes that the CBOE routinely, and on a continuous basis, reviews the trading characteristics of the underlying stocks to determine the appropriate position and exercise limit tiers for the option classes.

[25] *See* Study, *supra* note 17, at 3, and Comment Letters, *supra* note 6.

[26] *See* Securities Exchange Act Release No. 25738 (May 24, 1988), 53 FR 20201 (June 2, 1988) (''Pilot Approval Order'').

[27] The four hedged positions are: (1) long stock and short call; (2) long stock and long put; (3) short stock and long call; and (4) short stock and short put.

[28] In May 1995, after several extensions, the Commission granted permanent approval to the CBOE's hedge exemption pilot program. *See* Securities Exchange Release No. 35738 (May 18, 1995), 60 FR 27573 (May 24, 1995).

[29] *See* Study, *supra* note 17, at 4 and 6.

[30] The Commission notes that to the extent the potential for manipulation increases because of the additional tiers and expanded hedge exemption, the Commission believes the Exchange's surveillance programs will be adequate to detect as well as to deter attempted manipulative activity. The Commission will, of course, continue to monitor the Exchange's surveillance programs to ensure that problems do not arise.

[31] *See supra* note 7.

[32] 15 U.S.C. 78s(b)(2) (1988).

42), including Amendment No. 1, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[33]

Margaret H. McFarland,

Deputy Secretary.

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[33] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36372; File No. SR–DTC–94–10]

Self-Regulatory Organizations; the Depository Trust Company; Notice of Withdrawal of a Proposed Rule Change Regarding the Establishment of a Fee Schedule for Certain Inter-Depository Deliveries

October 16, 1995.

On July 7, 1994, the Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] a proposed rule change to establish a fee schedule for certain inter-depository deliveries. Notice of the proposed rule change was published in the Federal Register on August 9, 1994.[2] DTC subsequently requested and the Commission granted two extensions of the period for public comment on the proposed rule change.[3]

On October 11, 1995, DTC withdrew the proposed rule change.[4]

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

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[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 34480 (August 2, 1994), 59 FR 40630.

[3] Securities Exchange Act Release Nos. 34594 (August 25, 1994), 59 FR 45317 [File No. SR–DTC–94–10] (order extending comment period until September 30, 1994); and 34828 (October 12, 1994), 59 FR 52849 [File No. SR–DTC–94–10] (order extending comment period until November 15, 1994).

[4] Letter from Richard B. Nesson, Executive Vice President and General Counsel, DTC, to Jerry Carpenter, Assistant Director, Division of Market Regulation, Commission, (October 11, 1995).

[5] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36370; File No. SR–PSE–95–11]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Number of Trading Posts That May Be Included as Part of Each Market Maker's Primary Appointment Zone

October 13, 1995.

I. Introduction

On April 7, 1995, the Pacific Stock Exchange, Inc. (''PSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposal to increase the number of trading posts that may be included as part of each market maker's primary appointment zone. The proposed rule change was published for comment in the Federal Register on June 16, 1995.[3] No comments were received on the proposed rule change.

II. Description of the Proposal

PSE Rule 6.35 currently requires each options market maker to select and maintain a primary appointment zone consisting of one or two trading posts.[4] Pursuant to Rule 6.35, Commentary .03, at least 75% of the trading activity of each market maker (measured in terms of contract volume per quarter) must be in classes of option contracts to which such market maker's primary appointment zone extends. In addition, under the short sale rule applicable to stocks traded in the Nasdaq market, the options market maker exemption to that rule is limited to stocks underlying options in which a market maker holds an appointment.[5]

The Exchange proposal seeks to amend Rule 6.35 in two respects. First, the maximum number of trading posts that could be included as part of each primary appointment zone would be increased from two to six. Second, the Options Appointment Committee could allow a market maker to exceed the six trading post maximum if special circumstances were to exist.[6]

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) of the Act[7] 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.

The Commission believes that increasing from two to six the maximum number of contiguous trading posts that may comprise an options market maker's primary appointment zone is a reasonable measure designed by the Exchange to help ensure adequate market maker participation in each class of options traded on the Exchange. The Exchange has stated that the effect of increasing the trading post maximum will be to increase the maximum number of issues a market maker could have within his or her primary appointment zone. Accordingly, out of a total of 366 options issues at PSE, the change potentially could result in increases from 58 to 98 in appointed issues, representing an increase from 16% to 27% of the total number of issues traded on the Exchange.[8]

The Commission believes that the PSE's proposal will benefit the market and investors by increasing the potential number of options classes to which the obligations of a market maker will apply.[9] Although the Commission

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] *See* Securities Exchange Act Release No. 35836 (June 9, 1995), 60 FR 31751.

[4] PSE Rule 6.35 requires multiple posts to be contiguous, except under special circumstances.

[5] The NASD short sale rule prohibits broker-dealers from effecting short sales for themselves or their customers at or below the ''bid'' when the current ''inside'' or best price is below the previous inside bid. *See* NASD Rules of Fair Practice, Art. III, § 48. The PSE's market maker exemption to the short sale rule allows options market makers to hedge options positions in their primary appointment zone by buying or selling (including selling short) shares of underlying stocks or underlying component stocks contained in stock indexes. Such an ''exempt hedge transaction'' is defined by the Exchange as a short sale effected to hedge, and which in fact serves to hedge, an existing offsetting options position or an offsetting options position that was created in one or more transactions contemporaneous with the short sale. *See* PSE Rule 4.19.

[6] *See* Discussion below

[7] 15 U.S.C. 78f(b)(5) (1988).

[8] *See* Facsimile from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to Francois Mazur, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, dated September 12, 1995. In comparison, out of a total of 644 classes of options at the CBOE, there are a maximum of 241 classes of options in which a CBOE market maker may hold an appointment, representing 37% of the total number of options classes traded at the CBOE. Securities Exchange Act Release No. 35629 (April 19, 1995), 60 FR 20542.

[9] For example, PSE Rule 6.37 requires generally that a market maker's transactions constitute a course of dealing reasonably calculated to contribute to the maintenance of a fair and orderly market. Specific requirements include engaging in dealings for the market maker's own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a

Continued

recognizes that the proposal could result in increasing a market maker's appointed options classes, the PSE is under an obligation to ensure that adequate market making capabilities and obligations will continue to exist in such classes. In this regard, the Commission expects the PSE to assess whether market makers have adequate capital to fulfill their continual market making obligations under PSE Rule 6.37 in all their appointed classes. Further, the in-person and general trading requirements applicable to market makers under PSE Rule 6.37 [10] should continue to ensure that market making is adequate in all appointed classes.[11]

The Commission also believes that there may be circumstances in which it would be appropriate for the Options Appointment Committee to allow a market maker to exceed the six trading post maximum. Before allowing a market maker to exceed the six trading post maximum, however, the Commission expects the Options Appointment Committee to make a specific finding that special circumstances exist. In determining the existence of special circumstances, the Options Appointment Committee should identify the need to expand the trading post maximum, and consider, among other things, whether there continues to exist sufficient liquidity in that market maker's existing appointments, and whether that market maker will continue to have adequate capital to fulfill his or her market making obligations. Moreover, the Commission expects that any expansion in the trading post maximum would be temporary as market needs warrant.[12]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–PSE–95–11) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

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temporary disparity between the supply of and demand for a particular option contract, or a temporary distortion of the price relationship between option contracts of the same class. Other requirements include maintaining certain minimum bid/ask differentials, and providing for maximum allowable bid and offer changes. The Commission notes that increasing the number of trading posts that may comprise a market maker's primary appointment zone does not in any way lessen a market maker's obligation to make a market.

PSE Rule 6.35 will continue to require that a market maker's primary appointment zone consist of contiguous posts, unless special circumstances exist and the Options Appointment Committee appoints non-contiguous posts.

[10] PSE Rule 6.37, Commentary .07 generally requires that at least 60% of a market maker's transactions be executed by the market maker in-person, while present on the options trading floor, and provides sanctions for failing to meet this requirement. Moreover, PSE Rule 6.32, Commentary .02 allows market makers to elect to receive market maker treatment for off-floor opening transactions if the market maker, in addition to satisfying all of the other existing obligations imposed on market makers, executes at least 80% of his or her total transactions for any calendar quarter in-person and not through the use of orders. *See* Securities Exchange Act Releases No. 34338 (July 8, 1994), 59 FR 35965.

[11] The Commission notes that any further changes to this rule may warrant the development of additional standards to ensure adequate market making performance.

[12] The Commission understands that the Options Floor Trading Committee will examine the appropriateness of any further changes to this rule in the near future. Telephone Conversation between Michael, D. Pierson, Senior Attorney, Market Regulation, PSE, and Francois Mazur, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, on October 12, 1995.

[13] 15 U.S.C. 78s(b)(2) (1988).

[14] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36369; File No. SR–Phlx–95–22]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1, 2, 3, 4 and 5 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to the Listing and Trading of Options on the Phlx Super Cap Index

October 13, 1995.

I. Introduction

On April 10, 1995, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed a proposed rule change with 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] to provide for the listing and trading of index options on the Phlx Super Cap Index (''Super Cap Index'' or ''Index'').

Notice of the proposal was published for comment and appeared in the Federal Register on May 16, 1995.[3] On June 23, 1995, the Phlx submitted to the Commission Amendment No. 1 to its proposed rule change.[4] On July 24, 1995, the Phlx submitted to the Commission Amendment No. 2 to its proposed rule change.[5] On August 7, 1995, the Phlx submitted to the Commission Amendment No. 3 to its proposed rule change.[6] On October 12, 1995, the Phlx submitted to the Commission Amendment Nos. 4 and 5 to its proposed rule change.[7] No

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 35699 (May 10, 1995), 60 FR 26065.

[4] The Phlx submitted Amendment No. 1 to its proposed rule change to replace Walmart with Philip Morris as one of the component issues of the Super Cap Index. The Phlx also proposes to set a new starting value of 350 as of May 31, 1995. Finally, the Phlx proposes to list LEAPs on the Super Cap Index pursuant to Phlx Rule 1101A(b)(iii). *See* Letter from Michele Weisbaum, Associate General Counsel, Phlx, to John Ayanian, Attorney, Office of Market Supervision (''OMS''), Division of Market Regulation (''Market Regulation''), Commission, dated June 23, 1995 (''Amendment No. 1'').

