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Friday
October 11, 1996

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

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1485

RIN 0551–AA24

Agreements for the Development of Foreign Markets for Agricultural Commodities

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Commodity Credit Corporation (CCC) is adopting as a final rule the provisions of the interim final rule published February 1, 1996 (61 FR 3548) regarding implementation of the Market Promotion Program (MPP) authorized by Section 203 of the Agricultural Trade Act of 1978. Specifically, the rule revises procedural and documentation requirements pertaining to program participants' contracts with third parties. This change eases administrative requirements and minimizes the potential for increased costs to participants and possible delays in implementing program activities.

EFFECTIVE DATES: October 11, 1996.

FOR FURTHER INFORMATION CONTACT: Sharon L. McClure or Denise Fetters at (202) 720–5521.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule is issued in conformance with Executive order 12866. Based on information compiled by the Department, it has been determined that this rule:

(1) Would have an annual effect on the economy of less than $100 million;

(2) Would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(3) Would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(4) Would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of recipients thereof; and

(5) Would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to the final rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of rulemaking with respect to the subject matter of this rule.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 12988

This final rule has been reviewed under the Executive order 12988, Civil Justice Reform. The rule would have preemptive effect with respect to any state or local laws, regulations, or policies which conflict with such provisions or which otherwise impede their full implementation. The rule would not have retroactive effect. The rule does not require that administrative remedies be exhausted before suit may be filed.

General Comments

The public was given an opportunity to submit written comments on the interim final rule. CCC did not receive any comments. The interim rule is adopted as final.

Information Collection Requirements

The amendment set forth in this final rule does not impose any new reporting or record keeping requirements. The information collection requirements for participating in the MPP were approved for use by the Office of Management and Budget under OMB control number 0551–0027.

List of Subjects in 7 CFR Part 1485

Agricultural commodities, Exports.

PART 1485—AGREEMENTS FOR THE DEVELOPMENT OF FOREIGN MARKETS FOR AGRICULTURAL COMMODITIES

Accordingly, the interim ruling amending 7 CFR part 1485 which was published at 61 FR 3548 on February 1, 1996, is adopted as a final rule without change.

Signed at Washington, DC, this 27th day of September 1996.

Timothy J. Galvin,

Acting Administrator, Foreign Agricultural Service and Vice President, Commodity Credit Corporation.

[FR Doc. 96–26080 Filed 10–10–96; 8:45 am]

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

[INS No. 1794–96]

RIN 1115–AD82

Establishment of a Dedicated Commuter Lane (DCL) System Costs Fee for Participation in the Port Passenger Accelerated Service System (PORTPASS) Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The Immigration and Naturalization Service (Service) published an interim rule with request for comments on September 29, 1995. In that rule the Service indicated that payment of a system costs fee as determined necessary by the Service to cover the costs of technology would be required of all participants. This rule sets forth the amount of that fee.

DATES: This interim rule is effective October 11, 1996. Written comments must be received on or before December 10, 1996.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536. To ensure

proper handling, please reference INS No. 1794–96 on your correspondence. Comments are available for public inspection at this location by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT:

Robert A. Mocny, Assistant Chief Inspector, Inspectors Division, Immigration and Naturalization Service, 425 I Street, NW., Room 4064, Washington, DC 20536, telephone (202) 514–3019.

SUPPLEMENTARY INFORMATION: Payment of a ''DCL system costs fee'' by PORTPASS program participants at selected Ports of Entry will be necessary to cover the costs of additional technology and associated construction, equipment, and personnel costs made necessary in those locations by law enforcement and security concerns. The provisions of OMB Circular A–25, dated July 8, 1993, entitled ''User Charges,'' sets forth the guidelines used by the Service in the assessment of PORTPASS user charges under the Independent Offices Appropriations Act of 1952 (IOAA). After payment of the system costs fee, if the approved participant wants to enroll any additional vehicles for his or her own use in the program, he or she will be charged an ''additional vehicle fee'' to cover the costs of purchasing and installing the necessary equipment in each additional vehicle. If the participant loses his or her PORTPASS document, the participant will have to pay a processing fee. Information about the fees, including the amounts, will be included in publications made available to the public prior to and during the application process. Prior to accepting an application from a person seeking to participate in PORTPASS, the Service will inform the prospective applicant of the amount and nature of all fees associated with the PORTPASS program at that POE.

The PORTPASS program is strictly voluntary. All revenue generated by the PORTPASS program will directly support inspections on the land border, and facilitate traffic flow through designated POEs. Fees collected will be used as needed to cover the following costs:

(1) Hiring additional immigration inspectors, including all associated personnel costs;

(2) Expanding, operating and maintaining information systems for nonimmigrant control;

(3) Construction costs, including those associated with the addition of new primary traffic lanes (with the concurrence of the General Services Administration);

(4) Procuring detection devices and conducting training in the identification of fraudulent documents used by applicants for illegal entry into the United States;

(5) Other costs associated with the operation of the PORTPASS program; and

(6) Costs associated with the administration of the Land Border Inspection Fee Account.

The Service's implementation of this rule as an interim rule, with provision for post-promulgation public comment, is based on the ''good cause'' exception found at 5 U.S.C. 553(d)(3). The reason and necessity for immediate implementation of this interim rule are as follows: The PORTPASS program is currently and directly benefiting the traveling public by expediting the entry of PORTPASS participants and other members of the traveling public into the United States. The costs to the public have been calculated and evaluated. Pursuant to the provisions of the IOAA and OMB Circular No. A–25, the PORTPASS program must be self-sustaining, and the costs of the system carried by the identifiable recipients of the benefits of the PORTPASS program. Furthermore, a pilot DCL is currently operational on the California-Mexico border. To close the DCL because of the inability to collect costs necessary to sustain the system will unnecessarily harm those who use the DCL and who are already on notice that a fee will be charged once established. Those who wish to forgo payment of the fee will be allowed to withdraw from the program without prejudice. Immediate collection of the fee would enable the DCL to continue its current operation, benefiting the United States, the Service, and members of the traveling public at one of the busiest land border Ports-of-Entry in the United States. It remains in the best interest of all members of the traveling public to collect fees from the users as soon as possible.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities because of the following factors. The rule applies to individuals, not small entities, and provides a clear benefit to participants by allowing expeditious passage through a POE. Although there is a fee charged for this service, participation is voluntary and the benefits of participating in the program far exceed the cost to the traveling public.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

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

List of Subjects in 8 CFR Part 103

Administrative practice and procedures, Aliens, Authority delegations (Government agencies), Freedom of Information, Privacy Act, Reporting and record keeping requirements.

Accordingly, part 103 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552(a); 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. In § 103.7, paragraph (b)(1) is amended by revising the entry for ''Form I–823'', and by adding a new entry for the ''DCL System Costs Fee,'' immediately before the entry for Form EOIR–40 to read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

* * * * *

DCL System Costs Fee. For use of a Dedicated Commuter Lane (DCL) located at specific Ports of Entry of the United States by an approved participant in a designated

vehicle—$80.00, with the maximum amount of $160.00 payable by a family (husband, wife, and minor children under 18 years-of-age). Payable following approval of the application but before use of the DCL by each participant. This fee is non-refundable, but may be waived by the district director. If a participant wishes to enroll more than one vehicle for use in the PORTPASS system, he or she will be assessed with an additional fee of—$42 for each additional vehicle enrolled.

* * * * *

Form I–823. For application to a PORTPASS program under section 286 of the Act—$25.00, with the maximum amount of $50.00 payable by a family (husband, wife, and minor children under 18 years of age). The application fee may be waived by the district director. If fingerprints are required, the inspector will inform the applicant of the current Federal Bureau of Investigation fee for conducting fingerprint checks prior to accepting the application fee. Both the application fee (if not waived) and the fingerprint fee must be paid to the Immigration and Naturalization Service before the application will be processed. The fingerprint fee may not be waived. For replacement of PORTPASS documentation during the participation period—$25.00.

* * * * *

Dated: September 27, 1996.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 96–26286 Filed 10–9–96; 11:44 am]

BILLING CODE 4410–10–M

Food Safety and Inspection Service

9 CFR Parts 304, 308, 310, 320, 327, 381, 416, and 417

[Docket No. 93–016–6N]

Pathogen Reduction/HACCP Regional Implementation Conference

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Food Safety and Inspection Service (FSIS) is holding six regional one-day conferences, ''Pathogen Reduction/HACCP Regional Implementation Conference.'' The purpose of the conferences is to brief the public on the content of the final rule, ''Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems,'' published on July 25, 1996, and discuss its implementation.

DATES: See **SUPPLEMENTARY INFORMATION** for dates and times of the meetings.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for the location of the meetings.

FOR FURTHER INFORMATION CONTACT: To register for the conference, call (800) 485–4429, FAX (202) 501–7642, or E-mail usdafsis/s=confer@mhs.attmail.com. If you require a sign language interpreter or other special accommodations, contact Ms. Shelia Johnson at (202) 501–7138 by October 7, 1996.

SUPPLEMENTARY INFORMATION:

On July 25, 1996, FSIS published a final rule, ''Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems'' (61 FR 38805). This rule introduced sweeping changes to the meat and poultry inspection system. In the preamble to the final rule, FSIS announced that it would hold implementation conferences in Washington, DC and in various cities around the country (61 FR 38813). The following is a list of locations, dates, and times for each of the six regional implementation conferences.

Conference location	Date	Time
Chicago, Illinois: O'Hare Ballroom, Clarion International at O'Hare Hotel, 6810 North Mannheim Road, Rosemont, Illinois.	October 15, 1996	8:00 a.m.–5:00 p.m.
Kansas City, Missouri: Liberty Room, Westin Crown Center Hotel, One Pershing Road, Kansas City, Missouri.	October 17, 1996	8:00 a.m.–5:00 p.m.
Dallas, Texas: Bank One Center, Fifth Floor, 1717 Main Street, Dallas, Texas	October 22, 1996	8:00 a.m.–5:00 p.m.
Oakland, California: Henry J. Kaiser Convention Center, 10 Tenth Street, Oakland, California.	October 24, 1996	8:00 a.m.–5:00 p.m.
Boston, Massachusetts: Tip O'Neill Federal Building, 10 Causeway Street, Boston, Massachusetts.	November 7, 1996	8:00 a.m.–5:00 p.m.
Atlanta, Georgia: Capitol Ballroom, Radisson Hotel Atlanta, 165 Courtland and International Boulevard, Atlanta, Georgia.	November 13, 1996	8:00 a.m.–5:00 p.m.

At each conference, FSIS officials will discuss Sanitation Standard Operating Procedures, *E. coli* verification testing, HACCP requirements, *Salmonella* testing, and enforcement issues. Time will be allotted for questions and answers.

Done at Washington, DC, on: October 7, 1996.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 96–26165 Filed 10–8–96; 12:05 pm]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

15 CFR Part 400

[Docket No. 960912257–6257–01; Order No. 849]

RIN 0625–AA48

Lapse of Authority Provision; Inactive Foreign-Trade Zones

AGENCY: Foreign-Trade Zones Board, International Trade Administration, Commerce.