[5] The Phlx submitted Amendment No. 2 to its proposed rule change to withdraw the proposed amendment to Phlx Rule 1006A. *See* Letter from Michele Weisbaum, Associate General Counsel, Phlx, to John Ayanian, Attorney, OMS, Market Regulation, Commission, dated July 24, 1995 (''Amendment No. 2'').

[6] The Phlx submitted Amendment No. 3 to its proposed rule change to indicate that at all times, the 5 components of the Index must be options eligible. Therefore, the Index will be composed of the top 5 options eligible common stocks of U.S. Companies, measured by capitalization traded on the NYSE. The Phlx also indicated that it will evaluate the Index on a semi-annual basis to ensure that it is an accurate representation of the intended market character of the Index. If any components would need to be removed pursuant to these requirements, the Exchange will immediately notify the staff of the Division of Market Regulation and will file a new Rule 19b–4 submission if so determined by the Division staff prior to opening any new series of options. Additionally, the Exchange proposes to immediately replace any component that drops out of the top 10 highest capitalized stocks on the NYSE, without waiting for the next semi-annual review. The Exchange also proposes to notify the Division staff if, at any time, any one component issue represents 50% or more of the Index. *See* Letter from Michele Weisbaum, Associate General Counsel, Phlx, to John Ayanian, Attorney, OMS, Market Regulation, Commission, dated August 7, 1995 (''Amendment No. 3'').

[7] The Phlx submitted Amendment No. 4 to its proposed rule change to indicate that pursuant to proposed amendment to Phlx Rule 1047A, the opening rotation for Super Cap Index options may be held after underlying securities representing 75% of the current index value of all the securities underlying the index have opened for trading on the primary market. *See* Letter from Michele Weisbaum, Associate General Counsel, Phlx, to John Ayanian, Attorney, OMS, Market Regulation, Commission, dated October 12, 1995 (''Amendment No. 4'').

Additionally, the Phlx submitted Amendment No. 5 to its proposed rule change to delete the reference to the Super Cap Index in proposed amended Phlx Rule 1101A, Commentary .01. The Phlx represents that it will include the proper reference to the Super Cap Index when it files proposal SR–Phlx–95–37 with the Commission. Specifically, the Phlx will propose to amend Phlx Rule 1101A, Commentary .01 to indicate that transactions may be effected until 4:15 p.m. each business day through the last trading day (ordinarily a Thursday) prior to expiration for Super Cap Index options, as well as other a.m. settled index options. The Exchange further represents that it will issue a circular to Phlx members disclosing this information. *See* Letter from Michele Weisbaum, Associate General Counsel, Phlx, to John Ayanian, Attorney, OMS, Market Regulation, Commission, dated October 12, 1995 (''Amendment No. 5'').

comment letters were received on the proposed rule change. This order approves the Exchange's proposal, as amended.

II. Description of the Proposal

A. General

The Phlx proposes to list for trading options on the Phlx Super Cap Index, a new securities index developed by the Phlx and based on the top five capitalized, options eligible U.S. stocks traded on the New York Stock Exchange (''NYSE''). The Phlx further proposes to amend Phlx Rules 1000A, Applicability and Definitions; 1001A, Position Limits; 1047A, Trading Rotations, Halts or Reopenings; 1101A, Terms of Option Contracts; and 722, Margin Accounts, to include references to this proposed Index. The Phlx will use a capitalization-weighted methodology to calculate the value of the Index.[8]

B. Composition of the Index

The Index was designed by the Exchange and is composed of the 5 most highly capitalized, standardized options-eligible common stocks of U.S. companies currently trading on the NYSE.[9] All component stocks are ''reported securities,'' as that term is defined in Rule 11Aa3–1 of the Act.[10]

As of May 31, 1995, the market capitalizations of the individual securities in the Index ranged from a high of $98.2 billion (General Electric Company) to a low of $61.6 billion (Philip Morris Companies Inc.), with the mean being $81.4 billion. The market capitalization of all the securities in the Index was $406.9 billion. The total number of shares outstanding on that date for the stocks in the Index ranged from a high of 1.7 billion shares (General Electric Company) to a low of 844 million shares (Philip Morris Companies Inc.). Also on that date, the price per share in the U.S. of the securities in the Index ranged from a high of $72.88 (Philip Morris Companies Inc.) to a low of $50.75 (AT&T Corp.). In addition, the average daily trading volume in the U.S. of the stocks in the Index, for the six-month period from January 1, 1995 to June 30, 1995, ranged from a high of 2.4 million shares per day (AT&T Corp.) to a low of 1.2 million shares per day (Exxon Corporation). Lastly, no one component accounted for more than 24.15% (General Electric Companies), or less than 15.13% (Philip Morris Companies), of the Index's total value.[11]

C. Maintenance

The Phlx has retained Bridge Data, Inc. to compute and do all necessary maintenance of the Index. The Phlx may change the composition of the Index at any time, subject to compliance with the maintenance criteria discussed herein, to reflect the 5 largest options eligible stocks, by capitalization, listed on the NYSE. In accordance with Phlx Rule 1009A, if it becomes necessary to replace a security in the Index, the Exchange represents that it will be replaced with a stock which reflects the intended market character of the Index.[12] If any change in the nature of any stock in the Index occurs as a result of delisting, merger, acquisition or otherwise, the Exchange will take appropriate steps to delete that stock from the Index and replace it with another stock which is in the top five, as measured by capitalization, of options eligible issues traded on the NYSE at the time the PHlx makes the substitution. The Exchange represents that all of the stocks comprising the Index are options eligible and have overlying options currently trading.[13] If the Exchange determines to increase or decrease the number of component issues, the Exchange will submit a new proposed rule change pursuant to Section 19(b) of the Act and that proposal would have to be specifically approved by the Commission before any trading in the revised index could commence.[14]

The Phlx will evaluate the Index on a semi-annual basis to ensure that it is an accurate representation of the five largest options eligible stocks, measured by capitalization, traded on the NYSE. Public notice of any changes will be made immediately and the Phlx will then make any substitutions, if necessary, of the component issues of the Index on the first business day after the January and July expirations for the Super Cap Index options. If any components would have to be changed because a component issue was no longer options-eligible, the Exchange proposes to immediately notify the Commission's Division of Market Regulation (''Division'') and will file a new Rule 19b–4 submission prior to opening any new series of options, if so required by the Division staff. Further, if at any time during the year, a component issue of the Index drops out of the top 10 highest capitalized stocks on the NYSE, the Exchange will not wait for the next semi-annual review to replace it.[15]

D. Applicability of Phlx Rules Regarding Index Options

Except as modified by this order,[16] Phlx Rules 1000A through 1103A, and Phlx Rules 1000 through 1070, in general, will be applicable to Super Cap Index options. Those rules address, among other things, the applicable position and exercise limits, policies regarding trading halts and suspensions, restrictions on exercise, and margin treatment for the Super Cap Index options.

E. Calculation of the Index

The Phlx Super Cap Index will be calculated using a capitalization-weighting methodology. The representation of each security in the Index will be proportional to the security's last sale price multiplied by the total number of shares outstanding, in relation to the total market value of all of the securities in the Index. The value of the Index was set to equal 350 on May 31, 1995.[17] As of August 1, 1995, the Index value was 357.72. The formula for calculating the Index value is as follows:

$$\text{Current Index Value} = \frac{\text{Total Capitalization}}{\text{Divisor}}$$

Where:

[8] See Infra Section II.E, entitled ''Calculation of Index,'' for a description of this calculation method.

[9] Currently, the components of the Index are: General Electric Company; Exxon Corporation; AT&T Corp.; Coca-Cola Company; and Philip Morris Companies Inc.

[10] See 17 CFR 240.11Aa3–1. A ''reported security'' is defined in paragraph (a)(4) of this rule as ''any listed equity security or NASDAQ security for which transaction reports are required to be made on a real-time basis pursuant to an effective transaction reporting plan.'' A ''transaction reporting plan'' is defined in paragraph (a)(2) of this rule as ''any plan for collecting, processing, making available or disseminating transaction reports with respect to transactions in reported securities filed with the Commission pursuant to, and meeting the requirements of, this section.''

[11] The weightings of all 5 components of the Super Cap Index as of May 31, 1995 are as follows: General Electric Company—24.15%; Exxon Corporation—21.79%; AT&T Corp.—19.74%; Coca-Cola Company—19.20%, and Philip Morris Companies Inc.—15.13%.

[12] The Exchange represents that any future replacement component securities will be in the top five, as measured by capitalization, of options eligible issues traded on the NYSE at the time the Phlx makes the substitution.

[13] The Phlx's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) The public float must be at least 7,000,000 shares; (2) there must be a minimum of 2,000 stockholders; (3) trading volume in the U.S. must have been at least 2.4 million over the preceding twelve months; and (4) the U.S. market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. *See* Phlx Rule 1009, Commentary .01.

[14] *See infra* note 30.

[15] *See* Amendment No. 3, *supra* note 6.

[16] *See infra* Section II,G.

[17] *See* Amendment No. 1, *supra* note 4.

Total Capitalization=Sum of Market Values (price×shares outstanding) for all component securities

Divisor=The number which, when divided from the total capitalization when the Index was initially calculated (on May 31, 1995), yielded an Index value of 350.

To maintain the continuity of the Index, the divisor will be adjusted to reflect non-market changes in the capitalization of the component securities as well as changes in the composition of the Index. Changes that may result in divisor adjustments include, but are not limited to, stock splits and dividends, spin-offs, certain rights issuances, and mergers and acquisitions. The formula for adjusting the divisor is as follows:

$$\text{Divisor} = \frac{\text{Total Capitalization (as result of adjustment)}}{\text{Index Value}}$$

Adjustments in the value of the Index which are necessitated by the addition and/or deletion of an issue from the Index are made by adding and/or subtracting the market value of the relevant issues.

The Super Cap Index will be updated dynamically at least once every 15 seconds during the trading day.[18] The Phlx has retained Bridge Data, Inc. to compute the value of the Index. Pursuant to Phlx Rule 1100A, updated Index values will be disseminated and displayed by means of primary market prints reported by the Consolidated Tape Association and over the facilities of the Options Price Reporting Authority (''OPRA''). The Index value will also be available on broker/dealer interrogation devices to subscribers of the option information.

The Index value for purposes of settling outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks on the last trading day prior to expiration. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the final settlement value for expiring Index option contracts. If any component stocks do not open for trading on the last trading day before expiration, then the last reported sale price of such security will be used in any case where that security does not trade on that day.

F. Contract Specifications

The proposed options on the Index will be cash-settled, European-style options.[19] The Super Cap Index options will trade from 9:30 a.m. to 4:15 p.m. eastern time.[20] The Index multiplier will be 100. Strike prices will be set at five point intervals in terms of the current value of the Index.[21]

The Phlx will trade consecutive and cycle month series pursuant to Phlx Rule 1101A. Specifically, there will be three expiration months from March, June, and December cycle plus two additional near-term months so that the three nearest term months will always be available. In addition, pursuant to and in accordance with Phlx Rule 1101A(b)(iii), the Exchange will list and trade series of LEAPs on the Index.[22]

Index options will expire on the Saturday following the third Friday of the expiration month. Because options on the Index will settle based upon the opening prices of the component stocks on the last business day before expiration (ordinarily a Friday), the last trading day for an expiring Index option series will be the second to the last business day before expiration (ordinarily a Thursday).

G. Position and Exercise Limits, Margin Requirements, and Trading Rotations, Halts or Reopenings

Because the Super Cap Index is not classified as either an ''industry index'' or a ''market index'' under Phlx rules, the Exchange proposes new rules that specifically address the Super Cap Index.[23] The Exchange proposes amendments to rules governing margin requirements,[24] position and exercise limits, and trading rotation, halt, or reopening procedures.[25]

Specifically, pursuant to proposed amendments to Phlx Rules 1001A and 1002A, respectively, the position and exercise limits for the Index options will be 5,500 contracts on the same side of the market. The Super Cap Index will not have available a position limit hedge exemption. Additionally, Super Cap Index option positions will not be aggregated with equity option positions on the same underlying component stocks for the purpose of calculating position limits.

H. Surveillance

The Exchange will use the same surveillance procedures currently utilized for each of the Exchange's other index options to monitor trading in the Super Cap Index options. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.[26]

III. Commission Finding and Conclusions

The Commission finds that the proposed rule change is consistent with

[18] To the extent that a component stock does not open for trading on a particular trading day, or trading in that component stock is halted during the course of a particular trading day, the last reported sale price of such security will be used for purposes of calculating the current Index value.

[19] A European-style option can be exercised only during a specified period before the option expires.

[20] Transactions in the Super Cap Index option may be effected on the Exchange until 4:15 p.m. each business day and through the last trading day (ordinarily a Thursday) prior to expiration. *See* Amendment No. 5, *supra* note 7.

[21] Additional exercise prices will be added in accordance with Phlx Rule 1101A(a).

[22] *See* Amendment No. 1, *supra* note 4.

[23] *See* Phlx Rule 1000A(11).

[24] Pursuant to the proposed amendment to Phlx Rule 722, the margin requirements for the Index options will be: (1) For short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value; and (2) for long options positions, 100% of the options premium paid. These margin requirements are identical to industry index, and equity options margin requirements.

[25] Pursuant to proposed amendment to Phlx Rule 1047A, the opening rotation for industry index options and Super Cap Index options *may* be held after underlying securities representing 75% of the current index value of all the securities underlying the index have opened for trading on the primary market. Once the underlying securities representing 90% of the current index value of all the securities underlying the index have opened for trading on the primary market, the opening rotation *must* be held as soon as practicable. Additionally, trading on the Phlx of Index options may be halted whenever trading in underlying securities whose weighted value represents more than 10% of the Index value are halted or suspended. *See* Amendment No. 4, *supra* note 7.

[26] The Intermarket Surveillance Group (''ISG'') was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. *See* Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990. The members of the ISG are: the American Stock Exchange; the Boston Stock Exchange, Inc.; the Chicago Board Options Exchange, Inc.; the Chicago Stock Exchange, Inc.; the National Association of the Securities Dealers, Inc.; the NYSE; the Pacific Stock Exchange, Inc.; and the Phlx. Because of the potential opportunities for trading abuses involving stock index futures, stock options, and the underlying stock and the need for greater sharing of surveillance information for these potential intermarket trading abuses, the major stock index futures exchanges (e.g., the Chicago Mercantile Exchange and the Chicago Board of Trade) joined the ISG as affiliate members in 1990.

the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) of the Act.[27] Specifically, the Commission finds that the trading of Super Cap Index options will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means of hedging exposure to market risk associated with securities representing the most highly capitalized companies.[28]

A. Index Design and Structure

The Commission believes that it is appropriate to allow the Phlx to trade options based on the Super Cap Index, which is comprised of the top five capitalized, options-eligible issues traded on the NYSE. The Commission recognizes, however, that the Super Cap Index does not properly qualify as either as market or industry index. The Super Cap Index consists of a very small number of stocks, and therefore does not qualify as a broad-based market index. Moreover, it does not represent any particular industry sector. In addition, as discussed in greater detail below, the small number of the index components raises concerns that the Index would be used as a surrogate for individual equity options trading. This raises questions as to whether the Super Cap Index should trade at all as an index product. Nevertheless, for the reasons discussed in more detail below, the Commission believes the Phlx has proposed a reasonable approach that specifically designates the Super Cap Index as eligible for options trading and that applies specific rules applicable to the Index options covering margin, position and exercise limits, trading rotations, halts, and reopenings, and trading hours.[29]

First, the extremely large capitalizations, very liquid markets, and relative weighings of the Index's component securities helps to reduce the potential for manipulation of the Index. Every component security of the Index is actively traded, with an average daily volume for the period from January 1, 1995 to June 30, 1995, ranged from a high of 2.4 million shares per day to a low of 1.2 million shares per day. The market capitalizations of the securities in the Index are very large, ranging from a high of $93.8 billion to a low of $59.7 billion as of April 5, 1995, with the mean being $78.7 billion. Second, although the Index is only comprised of five component securities, no on particular security dominates the Index. Specifically, as of May 31, 1995, no one stock accounted for more than 24.15% of the Index's total capitalization. Third, every component of the Index must, at all times, be eligible for standardized options trading. Fourth, the five securities are derived from different industry sectors. Fifth, if the Phlx desires to increase or decrease the number of component securities from five, the Phlx will be required to seek Commission approval pursuant to Section 19(b)(2) of the Act.[30] This will help protect against material changes in the composition and design of the Index that might adversely affect the Phlx's obligations to protect investors and to maintain fair and orderly markets in Index options. Finally, the Index is comprised, and in the future may only be comprised, of stocks listed and traded on the NYSE. This requirement will help to ensure that each component of the Index is a registered security subject to last sale reporting requirements in the United States and will further reduce the potential for manipulation of the value of the Index.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Super Cap Index options, can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options will be subject to the same regulatory regime as the other standardized options currently traded on the Phlx, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Super Cap Index options.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a security index derivative product and the exchange(s) trading the securities underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the security index product less readily susceptible to manipulation.[31] In this regard, the Phlx, and the NYSE, which is the primary market for all of the stocks comprising the Index, as well as the markets currently trading individual equity options on the components, are all members of the ISG, which provides for the exchange of all necessary surveillance information.[32]

D. Market Impact

The Commission believes that the listing and trading on the Phlx of options on the Super Cap Index will not have an adverse impact on the underlying securities markets.[33] First, as described above, no security overwhelmingly dominates the Index. Second, because all five components of the Index must meet the Exchange's options listing standards, it will help to ensure that the component securities will remain liquid and actively traded and the Index will not be used as a surrogate to trade options on a security not eligible for options trading.

Third, the five components of the Index are the five most highly-capitalized, and five of the most actively-traded U.S. exchange listed securities. Specifically, as noted above, the market capitalizations of the individual securities in the Index, as of May 31, 1995, ranged from a high of

[27] 15 U.S.C. 78f(b)(5).

[28] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed Index options will provide investors with a hedging vehicle that should reflect the overall movement of stocks representing the 5 largest issues, as measured by capitalization, that are listed on the NYSE.

[29] *See supra* Sections II.F and II.G.

[30] The Commission notes that if an exchange should propose to list and trade an index with fewer than five equity stocks, it would be difficult for the Commission to allow it to be trade as an index product pursuant to SRO index option rules.

[31] *See* Securities Exchange Act Release No. 31243 (September 28, 1992), 57 FR 45849 (October 5, 1992).

[32] *See supra* note 26.

[33] In addition, the Phlx has represented that the Phlx and OPRA have the necessary systems capacity to support those new series of index options that would result from the introduction of options on the Super Cap Index. *See* Letter from William H. Morgan, Vice President, Trading Systems, Phlx, to Michael Walinskas, Branch Chief, OMS, Market Regulation, Commission, dated August 22, 1995; and Letter from Joseph P. Corrigan, Executive Director, OPRA, to Murray Ross, Secretary, Phlx, dated August 17, 1995.

$98.2 billion to a low of $61.6 billion. Additionally, the total number of shares outstanding on that date for the stocks in the Index ranged from a high of 1.7 billion shares to a low of 844 million shares. Also on that date, the price per share in the U.S. of the securities in the Index ranged from a high of $72.88 to a low of $50.75. In addition, the average daily trading volume in the U.S. of the stocks in the Index, for the six-month period from January 1, 1995 to June 30, 1995, ranged from a high of 2.4 million shares per day, to a low of 1.2 million shares per day. As a result, the component securities of the Index represent the absolute highest levels of market capitalization and liquidity of companies listed on any U.S. exchange.

Fourth, the 5,500 contract position and exercise limits applicable to the Index options and the lack of a hedge exemption will serve to further minimize potential manipulation and market impact concerns. Additionally, unlike position and exercise limits for industry index options which currently fluctuate depending on concentration levels and trading volume of the underlying component securities, the Super Cap Index position and exercise limits will remain set at the 5,500 contract level under Phlx rules.[34] The Commission believes that setting the position and exercise limits relatively low for an index composed of such highly capitalized stocks and eliminating the hedge exemption should help to alleviate concerns that the Index would be used by market participants to exceed the equity position limits for individual equity options on the component securities.

The Commission believes that it is appropriate that margin requirements for the Super Cap Index options will be: (1) For short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value; and (2) for long options positions, 100% of the options premium paid, as proposed in amended Phlx Rule 722—''Margin Accounts.'' This margin requirement is the same as applied to both industry index options and individual equity options. The Commission believes that this proposed margin requirement is appropriate for an index of only five securities.