ACTION: Rule-related notice.

SUMMARY: Upon review of Section 400.28(a)(5) of the regulations of the Foreign-Trade Zones Board (15 CFR Part 400) (the ''lapse provision'') and consideration of comments received in response to Federal Register notices given on April 1, 1996 (61 FR 14290) and on July 8, 1996 (61 FR 35711), the Foreign-Trade Zones (FTZ) Board adopts the following interpretive guidelines and procedures in its implementation of the lapse provision.

EFFECTIVE DATE: October 11, 1996.

FOR FURTHER INFORMATION CONTACT: John J. Da Ponte, Jr., Executive Secretary, Foreign-Trade Zones Board, room 3716, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW, Washington, DC 20230 (202/482–2862).

SUPPLEMENTARY INFORMATION:

Background

On October 8, 1991, the Foreign-Trade Zones Board amended its regulations to include, inter alia, a ''lapse provision'',

which provides for the lapse of authority for certain inactive foreign-trade zones. *See Final Rules: Foreign-Trade Zones Board,* 56 Fed. Reg. 50790 (1991); 15 CFR § 400.28(a)(5). Grants of authority for foreign-trade zones and subzones issued prior to November 7, 1991, were expressly subject to the condition that activation occur within a reasonable time. The adoption of Section 400.28(a)(5) was intended to codify and define this proviso, which is needed in the interest of efficient program operation. The provision first goes into effect on November 8, 1996, for zones approved prior to November 8, 1991, and thereafter it will have a continuing effect for zones not activated within five years of approval.

Comments from most of the zone grantees initially affected (some 15 percent of approved projects) indicate that despite no actual shipments under FTZ procedures their FTZ projects were still an active part of state/local economic development programs and that they wish to take appropriate steps necessary to avoid losing FTZ authority. The guidelines and procedures being adopted take this into account, providing an alternative form of FTZ activation for projects that are actively offering FTZ services as well as a reinstatement period prior to termination of authority.

Classification

This rulemaking action was determined to be not significant for purposes of Executive Order 12866. Because notice and comment are not required by 5 U.S.C. 553 or any other statute for these interpretative guidelines and procedures, a regulatory flexibility analysis is not required and was not prepared for purposes of the Regulatory Flexibility Act. This rulemaking involves information collection requirements which are cleared under OMB Control No. 0625–0139 and 0625–0109 for purposes of the Paperwork Reduction Act.

Foreign-Trade Zones Board Interpretive Guidelines and Procedures (15 CFR § 400.28(a)(5))

Activation Defined

A zone grantee which will have reported in its annual report to the FTZ Board the receipt of shipments under FTZ procedures (and under Customs activation approval) at any time prior to November 8, 1996, and thereafter within five years of the issuance of the grant of authority for the zone or subzone, is deemed to have fulfilled the FTZ activation requirement.

A zone project at which no shipments have been actually received under FTZ procedures, but which is active in offering FTZ services to the public, may alternatively fulfill the FTZ activation requirement by: (1) obtaining Customs activation approval under Section 146.6 of the Customs regulations (19 CFR Part 146) from the Customs Port Director for the area; (2) submitting a zone schedule to the Executive Secretary of the FTZ Board and to the Customs Port Director pursuant to Section 400.42(b) of the FTZ regulations; and, (3) notifying the Executive Secretary in writing upon the completion of (1) and (2) that the zone is open for business.

The fulfillment of the requirements in either of the two preceding paragraphs constitutes ''FTZ activation'' for purposes of the ''lapse provision'' and it preserves active FTZ authority for all general-purpose zone sites in a zone plan. Subzones are individually subject to the requirements.

Reinstatement Period

During the 18-month period following a lapse of authority (''reinstatement period''), zone grantees may apply for reinstatement of FTZ authority for general-purpose zone sites and for individual subzones upon completion of the FTZ activation requirements during that period. Grantees should notify the Executive Secretary when steps are being taken to qualify for reinstatement.

During the reinstatement period, the authority for the affected zone or subzone is considered lapsed, unless and until reinstatement occurs. Termination of authority would occur at the end of the 18-month reinstatement period for a zone or subzone not reinstated during the period (as noted below, under certain conditions, grantees may request that the processing of certain pending applications be continued during this period). Upon termination of authority, zones and subzones affected will be dropped from lists maintained by the FTZ Staff and published in the FTZ Board's annual report.

Guidelines

1. A zone which had been in FTZ activation at any time and for any length of time within the applicable time frame (i.e., prior to the lapse date) is not affected by the lapse provision.

2. The FTZ activation of any part of a general-purpose zone or a subzone will suffice to preserve FTZ authority for all of the general-purpose sites of a zone project, but not for any particular subzone which has not been activated. Thus, each subzone is considered separately. (The lapse of authority for a subzone does not affect the basic authority of a zone grantee which has otherwise met the FTZ activation requirements.)

3. The starting time for tolling whether a lapse of authority has occurred will be from the time of the original grant of authority for a zone project, and it will affect all general-purpose zone sites and subzones associated with the project, however recently approved. With regard to a zone project which meets the activation requirements but has inactive subzones, the starting time for tolling such subzones will be from the time of the original grant of authority for the subzone.

4. Applications submitted to or pending with the FTZ Board or the FTZ Staff from any affected zone shall become inactive if zone authority lapses, but the processing of such applications may be resumed upon written request of a zone grantee made within 90 days of a lapse of authority if the site involved in the application is part of an activation plan. (New applications may be considered for acceptance for filing under the same conditions, except that applications for minor modifications to zone projects under Section 400.26(c) proposing changes that are part of an activation plan may be so considered up to 60 days prior to the end of the reinstatement period.)