Lastly, the Commission believes that settling expiring Super Cap Index options based on the opening prices of component securities is consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce the ''Expiration Friday'' effects on markets for securities underlying options on the Index.[35]

E. Accelerated Approval of Amendment No. 1

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of the notice thereof in the Federal Register. Specifically, Amendment No. 1 proposes to allow the Phlx to (1) Replace Walmart with Philip Morris as one of the component issues of the Super Cap Index; (2) set a new starting value of 350 for the Super Cap Index as of May 31, 1995; and (3) list LEAPs on the Index pursuant to Phlx Rule 1101A(b)(iii). The Commission notes that the Index does not yet underlie any options trading, therefore replacing a component issue to conform with the intended market character of the Index, and the setting of a new starting value for the Index does not raise any new regulatory issues. The Commission also notes that because Phlx Rule 1101A(b)(iii) generally permits the Exchange to list series of LEAPS on stock indexes, the Commission finds that the portion of Amendment No. 1 relating to the listing of series of LEAPs on the Index presents no new regulatory issues. Accordingly, the Commission believes that it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve Amendment No. 1 to the Phlx proposal on an accelerated basis.

F. Accelerated Approval of Amendment No. 2

The Commission finds good cause for approving Amendment No. 2 to the proposed rule change prior to the thirtieth day after the date of publication of the notice thereof in the Federal Register. Specifically, Amendment No. 2 to the proposed rule change withdraws the proposed amendment that included reference to Super Cap Index options (a European-style option) in Rule 1006A, ''Other Restrictions on Options Transactions and Exercises.'' The Commission recently approved a proposed rule change by the Phlx to delete restrictions on exercise respecting specific European-style index options, because a European-style option can be exercised only during a specific period before the option expires. Accordingly, the Commission believes that it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve Amendment No. 2 to the Phlx proposal on an accelerated basis.

G. Accelerated Approval of Amendment No. 3

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 the notice thereof in the Federal Register. Specifically, the Phlx proposes to amend the composition of the Index so that it will be comprised of the 5 most highly capitalized, *options-eligible* common stocks of U.S. companies listed on the NYSE (emphasis added). Additionally, the Phlx will evaluate the Index to ensure that it accurately represents the intended market character of the Index on a semi-annual basis, rather than annually, as originally proposed. If any components would have to be changed because a component issue was no longer options eligible, the Exchange proposes to immediately notify the Division of Market Regulation and will file, pursuant to Section 19(b) of the Act, a submission prior to opening any new series of options, if so required by the Division staff. Further, if at any time during the year, a component issue of the Index drops out of the top 10 highest capitalized stocks on the NYSE, the Exchange will not wait for the next semi-annual review to replace it. The Commission notes that Amendment No. 3 does not raise any new regulatory issues and actually improves the procedures for maintaining the Index. Accordingly, the Commission believes that it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve Amendment No. 3 to the Phlx proposal on an accelerated basis.

H. Accelerated Approval of Amendment No. 4

The Commission finds good cause for approving Amendment No. 4 to the proposed rule change prior to the thirtieth day after the date of publication of the notice thereof in the Federal Register. Specifically, the Phlx proposes to amend Phlx Rule 1047A, to indicate that the opening rotation Super Cap Index options may be held after underlying securities representing 75%,

[34] *See* Securities Exchange Act Release No. 36194 (September 6, 1995), 60 FR 47637 (September 13, 1995) (order approving new three-tiered position and exercise limits for industry index options. *See also* SR–Phlx–95–16. Any proposed increase in the position and exercise limits for Super Cap Index options would have to be submitted as a proposed rule change under Section 19(b) of the Act and specifically approved by the Commission.

[35] *See* Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992).

rather than 50%, of the current index value of all the securities underlying the index have opened for trading on the primary market. The Commission notes that Amendment No. 4 does not raise any new regulatory issues and ensures that at least a majority of the 5 components will be open for trading before index option trading can commence. Accordingly, the Commission believes that it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve Amendment No. 4 to the Phlx proposal on an accelerated basis.

I. Accelerated Approval of Amendment No. 5

The Commission finds good cause for approving Amendment No. 5 to the proposed rule change prior to the thirtieth day after the date of publication of the notice thereof in the Federal Register. Specifically, the Phlx proposes to delete the reference to the Super Cap Index in Phlx Rule 1101A, Commentary .01 regarding trading hours. The Commission believes that Amendment No. 5 is reasonable because the Phlx represents that it will include the proper reference to the Super Cap Index when it files proposal SR–Phlx–95–37 with the Commission. Specifically, the Phlx will propose to amend Phlx Rule 1101A, Commentary .01 to indicate that transactions may be effected until 4:15 p.m. each business day through the last trading day (ordinarily a Thursday) prior to expiration for Super Cap Index options, as well as other a.m. settled index options. The Exchange further represents that it will issue a circular to Phlx members disclosing this information. Accordingly, the Commission believes that it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve Amendment No. 5 to the Phlx proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing amendments. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to SR–Phlx–95–22 and should be submitted by November 10, 1995.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[36] that the proposed rule change (File No. SR–Phlx–95–22), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[37]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–26004 Filed 10–19–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26391]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

October 13, 1995.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the applications(s) and/or declaration(s) should submit their views in writing by November 6, 1995, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

General Public Utilities Corporation (70–8695)

General Public Utilities Corporation (''GPU''), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, has filed a declaration under sections 6(a) and 7 of the Act and rules 53 and 54 thereunder.

The General Public Utilities Corporation and Subsidiary System Companies Employee Savings Plan for Nonbargaining Employees and the Employee Savings Plan for Bargaining Unit Employees for each of GPU's electric utility subsidiaries, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (collectively, ''Savings Plans'') are designed to encourage and assist savings and investment by eligible employees through voluntary contributions by employees of a portion of their compensation and by the matching of certain of such contributions by the participants' employers.

Amounts contributed to the Savings Plans by or on behalf of each participant are held by a trustee. Separate plan accounts and, as necessary, sub-accounts are maintained for each participant. The trustee invests the amounts held in plan accounts and sub-accounts in the investment fund or funds selected by the participant. The investment funds from which participants may choose currently consist of eleven funds including the ''GPU Stock Fund'' which is designed to provide employees with a convenient way to invest in GPU common stock by providing participants the opportunity to direct that all or a portion of their plan accounts be invested in the GPU Stock Fund.

The Savings Plans currently provide that GPU common stock acquired for the GPU Stock Fund by the trustee be purchased in open market transactions through brokers. In order to provide additional equity capital, GPU proposes that shares of its common stock acquired by participants through the GPU Stock Fund may be either purchased by the trustee directly from GPU or in open market transactions, as is now the case. Accordingly, GPU proposes to issue and sell from time to time through December 31, 2000, up to 250,000 authorized but unissued or previously reacquired shares of GPU common stock to participants under the Savings Plans.

The purchase price per share paid by participants would be the New York Stock Exchange closing price for GPU

[36] 15 U.S.C. 78s(b)(2).

[37] 17 CFR 200.30–3(a)(12).

common stock for the date on which the purchase of such share is executed. No commission would be charged with respect to any such purchase of GPU common stock. GPU currently has 350 million authorized shares of common stock of which 116,371,998 shares were outstanding at August 31, 1995. GPU will use the net proceeds from the sale of additional common stock to the Savings Plans to make cash capital contributions to its subsidiaries, for working capital, to repay outstanding indebtedness and for other corporate purposes.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–25962 Filed 10–19–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21420; 811–7073]

Sunburst Funds; Notice of Application

October 13, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Sunburst Funds.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on October 2, 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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 7, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, Federated Investors Tower, Pittsburgh, Pennsylvania 15222–3779.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company organized as a Massachusetts business trust. On August 2, 1993, applicant registered under the Act as an investment company and filed a registration statement under the Securities Act of 1933, registering an indefinite number of shares. The registration statement was declared effective on October 28, 1993, and applicant's initial public offering commenced on November 15, 1993. Sunburst Bank, Mississippi served as applicant's investment adviser (''Adviser'').

2. At a meeting held on February 16, 1995, applicant's Board of Trustees approved an Agreement and Plan of Reorganization whereby Federated U.S. Government Securities Fund: 1–3 Years (''Federated'') would acquire all of the assets of applicant's sole portfolio, Sunburst Short-Intermediate Government Bond Fund (''Sunburst''), in exchange for Institutional Shares of Federated to be distributed *pro rata* by Sunburst to its shareholders in complete liquidation and dissolution of Sunburst. Pursuant to rule 17a–8, the Boards of Trustees of Sunburst and Federated determined that such reorganization would be in the best interests of their respective shareholders and that the economic interests of their respective shareholders would not be diluted as a result of the reorganization.[1] Proxy materials were filed with the SEC and were distributed to applicant's shareholders on or about May 26, 1995. At a special meeting of shareholders held on June 29, 1995, applicant's shareholders approved the reorganization.

3. On the exchange date of June 30, 1995, all of the properties and assets of Sunburst were valued and subsequently conveyed to Federated. Shareholders in Sunburst received Institutional Shares in Federated equal in value to their shares in Sunburst in complete liquidation and dissolution of Sunburst. No brokerage commissions were paid as a result of the exchange.

4. The Adviser is responsible for the payment of all expenses of the reorganization incurred by either Sunburst or Federated. Such expenses include, but are not limited to, accountants' fees, legal fees, registration fees, transfer taxes, bank and transfer agent fees, the costs of proxy materials and proxy solicitation to shareholders of Sunburst and the costs of holding the special meeting of shareholders.

5. Applicant has no assets or liabilities and is not a party to any litigation or administrative proceeding. At the time of the application, applicant had no shareholders. Applicant is neither engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding-up of its affairs.

6. Applicant will be dissolved under the laws of Massachusetts upon receipt of an order from the SEC declaring that applicant has ceased to be an investment company.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–25961 Filed 10–19–95; 8:45 am]

BILLING CODE 8010–01–M

[1] Applicant and Federated may be deemed to be affiliated persons of each other by reason of having a common investment adviser, common directors, and common officers. Although purchases and sales between affiliated persons generally are prohibited by section 17(a) of the Act, rule 17a–8 provides an exemption for certain purchases and sales among investment companies that are affiliated persons of one another solely by reason of having a common investment adviser, common directors, and/or common officers.

[Rel. No. IC–21421; 811–6655]

Triple A and Government Series—1995, Inc.; Notice of Application

October 13, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Triple A and Government Series–1995, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on September 12, 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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on

November 7, 1995 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, 1285 Avenue of the Americas, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: Barbara J. Klapp, Paralegal Specialist, at (202) 942–0575, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a closed-end diversified investment company organized as a Maryland corporation, with a scheduled termination date of June 29, 1995 (the ''Termination Date''). On May 1, 1992, applicant filed a notification of registration pursuant to section 8(a) of the Act. On May 6, 1992, applicant filed a registration statement pursuant to the Securities Act of 1933. The registration statement became effective on June 30, 1992 and applicant's initial public offering commenced thereafter. Mitchell Hutchins Asset Management Inc. serves as applicant's investment adviser (the ''Adviser'').

2. On or before June 29, 1995, all of applicant's portfolio securities either matured or were sold in open market transactions with dealers at ordinary spreads. In accordance with an Agreement and Plan of Liquidation and Dissolution approved by applicant's board of directors on June 2, 1995, applicant distributed all of its remaining assets to its shareholders on the Termination Date.

3. As of the Termination Date, there were approximately 6,195,385 shares of common stock, having an aggregate net asset value of $61,953,849 and a per share net asset value of $10. On the Termination Date, applicant made a cash distribution of its assets to its shareholders on a pro rata basis. The distribution to shareholders was based on net asset value.

4. As of October 4, 1995, cash amounting to approximately $5,000 was being held by PNC Bank N.A., in a non-interest-bearing account, for one shareholder who had not surrendered her share certificates. These assets are to be distributed on a pro rata basis as share certificates are surrendered. All reasonable steps are being taken to locate the shareholder. If PNC Bank is unable to locate the shareholder, the cash assets will continue to be held with PNC Bank in accordance with applicable state law.

5. At the close of business on June 29, 1995, pursuant to applicant's articles of incorporation and Maryland law, applicant ceased to exist as a Maryland corporation. No action was needed by shareholders, or under state law, to effect the liquidation.

6. As of the Termination Date, the known liabilities of applicant consisted primarily of expenses incurred in connection with applicant's liquidation and dissolution. The $10 per share distribution to shareholders reflected the payment of all known liabilities. The Adviser will be responsible for the payment of any additional, unanticipated expenses.

7. Applicant is not a party to any litigation or administrative proceeding.

8. Applicant is neither engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–25960 Filed 10–19–95; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Interest Rates; Notice

On a quarterly basis, the Small Business Administration also publishes an interest rate called the optional ''peg'' rate (13 CFR 122.8–4(d)). This rate is a weighted average cost of money to the government for maturities similar to the average SBA loan.

This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. For the October-December quarter of FY 96, this rate will be 6½ percent.

John R. Cox,

Associate Administrator for Financial Assistance.

[FR Doc. 95–25984 Filed 10–19–95; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Oneida County, New York

AGENCY: Federal Highway Administration ((FHWA), New York State Department of Transportation (NYSDOT).

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for the proposed Judd Road Connection Highway Project, Oneida County, New York.

FOR FURTHER INFORMATION CONTACT:

Harold J. Brown, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, 9th Floor, Clinton Avenue and North Pearl Street, Albany, New York 12207, Telephone: (518) 431–4127

or

Philip J. Clark, Director, Facilities Design Division, New York State Department of Transportation, State Campus, 1220 Washington Avenue, Albany, New York 12232, Telephone: (518) 457–6452.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the NYSDOT, will prepare an Environmental Impact Statement on a proposal to construct the Judd Road Connection located in the Village of New York Mills, Towns of Whitestown and New Hartford in Oneida County, New York. The proposed improvement involves the construction of a new highway, from the Route 5/8/12 (North-South Arterial) interchange proceeding west, to State Route 5A (Commercial Drive) continuing to Middle Settlement Road then terminating at the existing Judd Road/Halsey Road intersection. This proposed section of highway is approximately 6.5 kilometers in length. Improvements to the study area are considered necessary in order to provide an effective, safe, transportation service based on projected traffic demands, growth factors and current design standards. This new highway should aid in mitigating the existing and continual degradation of capacity, and increase in vehicle hours of delay on the highway network. This improvement would also provide system continuity between the existing state highway systems within the study area, improve the movement of people and/or goods and the overall safety to the traveling public. As a result of this project, there

could be improvements to the Route 5/8/12 interchange.

Alternatives under consideration include: (1) Take no action, and (2) various design alternates of constructing a four lane, full control of access highway from the Route 5/8/12 interchange for a section of the improved highway tapering to a two lane limited access highway for the remaining section to Judd Road/Halsey Road intersection on new alignment. Incorporated into and studied with the build alternatives will be design variations of grade, alignment and interchange/intersection locations and type.

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, State and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A series of public information meetings will be held at convenient locations during the environmental process. In addition, a public hearing will also be held. Public notice will be given regarding the time and place of the meetings and hearings. Upon completion, the Draft Environmental Impact Statement will be available for public and agency review and comment.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the Environmental Impact Statement should be directed to the NYSDOT and FHWA at the addresses provided above.

Issued on: October 11, 1995.

Harold J. Brown,

Division Administrator, Federal Highway Administration, Albany, New York.

[FR Doc. 95–26037 Filed 10–19–95; 8:45 am]

BILLING CODE 4910–22–M

Federal Aviation Administration

[Docket No. 27782]

RIN 2120–AF90

Proposed Policy Regarding Airport Rates and Charges

AGENCY: Department of Transportation (DOT or Department), Federal Aviation Administration (FAA).

ACTION: Extension of Comment Period.

SUMMARY: On September 8, 1995, the Department published a supplemental notice of a proposed policy statement in the Federal Register (60 FR 47012) with respect to fair and reasonable and not unjustly discriminatory airport rates and charges and announced that at least two meetings for oral views would be held. The proposed policy statement sets forth the Department policy regarding airport practices that the Department would consider to be consistent with Federal requirements for airport rates and charges for aeronautical uses. This notice announces a 15-day extension of the comment period until November 7, 1995.

DATES: Written comments on the SNPRM must be received by November 7, 1995.

ADDRESSES: Comments should be mailed, in quadruplicate, to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC–10), Dockets No. 27782,800 Independence Avenue, SW., Washington, DC 20591. All comments must be marked: ''Docket No. 27782.'' Commenters wishing the FAA to acknowledge receipt of their comments must include a preaddressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 27782.'' The postcard will be date stamped and mailed to the commenter.

Comments on the SNPRM may be examined in room 915G on weekdays, except on Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: John Rodgers, Director, Office of Aviation Policy, Plans and Management Analysis, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591, telephone (202) 267–3274; Barry Molar, Manager, Airports Law Branch, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3473.

SUPPLEMENTARY INFORMATION: On September 8, 1995, the DOT and FAA jointly published in the Federal Register a supplemental notice of proposed policy regarding fair and reasonable nondiscriminatory airport rates and changes (60 FR 47012). Specifically, the supplemental notice of proposed policy sets forth proposed revisions to the interim final policy on airport rates and charges published jointly by the DOT and FAA on February 3, 1995 (60 FR 6906). In the February 3 publication, the Department requested comments on the interim policy, and the supplemental notice reflects the Department consideration of the comments received. The supplemental notice established October 23, 1995 as the due date for written comments and advised that the Department intended to hold at least two informal public meetings on the proposed policy. The second meeting is being held on October 17, 1995.

On October 13, 1995, the Air Transport Association (ATA), through counsel, requested a 30 day extension of the comment period. The ATA asserts that the additional time is required to permit full coordination of proposed comments with each ATA member.

We have decided to extend the comment period for 15 days—until November 7, 1995. This extension will provide additional time for all commenters to respond to information and comment developed at the October 17 public meeting and will provide additional time for ATA, as well as other industry associations, to coordinate comments among individual members.

The supplemental notice proposes modifications to the interim policy. Moreover, in directing us to establish a policy on airport rates and charges, the FAA Authorization Act of 1994, Pub. L. 103–309 (August 23, 1995) also directed us to proceed expeditiously. In addition, while the interim policy is in place, there may be some uncertainty over what policy the Department would apply in areas where the supplemental notice varies from the interim policy. In these circumstances, we are not prepared to further delay development of a final policy by granting the full 30-day extension requested by ATA.

Issued in Washington, DC, on October 16, 1995.

Cynthia Rich,

Assistant Administrator for Airports.

[FR Doc. 95–26047 Filed 10–19–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–49; OTS No. 11990]

Flushing Savings Bank, FSB, Flushing, New York; Approval of Conversion Application

Notice is hereby given that on October 12, 1995, the Director, Corporate Activities, Office of Thrift Supervisions, or her designee, acting pursuant to delegated authority, approved the application of Flushing Savings Bank, FSB, Flushing, New York, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Northeast Regional Office,

Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: October 17, 1995.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 95–26063 Filed 10–19–95; 8:45 am]

BILLING CODE 6720–01–M

[AC–50; OTS No. 2108]

Patriot Savings Bank, Pottstown, Pennsylvania; Approval of Conversion Application

Notice is hereby given that on October 16, 1995, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Patriot Savings Bank, Pottstown, Pennsylvania, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: October 17, 1995.

By the Office of Thrift Supervision,

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 95–26062 Filed 10–19–95; 8:45 am]

BILLING CODE 6720–01–M

UNITED STATES INFORMATION AGENCY

Performance Review Board Members

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: This Notice is issued to revise the membership of the United States Information Agency (USIA) Performance Review Board.

DATES: Effective October 20, 1995.

FOR FURTHER INFORMATION CONTACT:

Ms. Kathleen Kelly (Co-Executive Secretary), Chief of Compensation & Benefits Division, Office of Personnel, International Broadcasting Bureau, U.S. Information Agency, 330 Independence Avenue SW., Washington, D.C. 20547, Tel: (202) 619–2102

or

Ms. Patricia H. Noble (Co-Executive Secretary), Chief, Civil Service Division, Office of Human Resources, U.S. Information Agency, 301 4th Street SW., Washington, D.C. 20547, Tel: (202) 619–4617.