5. FTZ activation of a general-purpose zone or subzone may be determined by the Board to extend to separate, but related, general-purpose zones or subzones approved for the same grantee if the projects were approved in the same Board action or if the projects are significantly interrelated in terms of their administration as an element of state/regional/local economic development programs (in the case of subzones, if the sites are administered as a unit by the subzone company), providing that the Customs Port Director for the area concurs.

(Note: The lapse provision is not intended to preclude the voluntary relinquishment of grants of authority which are inactive with no prospects for activation or reactivation.)

Review Procedure

Beginning November 8, 1996, the FTZ Staff will conduct periodic reviews with regard to zone projects that appear to be affected by Section 400.28(a)(5). Information as to zones and subzones for which authority has lapsed or terminated will be provided to the U.S. Customs Service by the FTZ Staff.

Authority for Determinations/Decisions

The Executive Secretary shall make determinations and decisions on matters relating to the lapse of authority provision, including FTZ activation and reinstatement. Appeals from such determinations and decisions may be made to the Board by affected zone grantees as provided for in Section 400.47 (15 CFR Part 400).

By order of the Foreign-Trade Zones Board, Washington, D.C., this 7th day of October 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 96–26215 Filed 10–10–96; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

15 CFR Part 946

[Docket No. 960418114–6278–04]

RIN 0648–AF72

Weather Service Modernization Criteria

AGENCY: National Weather Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: In accordance with the Weather Service Modernization Act, 15 U.S.C. 313n (the Act), the National Weather Service (NWS) is publishing an amendment to its criteria for modernization actions requiring certification. This amendment adds criteria unique to closing a field office to ensure that closure actions will not result in any degradation of service. Closing a field office is the final step in an often complex transition process in which a field office is carefully phased out at the same time as one or more associated Weather Forecast Offices (WFO) assume the service responsibilities for that office.

EFFECTIVE DATE: October 11, 1996.

ADDRESSES: Requests for copies of documents stated in the preamble as being available upon request should be sent to Julie Scanlon, NOAA/NWS, SSMC2, Room 9332, 1325 East-West Highway, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Nicholas Scheller, 301–713–0454.

SUPPLEMENTARY INFORMATION: On June 6, 1996, the NWS published, for comment, proposed modernization criteria unique to closing a field office (*see* 61 FR 28804). In that notice, there were two minor errors. The first was a typographical error in section II.A.5 of Attachment 1 to the June 6, 1996 notice, as was pointed out in one of the public comments (see comment B.1. below). The correct figure is 10,000 feet as indicated in section 706(b)(4) of Public Law 102–567. The second error appeared in the Supplementary Information section of the June 6, 1996 notice. Under ''Evaluation of Services to In-state Users'', the list of field offices planned for closure that are the only field office in a state incorrectly included Weather Service Office (WSO) Hartford, CT. The correct list of field offices planned for closure that are the only field office in a state is: WSO Baltimore, MD; WSO Concord, NH; WSO Providence, RI; and WSO Wilmington, DE.

After consideration of the public comments that were received and, after consultation with the National Research Council's (NRC) NWS Modernization Committee and the Modernization Transition Committee (MTC), the NWS is now establishing the final modernization criteria for closing a field office. Consultation with the NRC's NWS Modernization Committee was completed on September 9, 1996. During consultation with the MTC on September 19, 1996, the MTC offered the following:

The Modernization Transition Committee (MTC) has reviewed the comments received in response to the notice in the Federal Register, considered information provided through presentations and reports, and thoroughly discussed the issue of closure of National Weather Service offices in relationship to modernization with the following conclusions:

1. The criteria for closure are consistent with the need to maintain timely and accurate weather services; and

2. When applied the criteria will ensure no degradation of weather services.

Therefore, the MTC recommends the adoption of the closure criteria.

Peter R. Leavitt,

Chair, Modernization Transition Committee.

Public comments were received from a trade journal, Minnesota Cold Weather Resource Center, and the State of Hawaii.

The issues and concerns raised in the comments and NWS' response follows.

A. Comments Generally Related to the Proposed Closure Criteria

1. *Comment:* Three comments addressed various aspects of notification of modernization actions: (a) One comment stated that ''The current NWS procedure of posting proposed NWS actions in the Federal Register without concurrent notification to known interested parties, especially individuals, local affected communities, etc. is totally unacceptable''; (b) two comments stated that advertised local public hearings should be held in communities affected by proposed modernization actions, particularly certifications; (c) one comment expressed frustration about the continual change of timetables concerning the status of the International Falls office; and (d) one comment requested that the State of Hawaii be kept fully informed on the status of modernization activities and receive copies of certifications.

Response: (a) *Notification of Modernization Actions*—The Federal Register is the Federal Government's official means of providing notification of actions, requesting public comments, etc. Public Law 102–567 specifically requires NWS to publish certain modernization actions in the Federal Register. These include proposed and final modernization criteria (section 704) and proposed and final certifications (section 706). Also, the Federal Advisory Committee Act requires advanced notification of Federal advisory committee meetings be published in the Federal Register. Since the MTC is a Federal advisory committee, established by section 707 of Public Law 102–567, notification of MTC meetings are published in the Federal Register.