SUPPLEMENTARY INFORMATION: In accordance with Section 4314(c)(1) through (5) of the Civil Service Reform Act of 1978 (P.L. 95454), the following list supersedes the U.S. Information Agency Notice (55 FR 233, November 6, 1991)

Chairperson: Associate Director for Management—Henry Howard, Jr. (Presidential Appointee)

Deputy Chairperson: Director for International Broadcasting Bureau, Joseph Bruns

Career SES Members:

Michael Schneider, Special Advisor to the Director, Office of the Director

Judith Siegel, Director, Office of Information Resources, Bureau of Information

Leroy Lowrey, Assistant Inspector General for Inspections, Office of Inspector General

Steven C. Munson, Director, Office of Policy, International Broadcasting Bureau

Lisa Keathley, Chief, Worldnet Productions, International Broadcasting Bureau

Donald M. Jacques, Jr., Deputy for Project Management, International Broadcasting Bureau

Alternate Career SES Members

Rick A. Ruth, Deputy Chief of Staff, Office of the Director

James R. Hulen, Director, Office of Strategic Planning, International Broadcasting Bureau.

This supersedes the previous U.S. Information Agency Notice (55 FR 233 November 6, 1991)

Dated: October 13, 1995.

Henry Howard, Jr.,

Associate Director for Management, U.S. Information Agency.

[FR Doc. 95–26009 Filed 10–19–95; 8:45 am]

BILLING CODE 8230–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Public Comment: Deregulation Measures in Japan

AGENCY: Office of the United States Trade Representative.

ACTION: Request for written comments regarding deregulation measures in Japan.

SUMMARY: The Government of the United States plans to submit to the Government of Japan comments regarding economic deregulation measures by the Government of Japan. The United States Trade Representative (USTR) solicits written comments from interested persons regarding specific laws, regulations, or regulatory practices in Japan, the removal or modification of which would improve market access for United States products or services.

DATES: Comments are due on or before noon on November 3, 1995.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Byron Sigel, Director for Japanese Affairs, (202) 395–5070.

SUPPLEMENTARY INFORMATION: On March 31, 1995, the Government of Japan announced a package of economic deregulation measures. Before the announcement of those measures, the Government of the United States held several consultations with the Government of Japan regarding deregulation and competition policy issues. On November 15, 1994, and again on April 21, 1995, the Government of the United States, under the coordination of the Office of the United States Trade Representative, submitted to the Government of Japan specific written comments regarding the deregulation process, competition policy issues, administrative reform process, and specific suggestions for deregulation measures. The comments submitted by the Government of the United States are available for public inspection and copying in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20506. An appointment to review the list may be made by calling Brenda Webb (202) 395–6186. The USTR Reading Room is open to the public from 10 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

The Government of the United States plans to consult further with the Government of Japan regarding the measures announced last spring as well as additional deregulation and competition policy measures and issues. The Government of the United States plans to submit to the Government of Japan further specific comments addressing these areas. USTR will use the comments solicited pursuant to this notice in developing the comments that the Government of the United States will submit to the Government of Japan.

Request for Public Comment

Interested persons are invited to submit written comments on specific

laws, regulations, or regulatory practices in Japan, the removal or modification of which would improve market access for United States' products or services. Comments need not be limited to the sectors covered by the deregulation measures previously announced by the Government of Japan, but may address any sector. Comments should identify and explain the laws, regulations, and regulatory practices in sufficient detail to allow a full understanding of the regulatory issued and market access concerns.

In addition to comments regarding specific laws, regulations, or regulatory practices, USTR is interested in receiving comments from interested persons regarding regulatory processes and procedures, for example regarding transparency or review of administrative actions, which affect market access. USTR also solicits comments regarding the specific experiences and suggestions of interested persons with respect competition laws and policies and their enforcement in Japan.

Comments are due no later than noon on November 3, 1995. Comments must be in English and provided in twenty copies to: Sybia Harrison, Deregulation Measures in Japan, Room 223, USTR, 600 17th Street NW, Washington, DC 20506.

Comments will be placed in a file open to public inspection, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15(b). Confidential business information submitted in accordance with 15 CFR 2006.15(b) must be clearly marked ''BUSINESS CONFIDENTIAL'' in contrasting color ink at the top of each page of each copy, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary will be placed in the file that is open to public inspection.

Byron Sigel,

Director for Japanese Affairs.

[FR Doc. 95–26029 Filed 10–19–95; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Cemeteries and Memorials, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice that a meeting of the Advisory Committee on Cemeteries and Memorials, authorized by 38 U.S.C. 2401, will be held at the Department of Veterans Affairs, 810 Vermont Avenue, Room 530, NW, Washington, DC 20420. This will be the committee's first meeting of fiscal year 1996 and will address the historic preservation needs of the National Cemetery System.

The meeting will convene at 8:00 a.m. (EST) on November 8, 1995 and will adjourn at 5:00 p.m. (EST) November 9, 1995. On November 8 there will be a Gettysburg National Historic Battlefield site visit returning to VACO at 5:00 p.m. The purpose of this site visit is to conduct an historic preservation workshop, using the location to exemplify various preservation need of federally-owned historic lands such as national cemeteries and battlefields.

The following day at 9:00 a.m. the Committee will reconvene to discuss ongoing historic preservation projects within VA's National Cemetery System. The second day's agenda will also consist of a planning meeting to identify topics and objectives for the coming year. The meeting will adjourn at 5:00 p.m.

The meeting will be open to the public. Those wishing to attend should contact Ms. Dina Wood, Special Assistant to the Director, National Cemetery System, [phone (202) 273–5235] not later than 12 noon, EST October 27, 1995.

Any interested person may attend, appear before, or file a statement with the Committee. Individuals wishing to appear before the Committee should indicate this in a letter to the Director, National Cemetery System (40 at 810 Vermont Avenue, NW., 20420. In any such letters, the writers must fully identify themselves and state the organization or association or person they represent. Also, to the extent practicable, letters should indicate the subject matter they want to discuss. Oral presentations should be limited to 10 minutes in duration. Those wishing to file written statements to be submitted to the Committee must also mail, or otherwise deliver, them to the Director, National Cemetery System.

Letters and written statements as discussed above must be mailed or delivered in time to reach the Director, National Cemetery System, by 12 noon est, November 1, 1995. Oral statements will be heard only between 3:00 p.m. and 5:00 p.m. est, November 9, 1995.

Dated: October 10, 1995.

By Direction of the Secretary:

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–26031 Filed 10–19–95; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 60, No. 203
Friday, October 20, 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).

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on October 24, 1995, from 10:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

B. New Business

1. Policy Statements

a. Amendment to Board Operational Policy Statement No. 64 [Delegation of Authority for Signing Bookletters and Other Documents].

2. Regulations.

a. Regulatory Burden Issues/Phase II [12 CFR Chapter VI] (Notice).

b. Borrower Rights/Phase I [12 CFR Part 614] (Proposed).

Dated: October 18, 1995.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 95–26230 Filed 10–18–95; 4:02 pm]

BILLING CODE 6705–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, October 24, 1995.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS OF BE CONSIDERED: The Commission will consider and act upon the following:

1. Lion Mining Co., Docket No. PENN 94–71–R (Issues include whether the judge erred in finding that the operator's violation of 30 C.F.R. § 75.220(a)(1) was not of a significant and substantial nature or the result of an unwarrantable failure.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 C.F.R. §§ 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Dated: October 17, 1995.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 95–26225 Filed 10–18–95; 3:00 pm]

BILLING CODE 6735–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, October 25, 1995.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposals regarding a Federal Reserve Bank's building requirements.

2. Proposed 1996 Federal Reserve Bank officer salary structure adjustments. (This item was originally announced for a closed meeting on October 18, 1995.)

3. Proposed 1996 Federal Reserve Board employee salary structure adjustments and merit program. (This item was originally announced for a closed meeting on October 18, 1995.)

4. Eligibility criteria for selection of Federal Reserve Bank directors. (This item was originally announced for a closed meeting on October 18, 1995.)

5. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

6. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 18, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–26148 Filed 10–18–95; 11:11 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Wednesday, November 15, 1995.

PLACE: Federal Trade Commission Building, Room 532, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions Open to Public:

(1) Oral Argument in California Dental Association, Docket 9259.

Portions Closed to the Public:

(2) Executive Session to follow Oral Argument in California Dental Association, Docket 9259.

CONTACT PERSON FOR MORE INFORMATION: Murfy Alexander, Office of Public Affairs: (202) 326–2180, Recorded Message: (202) 326–2711.

Donald S. Clark,

Secretary.

[FR Doc. 95–26211 Filed 10–18–95; 3:16 pm]

BILLING CODE 6750–01–M

federal register

Friday
October 20, 1995

Part II

Department of Justice

Bureau of Prisons

28 CFR Parts 549 and 551

Plastic Surgery and Inmate Organizations; Proposed Rules

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 549

[BOP–1020–P]

RIN 1120–AA26

Plastic Surgery

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: In this document, the Bureau of Prisons is proposing revised regulations concerning the circumstances and procedures under which the Bureau approves plastic surgery for inmates. The proposed regulations establish criteria under which plastic surgery may be approved: as a component of standard medical/surgical treatment, when necessary for the good order and security of the institution, and in other special situations as determined by the Medical Director. Additionally, these regulations have been reorganized to emphasize ''informed consent'' and to remove unnecessary provisions.

DATES: Comments due by December 19, 1995.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is proposing to amend its regulations on plastic surgery (28 CFR part 549, subpart D). A final rule on this subject was published in the Federal Register on June 29, 1979 (44 FR 38236).

Under its current regulations on plastic surgery, the Bureau provides, within available resources, corrective and reconstructive surgery for an inmate to correct obvious disfigurement. Approval for such surgery follows when the surgery is indicated for medical reasons or when it is believed that such surgery will assist the inmate's institutional or post-release adjustment.

The proposed regulations stipulate in the statement of purpose that the Bureau ordinarily does not perform plastic surgery on inmates to correct preexisting disfigurements (including tattoos) on any part of the body. Plastic surgery may be performed when it is a component of the presently medically necessary standard of treatment. Plastic surgery may also be approved under special circumstances: Namely, for the good order and security of the institution, or when some question exists as to whether the surgery qualifies as a component of presently medically necessary standard of treatment. Further revisions to the regulations include simplification and reorganization of the procedures for approval and ''informed consent.'' Procedures relating to staff processing of inmate identification records have been removed and have been made part of internal instructions to staff.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, 320 First Street NW., HOLC Room 754, Washington, DC 20534. Comments received during the comment period will be considered before final action is taken. All comments received remain on file for public inspection at the above address. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

List of Subjects in 28 CFR Part 549

Prisoners.

Wallace H. Cheney,

Acting Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), it is proposed to amend part 549 in subchapter C of 28 CFR, chapter V as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 549—MEDICAL SERVICES

1. The authority citation for 28 CFR part 549 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4005, 4042, 4045, 4081, 4082, (Repealed in part as to offenses committed on or after November 1, 1987), 4241–4247, 5006–5024 (Repealed October 12, 1984, as to offenses committed after that date), 5039: 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. Subpart D, consisting of §§ 549.50 and 549.51, is revised to consist of §§ 549.50 through 549.52 as follows:

Subpart D—Plastic Surgery

Sec.
549.50 Purpose and scope.
549.51 Approval procedures.
549.52 Informed consent.

Subpart D—Plastic Surgery

§ 549.50 Purpose and scope.

The Bureau of Prisons does not ordinarily perform plastic surgery on inmates to correct preexisting disfigurements (including tattoos) on any part of the body. In circumstances where plastic surgery is a component of a presently medically necessary standard of treatment (for example, part of the treatment for facial lacerations or for mastectomies due to cancer) or it is necessary for the good order and security of the institution, the necessary surgery may be performed.

§ 549.51 Approval procedures.

The Clinical Director shall consider individually any request from an inmate or a BOP medical consultant.

(a) In circumstances where plastic surgery is a component of the presently medically necessary standard of treatment, the Clinical Director shall forward the surgery request to the Office of Medical Designations and Transportation for approval.

(b) If the Clinical Director recommends plastic surgery for the good order and security of the institution, the request for plastic surgery authorization will be forwarded to the Warden for initial approval. The Warden will forward the request through the Regional Director to the Medical Director. The Medical Director shall have the final authority to approve or deny this type of plastic surgery request.

(c) If the Clinical Director is unable to determine whether the plastic surgery qualifies as a component of presently medically-necessary standard of treatment, the Clinical Director may forward the request to the Medical Director for a final determination in accordance with the provisions of paragraph (b) of this section.

§ 549.52 Informed consent.

Approved plastic surgery procedures may not be performed without the informed consent of the inmate involved.

[FR Doc. 95–25913 Filed 10–19–95; 8:45 am]

BILLING CODE 4410–05–P

28 CFR Part 551

[BOP–1045–P]

RIN 1120–AA42

Inmate Organizations

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rule.

SUMMARY: The Bureau of Prisons is proposing to revise its regulations on Inmate Organizations to prohibit fund-raising activities by inmates and to phase out provisions governing inmate accountability for funds. This amendment is intended to provide for the continued efficient and orderly operation of the institution and the Bureau.

DATES: Comments due by December 19, 1995.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is proposing to amend its regulations on Inmate Organizations (28 CFR part 551, subpart D). A final rule on this subject was published in the Federal Register on June 29, 1979 (44 FR 38236) and was amended June 1, 1983 (48 FR 24625).

Current regulations on inmate organizations allow for the operation of fund-raising activities and consequently include provisions for accountability for funds. These activities potentially pose legal and financial problems; for example, nonpayment by the inmate organization. The Bureau, therefore, is proposing to prohibit fund-raising activities by inmates and to phase out provisions governing inmate accountability for funds.

The Bureau recognizes and supports the traditional purposes of approved inmate organizations allowing for social and recreational activities. While direct funding by inmate organizations would be eliminated, the proposed regulations allow for the funding of approved activities by the Bureau from designated funds (for example, the Trust Fund).

The proposed regulations have been generally revised for the sake of organization and clarity. The regulations contain specific procedures for the approval/disapproval of an organization or requested activities. The provisions for dues have been amended to ensure that monies do not accrue to an individual inmate organization. Finally, the proposed regulations require, in accordance with Bureau policy and generally accepted accounting principles, the close-out of the operation of any funds previously accumulated by an inmate organization. Under Bureau policy, such funds could be used to finance an approved activity for the organization. Any remaining funds, or organization property assets which have not been converted to cash, would be disposed of through donation to an approved charity, the institution, or the Trust Fund.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

Interested persons may participate in this proposed rulemaking by submitting data, views, or arguments in writing to the Bureau of Prisons, 320 First Street NW., HOLC Room 754, Washington, DC 20534. Comments received during the comment period will be considered before final action is taken. All comments received remain on file for public inspection at the above address. The proposed rule may be changed in light of the comments received. No oral hearings are contemplated.

List of Subjects in 28 CFR Part 551

Prisoners.

Wallace H. Cheney,

Acting Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), it is proposed to amend part 551 in subchapter C of 28 CFR, chapter V as set forth below.

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 551—MISCELLANEOUS

1. The authority citation for 28 CFR part 551 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 1512, 3621, 3622, 3624, 4001, 4005, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166 (Repealed as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; Pub. L. 99–500 (sec. 209); 28 CFR 0.95–0.99; Attorney General's August 6, 1991 Guidelines for Victim and Witness Assistance.

2. Subpart D, consisting of §§ 551.30 through 551.36, is revised as follows.

Subpart D—Inmate Organizations

Sec.
551.30 Purpose and scope.
551.31 Approval of an organization.
551.32 Staff supervision.
551.33 Dues.
551.34 Organization activities.
551.35 Funding.
551.36 Accountability for accumulated funds.

Subpart D—Inmate Organizations

§ 551.30 Purpose and scope.

The Bureau of Prisons permits inmates and persons in the community to participate in approved inmate organizations for recreational, social, civic, and benevolent purposes.

§ 551.31 Approval of an organization.

(a) An inmate must submit a request for recognition of a proposed inmate organization to the Warden prior to the inmate organization's becoming active.

(b) The Warden may approve an inmate organization upon determining that:

(1) The organization has a constitution and bylaws duly approved by its members which include its purpose and objectives, the duties and responsibilities of the officer(s), and requirements for activities reporting and for operational review; and

(2) The organization does not operate in opposition to the security, good order, or discipline of the institution.

(c) The Warden may withdraw approval of an inmate organization for reasons of the security, good order, and discipline of the institution, or in accordance with § 551.34(e).

§ 551.32 Staff supervision.

(a) The Warden shall appoint a staff member as the institution's Inmate Organization Manager (IOM). The IOM shall be responsible for monitoring the activities of the institution's inmate organizations and staff sponsors.

(b) The Warden or designee shall assign a staff sponsor responsible for supervising the activities of an individual inmate organization. The staff sponsor's duties are performed while in official duty status.

§ 551.33 Dues.

Dues may be collected if they are required by a National Chapter, are collected by that same National Chapter, and the rate and method of collection have been approved by the Warden. No

portion of the dues may be kept by the inmate organization for use at the institution. The organization may not make payment of dues a requirement of membership for an inmate who lacks funds.

§ 551.34 Organization activities.

(a) An officer of the inmate organization must submit a written request for approval of an activity to the Warden or designee. Activities include, but are not limited to, meetings, guest speakers, sports competitions, banquets, community programs, or purchase of items intended for use by inmates in the institution which are in addition to those ordinarily furnished by the government. Activities may not include fund-raising projects. The request must include:

(1) Name of the organization;

(2) Nature or purpose of the activity;

(3) Date, time, and estimated duration of the activity (if appropriate);

(4) Estimated cost (if appropriate);

(5) Information concerning guest participation;

(6) Other pertinent information requested by the Warden.

(b) The Warden may approve the request if the activity:

(1) Does not conflict with scheduled inmate work or program activities;

(2) Has confirmation of staff supervision;

(3) Can be appropriately funded when applicable (see § 551.35);

(4) Does not conflict with the security, good order, or discipline of the institution.

(c) When an activity requires the expenditure of government funds, the Warden ordinarily shall require reimbursement from non-inmate participants (guests or members).

(d) Each inmate organization shall be responsible for maintaining accurate records of its activities.

(e) The activities of an inmate organization may be suspended temporarily due to noncompliance with Bureau policy. The IOM is responsible for recommending the specific suspension sanction for the Warden's approval. The inmate organization is to receive written notice of the proposed suspension sanction and shall have the opportunity to respond to the Warden. Continued non-compliance with Bureau policy shall result in an increase in the severity of the suspension sanction, and may include withdrawal of approval for the organization.

§ 551.35 Funding.

The Bureau of Prisons may fund approved activities of inmate organizations subject to the availability of designated funds.

§ 551.36 Accountability for accumulated funds.

Effective January 1, 1996 through March 31, 1996, all inmate organizations must close-out, in accordance with Bureau policy and generally accepted accounting principles, the operation of any funds previously accumulated by them.

[FR Doc. 95–25912 Filed 10–19–95; 8:45 am]

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Friday, October 20, 1995

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FEDERAL REGISTER PAGES AND DATES, OCTOBER

51321–51666.....2
51667–51876.....3
51877–52062.....4
52063–52290.....5
52291–52608.....6
52609–52830.....10
52831–53100.....11
53101–53246.....12
53247–53502.....13
53503–53690.....16
53691–53846.....17
53847–54026.....18
54027–54150.....19
54151–54290.....20

CFR PARTS AFFECTED DURING OCTOBER

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.