In recognition of the fact that weather service users may not read the Federal Register regularly, NWS has taken additional steps to advise interested parties of opportunities to provide input on modernization actions. For example, in May 1996, NWS published proposed automation criteria in the Federal Register for public comment. Coincident with this publication, NWS mailed over 3,000 letters to users advising them of the opportunity to comment. Also, when the proposed closure criteria were published in the Federal Register in June 1996, NWS sent a letter to each member of Congress advising them of the opportunity to comment.

Beyond the Federal Register, there are several other ways in which NWS keeps interested parties informed on modernization actions. A National Implementation Plan (NIP) is published annually as required by section 703 of Public Law 102–567. In addition to describing the overall NWS modernization program, the NIP provides a detailed status report on implementation progress and state-by-state notification tables that list completed and upcoming (next 3 years)

modernization activities for each weather office. The NIP is distributed to each member of Congress, cooperating agencies, state and local governments, and users of weather services. Each of the 119 future Weather Forecast Offices operates an extensive outreach program that includes notification to users several years in advance of modernization actions technical coordination with users several months prior to modernization actions, and follow-up with users after modernization actions. This outreach program was described in detail in the June 6, 1996 Federal Register notice that proposed closure criteria and is also described in the annual NIP.

(b) *Local Public Hearings*—The MTC was established to review certifications as well as advise the Secretary of Commerce and Congress on implementation of modernization and matters of public safety and the provision of weather services which relate to modernization. The MTC is comprised of representatives from the NWS, the Department of Defense, the Federal Aviation Administration, the Federal Emergency Management Agency, civil defense and public safety organizations, news media, the National Weather Service Employees Organization, and private sector users of weather information, as prescribed by section 707 of Public Law 102–567. Each proposed certification is made available to the MTC for review and is also published in the Federal Register for a 60-day public comment period. Meetings of the MTC are held about 4 times per year to review certifications that have completed the 60-day public comment period. The MTC is provided with copies of all public comments received. MTC findings, conclusions and recommendations on each certification are included as part of the certification package that goes to the Secretary of Commerce for decision. Where particular community concern is evident, the MTC is willing to hold a meeting in that community. For example, in 1994, the MTC held meetings in Redwood City and Monterey, California to consider the proposed relocation of the San Francisco Weather Service Forecast Office from Redwood City to Monterey. As mentioned previously, the MTC is a Federal advisory committee, so advanced notification of MTC meetings are published in the Federal Register, the meetings are open to the public, and a public comment period is part of the meeting agenda so that members of the public may address the MTC directly.

(c) *Changing Timetables*—NWS recognizes how frustrating changing schedules can be. There are several reasons why modernization schedules change. First, the NWS modernization program is a very complex, multi-year effort encompassing a number of major system programs, each with its own development/deployment schedule. Second, year-to-year budget decisions often result in schedule adjustments. Lastly, many modernization actions are event driven, e.g., decommissioning of an old system requires commissioning of the replacement system. While calendar schedules are forecast for these type of actions, until all prerequisites are actually met, the action can not be taken, NWS attempts to keep all interested parties informed of the latest schedule for modernization actions through the NIP and local outreach efforts as described above in the response to comment A.1.a.

(d) *Status of Modernization in Hawaii*—NWS agrees and will keep the State of Hawaii fully informed on the status of modernization activities through the annual NIP and its outreach program as described in the response to comment A.1.a. Copies of proposed and final certifications are published in the Federal Register.

2. *Comment:* Two comments stated that an independent review of certifications recommended by the Meteorologist-In-Charge (MIC) is needed to assure an objective and thorough process.

Response: There are several mechanisms in place to provide independent oversight of NWS modernization. As described in the response to comment A.1.b above, the MTC provides independent review of each certification. The National Academy of Science's National Research Council (NRC) established an NWS Modernization Committee in 1990. In the past 6½ years, this Committee has reviewed and reported on NWS modernization both in its entirety and from a number of specific perspectives. With respect to certification, in 1993, the NRC's Modernization Committee reviewed and reported on the modernization criteria on which the certifications would be based. This Committee will continue to provide oversight of NWS modernization for at least the next several years. Following is a list of NRC reports already issued on NWS modernization:

- ☐ *Toward A New National Weather Service—A First Report,* March 1990
- ☐ *Toward A New National Weather Service—A Second Report,* April 1991
- ☐ *Review of Modernization Criteria,* July 1993
- ☐ *National Weather Service Employee Feedback,* April 1994
- ☐ *Weather for Those Who Fly,* April 1994
- ☐ *Assessment of NEXRAD Coverage and Associated Weather Services,* June 1995
- ☐ *The importance of the United States Weather Research Program for NWS Modernization,* February 1996

3. *Comment:* One comment stated that ''Many citizens of northern Minnesota continue to feel that they are/will not receive the same level of service from the NWS as the rest of the country.''

Response: Public Law 102–567 established a ''no degradation of service'' requirement to be applied on an affected area by affected area basis. This requirement is satisfied through the certification process which must show that modernized weather services for an affected area are at least equal to pre-modernized weather services for that affected area. Comparison of one area to another area is not part of the certification requirement.

4. *Comment:* One comment took exception to actions that do not require certification, i.e., commissioning of new weather observation systems and decommissioning outdated NWS radars. This comment stated that ''An 'outdated NWS radar' should not be decommissioned until it is demonstrated that its intended replacement provides acceptable performance and coverage of the required area down to an altitude of 10,000 feet. Appropriate performance criteria should be established for such actions.''

Response: NWS agrees that appropriate criteria should be established for certain modernization actions that do not require certification. Section 704 of Public Law 102–567 requires establishment of modernization criteria for: ''commissioning new weather observation systems, decommissioning an outdated National Weather Service radar, and evaluating staffing needs for field offices in an affected service area.'' These modernization criteria were published for public comment on December 6, 1993 (*see* 58 FR 64202) and were based on the July 1993 NRC report, *Review of Modernization Criteria.* After consultation with both the NRC and the MTC and consideration of public comments that were received, final modernization criteria for these actions were published on March 2, 1994 (*see* 59 FR 9921). The criteria established for decommissioning an ''outdated NWS radar'' do require that the replacing NEXRADs (WSR–88Ds) be commissioned (i.e., satisfactorily support warning and forecast services)

and that confirmation of services with users be obtained. The basic requirement of Public Law 102–567 is that there be no degradation of service and our criteria require that we identify where NEXRAD coverage at 10,000 feet will and will not be provided to the affected service area. However, there is no requirement for NEXRAD coverage at an elevation of 10,000 feet.

5. *Comment:* One comment pointed out that ''pending actions in the Congress that COULD effectively cancel or greatly modify current modernization criteria provisions in the federal law. Thus review of NWS modernization criteria is premature. This review should be postponed until final Congressional action is taken on the matter.''

Response: The Civilian Science Authorization Act of 1996, House Resolution 3322, includes a provision to streamline the certification requirements of Public Law 102–567. The Senate has not taken any action to change the certification requirements of Public Law 102–567. NWS can not anticipate Congressional action and must continue to meet the requirements of the existing law; therefore, establishment of closure criteria is not premature. If and when changes to Public Law 102–567 are enacted, NWS will revise modernization criteria and certification procedures as required to comply with any enacted changes.

6. *Comment:* One comment stated that ''It is not clear how these proposed criteria will apply to the recent recommendations of the Secretary of Commerce to the Congress on further changes to the Modernization Plan. That should be clarified in this document.''

Response: In October 1995, the Secretary of Commerce released his report, *Secretary's Report to Congress on Adequacy of NEXRAD Coverage and Degradation of Weather Services Under National Weather Service Modernization for 32 Areas of Concern.* This report assessed potential degradation of service for 32 areas of concern that had been established through the solicitation of comments from the public in late 1994. The assessment utilized criteria developed by the National Research Council in their June 1995 report, *Toward a New National Weather Service—Assessment of NEXRAD Coverage and Associated Weather Services.* The Secretary's report determined that new NEXRADs in northern Indiana, northern Alabama and western Arkansas and a new WFO in northern Indiana were needed to mitigate inadequacies in the original modernization plan. The Secretary's report also identified several areas of concern where further study was needed. In a sense, the Secretary's report can be viewed as a mid-course review/adjustment of the modernization program. This mid-course review/adjustment was conducted in accordance with study guidelines (appendix A of the Secretary's report) which stated in part, ''Submission of a report under this section shall not relieve the Secretary from the requirement of section 706(b) of the WSMA to certify no degradation of service when she/he restructures a field office.'' Thus the proposed closure criteria must be established to provide the basis for closure certifications.

B. Comments Specifically Related to the Proposed Closure Criteria

1. *Comment:* One comment stated that ''The criteria for closure are consistent with maintaining timely and accurate weather services for Maui County.''

Response: NWS agrees.

2. *Comment:* One comment pointed out that there was an error in the June 6, 1996 Federal Register notice.

Response: NWS agrees. There was a typographical error in section II.A.5 of Attachment 1 to the June 6, 1996 notice. The correct figure is 10,000 feet as indicated in section 706(b)(4) of Public Law 102–567. The common criteria, attachment 1, were republished with the proposed criteria unique to closure certification for the convenience of the reader. These common criteria were established as final criteria on March 2, 1994 (see 59 FR 9921).

3. *Comment:* Two comments addressed several aspects of NEXRAD coverage at an elevation of 10,000 feet. One comment stated that ''In the event that any community will not have coverage down to 10,000 feet the existing local NWS radar should not be decommissioned or the local WSO be closed. It should be noted that currently there are no provisions if the NWS cannot certify coverage down to 10,000 feet for any locality.'' Another comment stated that ''the fact remains that portions of northern Minnesota are not covered by NEXRAD at the 10,000 foot level—the base criteria established by the NWS.''

Response: As mentioned in the response to comment A.4, there is no requirement in Public Law 102–567 for NEXRAD coverage at an elevation of 10,000 feet. Further, NWS has never established a criterion that requires NEXRAD coverage at an elevation of 10,000 feet. Section 706(b)(4) of Public Law 102–567 does require each certification to identify any area that will not be covered by NEXRAD at an elevation of 10,000 feet. Because of concerns about the adequacy of NEXRAD coverage, the NRC conducted a study which compared pre-modernized and modernized radar coverage for a number of weather phenomena. The NRC developed criteria to assess the impact of degraded radar coverage for any weather phenomenon on the quality of weather services. In June 1995, the NRC delivered their report entitled, *Toward a New National Weather Service—Assessment of NEXRAD Coverage and Associated Weather Services.* A team of experts applied the NRC's criteria and prepared the *Secretary's Report to Congress on Adequacy of NEXRAD Coverage and Degradation of Weather Services Under National Weather Service Modernization for 32 Areas of Concern*. In some cases, the Secretary's Report concluded that degraded radar coverage would result in a degradation of weather services and recommended mitigation actions (see response to comment A.6). In other cases, the Secretary's Report concluded that small areas of degraded radar coverage for particular weather phenomena would not result in a degradation of weather services. Ultimately, it is the certification process that will assess the degradation of weather services for each affected area.

4. *Comment:* One comment asked ''Has the timetable for the liaison officer been definitely set, and will they have access to the proper tools to effectively do their job?''