3 CFR

Proclamations:
6828.....51877
6829.....51879
6830.....52291
6831.....52827
6832.....53097
6833.....53099
6834.....53101
6835.....53103
6836.....53105
6837.....53107
6838.....53247
6839.....53249
6840.....53843
6841.....54023
6842.....54025

Executive Orders:
4410 (Revoked in part by PLO 7165).....52846
11145 (Continued by EO 12974).....51875
11183 (Continued by EO 12974).....51875
11287 (Continued by EO 12974).....51875
11776 (Continued by EO 12974).....51875
12131 (Continued by EO 12974).....51875
12196 (Continued by EO 12974).....51875
12216 (Continued by EO 12974).....51875
12345 (Continued by EO 12974).....51875
12367 (Continued by EO 12974).....51875
12382 (Continued by EO 12974).....51875
12844 (Revoked in part by EO 12974).....51876
12869 (Superseded by EO 12974).....51876
11871 (Continued by EO 12974).....51875
11876 (Continued by EO 12974).....51875
12878 (Revoked by EO 12974).....51876
12882 (Continued by EO 12974).....51875
12887 (See EO 12974).....51876
12900 (Continued by EO 12974).....51875
12901 (Amended by EO 12973).....51665
12905 (Continued by EO 12974).....51875
12912 (See EO 12974).....51876
12958 (See Order of October 13, 1995).....53845
12973.....51665
12974.....51875
12975.....52063
12976.....52829

Administrative Orders:
Memorandums:
September 29, 1995.....52061
October 2, 1995.....52821
October 3, 1995.....52289
October 10, 1995.....53251
October 13, 1995.....53845
Presidential Determinations:
No. 95–45 of September 29, 1995.....52823
No. 95–46 of September 29, 1995.....53087
No. 95–47 of September 29, 1995.....53089
No. 95–48 of September 29, 1995.....53091
No. 95–49 of September 28, 1995.....53677
No. 95–50 of September 30, 1995.....53093

5 CFR
315.....53503
532.....51881
870.....51881
871.....51881
872.....51881
874.....51881
2608.....51667
2612.....51667
2635.....51667

Proposed Rules:
251.....51371
531.....53545
591.....53716

7 CFR
8.....52293
301.....52831, 52833
400.....51321
810.....51667
916.....52067
917.....52067
920.....52834
982.....51668
1150.....53253
1212.....52835
1443.....51885
1477.....52609
1478.....52609

1942 52838
1980 ....52838, 53254
2610 52840
2620 52842
Proposed Rules:
54 53283
300 51373
318 51373
985 52869
1280 51737
1413 52634
3015 53717
3016 53717
3017 54103
3050 53717

8 CFR

204 54027
208 52068
212 ....52068, 52248
214 ....52068, 52248
236 52068
242 52068
245 ....52068, 52248
248 52068
274a 52068
299 52068

9 CFR

Proposed Rules:
94 52635

10 CFR

50 53505
70 53505
72 53505
73 53507
905 54151
Proposed Rules:
50 51936
52 ....51936, 53883
100 51936

11 CFR

100 52069
106 52069
109 52069
110 52069
114 52069

12 CFR

229 51669
701 51886
722 51889
Ch. XVIII 54110
1805 54110
1806 54110
1815 54110
Proposed Rules:
Ch. II 53546
22 53962
208 53692
339 53692
563 53692
572 53692
614 53692
701 51936
760 53692

14 CFR

25 53691
39 ....51321, 51703, 51705, 51707, 51709, 51713, 52073, 52618, 52620, 52622, 52843, 52844, 53109, 53110, 53112, 53265, 53507, 53847, 54849, 53851, 53853, 53855, 53857, 53859, 53860, 53862, 53864, 53866, 53868, 53869
61 51850
63 51850
65 51850
71 ....52293, 52624, 52846, 53870, 53871, 53872
97 ....51715, 51717
107 ....51854, 53830
108 ....51850, 51854, 53830
121 ....51850, 52625
125 52625
135 ....51850, 52625
Proposed Rules:
39 ....51375, 51376, 51942, 51944, 52130, 52131, 52636, 52870, 52872, 53148, 53150, 53307, 53309, 53310, 53312, 53314, 53548, 53550, 53552, 53554, 53556, 53558, 53883, 53888, 54202, 54203
71 ....51747, 52133, 52134, 52637, 52638, 52639, 53724, 54205, 54206
77 53680

15 CFR

773 54030
778 54030
799 ....53698, 54030
Proposed Rules:
929 53890
937 53890

16 CFR

429 54185
436 51895
1500 53266
1700 53699

17 CFR

36 51323
200 52626
231 53458
241 53458
271 53458
Proposed Rules:
230 53468
232 53468
239 53468
240 ....52792, 53468, 53832
270 ....53152, 53468

18 CFR

2 53019
154 52960
157 53019
158 53019
201 53019
250 53019
260 53019
284 53019
357 53114
381 53019
382 53114
385 53019
Proposed Rules:
35 52874

19 CFR

10 52294
19 52294
54 52294
101 52627
123 54187
125 52294
141 52294
144 52294
148 54187
210 53117
Proposed Rules:
101 52347
201 51748
207 51748

20 CFR

404 53267
702 51346
703 51346

21 CFR

73 52628
100 53480
101 53480
103 53480
104 53480
105 53480
109 53480
137 53480
161 53480
163 53480
173 54035
177 54188
182 53480
184 54190
186 53480
197 53480
200 53480
250 53480
310 ....52474, 53480
355 52474
369 52474
500 53480
505 53480
507 53480
508 53480
510 ....53480, 54193
522 ....51718, 53509
558 ....53509, 53701, 54193
570 53480
573 53702
601 53480
620 53480
630 53480
640 53480
650 53480
660 53480
680 53480
700 53480
801 53480
1310 53121
Proposed Rules:
2 53725
330 52058
801 53560
803 53560
804 53560
888 51946
897 53560

22 CFR

92 51719
514 53122
Proposed Rules:
51 ....51760, 54103

24 CFR

291 52296
Proposed Rules:
882 51658

25 CFR

163 52250
164 51723
165 51723

26 CFR

1 ....52077, 53126
31 53509
52 52848
301 51724
602 ....52848, 53126, 53509
Proposed Rules:
31 53561

27 CFR

9 51896

28 CFR

0 53267
2 ....51348, 51349, 51350
501 53490
549 52278
Proposed Rules:
16 51962
549 54288
551 54289

29 CFR

4 51725
1602 51350
1910 52856
2610 53268
2619 53269
2622 53268
2644 53272
2676 53269
Proposed Rules:
Ch. XIV 54207
1625 51762
1910 54047
2615 52135

30 CFR

914 53511
948 51900
Proposed Rules:
6 52640
18 ....52640, 53891
19 52640
20 52640
21 52640
22 52640
23 52640
26 52640
27 52640
29 52640
33 52640
35 52640
75 53891
206 51963
906 53562
934 53564
938 53565
943 ....53567, 53569

31 CFR

515 54194
Proposed Rules:
103 53316

32 CFR

199 52078
311 54197
505 51918
706 ....52860, 53272, 54198

2001 53492
Proposed Rules:
321 51764
723 53153

33 CFR

100 ..... 52296, 52297, 53273
110 52103
117 ..... 51727, 51728, 51729, 51730, 51732, 52298, 53129, 53274
164 51733
165 ..... 52103, 52861
Proposed Rules:
84 53726
110 53317
162 53318
187 53727

36 CFR

223 53704
1210 53514

38 CFR

1 53275
3 ..... 51921, 52862, 52863, 53276
20 51922

40 CFR

52 ..... 51351, 51354, 51923, 52312
58 52315
60 ..... 52329, 52331
61 ..... 52329, 52331
70 ..... 52332, 53872
81 ..... 51354, 51360, 52336
125 53875
136 53529
180 52248
258 52337
271 ..... 51925, 52629, 53704, 53707, 53708
282 52343
300 51927
Proposed Rules:
50 52874
51 ..... 51378, 52734
52 ..... 51378, 51379, 51382, 51964, 52348, 52351, 52352
60 52889
63 53728
70 52890
80 ..... 52135, 53157
81 ..... 51382, 53729
82 ..... 51383, 52357
85 ..... 51378, 52734
86 ..... 52734, 53157
89 53157
136 53988
261 54207
271 54207
300 ..... 51390, 51395
302 ..... 51765, 54207
355 51765

42 CFR

411 53876
414 53877
486 53877
489 ..... 52731, 53456
498 52731

43 CFR

Public Land Orders:
7155 52731
7161 52631
7162 52631
7163 51734
7164 52864
7165 52864
7166 53131
7167 53131
7168 53131

44 CFR

64 51360
65 ..... 54036, 54038
67 54039
Proposed Rules:
67 54051

45 CFR

51–5 54199

46 CFR

1 54106
2 54106
5 54106
6 54106
10 54106
12 54106
14 54106
16 54106
25 54106
28 54106
30 54106
31 54106
32 54106
33 54106
34 54106
35 54106
39 54106
50 54106
52 54106
53 54106
54 54106
56 54106
57 54106
58 54106
59 54106
61 54106
62 54106
63 54106
69 54106
70 54106
71 54106
72 54106
75 54106
76 54106
77 54106
78 54106
90 54106
91 54106
92 54106
93 54106
94 54106
95 54106
96 54106
97 54106
98 54106
107 54106
108 54106
110 54106
147 54106
148 54106
150 54106
151 54106
153 54106
154 54106
160 ..... 52631, 54106
161 54106
162 54106
164 54106
167 54106
169 54106
170 54106
171 53710
174 54106
175 54106
180 54106
181 54106
182 54106
183 54106
184 54106
188 54106
189 54106
190 54106
192 54106
193 54106
196 54106
197 54106
Proposed Rules:
Ch. I 52143
25 52359
552 53572

47 CFR

1 ..... 52865, 53277
32 53544
36 53544
43 ..... 51366, 52865
61 ..... 52345, 52865
63 51366
64 52105
68 52105
73 ..... 52105, 52106, 53278, 53877, 53878
76 ..... 51927, 52106
97 53132
Proposed Rules:
21 53891
25 53891
36 52359
61 ..... 52362, 52364, 53157
73 ..... 52144, 52641, 53892
90 ..... 52894, 53893

48 CFR

15 54045
915 52632
916 52632
970 52632
1415 53278
1426 53278
1428 53278
1452 53278
1815 53878
1816 53878
1819 53880
1822 52121
1852 ..... 53878, 53880
1870 53878
1871 51368
Proposed Rules:
32 51766
45 53319
52 ..... 51766, 53319
207 53573
209 53573
215 ..... 53573, 53574
225 53319
231 ..... 53320, 53321
242 ..... 53573, 53575
252 ..... 53319, 53575
1510 51964
1532 51964
1552 51964
1553 51964
1816 54208
1852 54208

49 CFR

209 53133
240 53133
571 53280
572 53280
Proposed Rules:
107 ..... 53321, 53729
110 53321
171 ..... 53321, 54008
172 53321
173 ..... 53321, 54008
174 53321
175 53321
176 53321
177 53321
178 53321
179 53321
571 53328
1043 53894
1160 53894

50 CFR

23 52450
32 52866
227 ..... 51928, 52121
228 53139
285 51932
625 53281
630 51933
651 51370
672 ..... 51934, 51935, 52128, 52632, 53714, 53881, 54200
675 ..... 52129, 53147, 53881, 54046
677 53715
Proposed Rules:
14 53329
17 ..... 51398, 51417, 51432, 51436, 51443
18 54210
36 53576
222 51968
227 51968
301 51735
638 53730
642 53576
649 54210
650 54210
651 ..... 51978, 54210
652 54211
656 ..... 53577, 53907
676 ..... 51452, 53331