Response: The liaison officer is designated at the time of certification. Since certifications are event driven, (see the response to comment A.1.c) timetables for liaison officers do sometimes change. The annual NIP provides notification tables for when modernization actions, including certifications, are expected to occur at each NWS office. Section 706(f) of Public Law 102–567 specifies the duties of the liaison officer as:

(1) Providing timely information regarding the activities of the National Weather Service which may affect service to the community, including modernization and restructuring: and

(2) working with area weather service users, including persons associated with general aviation, civil defense, emergency preparedness, and the news media, with respect to the provision of timely weather warnings and forecasts.

All liaison offices will be provided with the necessary tools and resources to perform these duties.

5. *Comment:* Concerning the Air Safety Appraisal, one comment stated that ''This appraisal should include the effect of NEXRAD non-real time

operation on affected airport operations.''

Response: As part of the certification for closure or relocation of a field office which is located on an airport, section 706(e)(1) of Public Law 102–567 requires an air safety appraisal be conducted to determine that such action will not result in degradation of service that affects aircraft safety. The required air safety appraisal will address the provision of weather services that affect aircraft safety. Since NEXRAD is a tool used by NWS in the provision of these aviation weather services, use of NEXRAD will be, at a minimum, implicitly included in the appraisal.

6. *Comment:* One comment requested that ''NOAA ensure that the Maui NWS office is not closed until all modernization and restructuring (MAR) systems (4 Doppler weather radars, 8 Automated Surface Observing Systems, GOES 9 and the AWIPS) are fully installed and performing to expectations.''

Response: The Kahului Weather Service Office on Maui will not be closed until the Secretary of Commerce can certify no degradation of service. The ability to certify will be dependent on installation and satisfactory performance of modernized systems, although not necessarily all the ones listed in the comment. However, all 4 Doppler weather radars and all 8 Automated Surface Observing Systems are installed and several are already operational. GOES 9 has been launched and is operational. AWIPS will be deployed and made operational at WFO Honolulu prior to initiating the closure certification for WSO Kahului.

7. *Comment:* One comment stated that ''No action has been taken to provide for lake wind advisories for the Rainy Lake area and Lake of The Woods—two large bodies of water that host a great deal of recreation.''

Response: In Minnesota, when winds are expected to meet a specified criteria, the forecast office issues a wind advisory for area lakes. The following conditions must be expected to exist for more than three hours; sustained winds at speeds of 20 to 30 mph and gusts over 30 mph. The advisories are typically issued during the months of April through November, but in Northern Minnesota most advisories are issued between May and October. These time frames are variable due to ice cover on the lakes. The advisories are issued under the product ID MSPNPWMSP (WMO header WWUS45 KMSP). In addition to the MSPNPWMSP product, wind forecasts for the areas of concern can be found in the Minnesota Zone Forecast Product MSPZFPMN (WMO header FPUS5 KMSP) and the Short Term Forecasts. Short Term Forecasts for the Lake of the Woods area can be found under the product BISNOWFAR (WMO header FXUS21 KFAR). Short term forecasts for the Rainy Lake area can be found under the product MSPNOWDLH (WMO header FXUS21 KDLH). The Zone Forecast Product provides forecast information for generally a two day time period. Forecasts from zero to six hours can be found in the Short Term Forecasts. The products described above are available through: NWS Family of Services; NOAA Weather Wire Service; NOAA Weather Radio; the media; and the Internet (IWIN on the NWS home page). NOAA Weather Radio transmitters are located in Littlefork (near International Falls and Rainy Lake) and in Roosevelt (near Lake of the Woods).

C. Other Comments

1. *Comment:* One comment stated that ''Continued reports of ASOS limitations in term (sic) of detecting various forms of precipitation have not been addressed (sic). Also, there are reports of lost data from ASOS locations.''

Response: Similar comments were received in response to the proposed automation criteria that were published on May 2, 1996 (*see* 61 FR 19594). Responses to these comments were provided in the July 31, 1996 notice that established final automation criteria for service level A, B and C airports (*see* 61 FR 39862). The NWS, as stated in the response to these comments, is continuing to operate cooperative observer stations and considering opening new COOP stations where observations are scarce. In addition, the Supplementary Data Program became operational on October 1, 1995 at 119 WFOs, where staffing and equipment permits.

2. *Comment:* One comment took exception to the statement ''* * * these criteria, if adopted as proposed, will not have a significant economic impact on a substantial number of small entities. These proposed criteria are intended for internal agency use only and will not directly affect small business. * * * Accordingly no initial regulatory flexibility analysis has been prepared.'' The comment then stated that ''These criteria can effect EVERY business small or large, and every government agency if the resulting National Weather Service system fails to provide to the general public adequate, timely warning of severe weather, especially tornadoes. Negative effects of ASOS performance on national climatological records will have a devastating effect on small businesses that depend on the validity of climatological records. These criteria should be sent to the Chief Council for Advocacy of the Small Business Administration for review.''

Response: NWS has fully complied with the requirements of 5 U.S.C. 601 *et seq.*, the Regulatory Flexibility Act. Pursuant to 5 U.S.C. 605(b), NWS sent the proposed regulations to the Chief Counsel for advocacy of the Small Business Administration along with a certification that these criteria, if adopted, would not have a significant economic impact on a substantial number of small entities. This regulation merely establishes the procedures that will be followed in meeting the requirement contained in Public Law 102–567, that NWS cannot close a field office until the Secretary of Commerce certifies to the Congress that there will be no degradation of service to the affected area. This requirement will assure that NWS will fulfill its mission and continue to provide the same level of weather forecasts, warnings and advisories for the protection of life and property in the United States. Moreover, this requirement ensures that any potential impact of a closure, including the economic impact on small businesses will be slight.

A. Classification Under Executive Order 12866

These regulations have been determined not to be significant for purposes of E.O. 12866.

B. Regulatory Flexibility Act Analysis

These regulations set forth the criteria for certifying that certain modernization actions will not result in a degradation of service to the affected area. These criteria will be appended to the Weather Service Modernization regulations. The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration when these criteria were proposed, that if adopted, they would not have a significant economic impact on a substantial number of small entities. Response to a comment received in regarding the certification was addressed above. Accordingly, no final regulatory flexibility analysis was prepared.

C. Paperwork Reduction Act of 1980

These regulations will impose no information collection requirements subject to the Paperwork Reduction Act.

D. E.O. 12612

This rule does not contain policies with sufficient Federalism implications to warrant preparation of a Federalism assessment under Executive Order 12612.

E. National Environmental Policy Act

NOAA has concluded that issuance of this rule does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required. A programmatic Environmental Impact Statement (EIS) regarding NEXRAD was prepared in November 1984, and an Environmental Assessment to update the portion of the EIS dealing with the bioeffects of NEXRAD non-ionizing radiation was issued in 1993.

List of Subjects in 15 CFR Part 946

Administrative practice and procedure, Certification, Commissioning, Decommissioning, National Weather Service, Weather service modernization.

Dated: October 8, 1996.

Elbert W. Friday, Jr.,

Assistant Administrator for Weather Services.

For the reasons set out in the preamble, 15 CFR part 946 is amended as follows:

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

Authority: Title VII of Pub. L. 102–567, 106 Stat 4303 (15 U.S.C. 313n.)

2. Appendix A to part 946 is amended by adding a new Subsection (D) under Section II. CRITERIA FOR MODERNIZATION ACTIONS REQUIRING CERTIFICATION, to read as follows:

(E) Modernization Criteria Unique to Closure Certifications

1. Consolidation Certification: If the field office proposed for closure has or will be consolidated, as defined in § 946.2 of the basic modernization regulations, this action has been completed as evidenced by the approved certification or can be completed as evidenced by all of the documentation that all of the requirements of sections II.A. and II.B of this Annex have been completed.

2. Automation Certification: If the field office proposed for closure has or will be automated, as defined in § 946.2 of the basic modernization regulations, this action has been completed as evidenced by the approved certification or can be completed as evidenced by documentation that all of the requirements of sections II.A. and II.C. of this Annex has been completed.

3. Remaining Services and/or Observations: All remaining service and/or observational responsibilities, if applicable to the field office proposed for closure, have been transmitted as addressed in the MIC's recommendation for certification.

4. User Confirmation of Services: Any valid user complaints received related to provision of weather services have been satisfactorily resolved and the issues addressed in the MIC's recommendation for certification.

5. Warning and Forecast Verification: Warning and forecast verification statistics, produced in accordance with the Closure Certification Verification Plan, have been utilized in support of the MIC's recommendation for certification.

[FR Doc. 96–26207 Filed 10–10–96; 8:45 am]

BILLING CODE 3510–12–M

FEDERAL TRADE COMMISSION

16 CFR Part 260

Guides for the Use of Environmental Marketing Claims

AGENCY: Federal Trade Commission.

ACTION: Final rule; Publication of revised guides.

SUMMARY: The Federal Trade Commission (the ''FTC'' or ''Commission'') issued its Guides for the Use of Environmental Marketing Claims (''guides'') on July 28, 1992. 57 FR 36363 (Aug. 13, 1992), codified at 16 CFR Part 260. The guides included a provision for public comment and review three years after adoption for the purpose of determining whether there is a need for any modifications. In connection with the three year review, the Commission sought public comment on a variety of issues pertaining to the guides, 60 FR 38978 (July 31, 1995) and held a two day Public Workshop-Conference on December 7 and 8, 1995. The Commission has completed its review of the prefatory sections of the guides, as well as the following sections: General Environmental Benefits, Degradable/Biodegradable/ Photodegradable, Recycled Content, Source Reduction, Refillable, and Ozone Safe and Ozone Friendly. These sections are being republished with only the minor revisions discussed below.

The Commission is still in the process of reviewing the Compostable and Recyclable guides. The original versions of these guides shall remain in effect until further notice. See 16 CFR 260.7 (c) and (d). Finally, the Commission is seeking further public comment on the issue of whether product parts that can be reconditioned and/or reused in the manufacture of new products should be considered ''recyclable'' under the guides and whether products manufactured from such reconditioned and/or reused parts should qualify as ''recycled'' under the guides.

DATES: Effective Date: October 4, 1996.

COMMENTS: Comments and/or data must be submitted on or before November 25, 1996.

ADDRESSES: Although the Commission has concluded its general review of the guides, it is seeking additional information on two discrete issues: (1) Whether product parts that can be reconditioned and/or reused in the manufacture of new products should qualify as ''recyclable'' under the guides and whether products manufactured from such reconditioned and/or reused parts should qualify as ''recycled'' under the guides: and (2) any additional empirical evidence available on consumer perception of ''recyclable'' and ''compostable'' claims. Six paper copies of comments and/or data should be submitted to: Secretary, Federal Trade Commission, Room H–159, Sixth and Pennsylvania Ave., N.W., Washington, D.C. 20580. Comments should be identified as ''16 CFR Part 260—Comment.'' To encourage prompt and efficient review and dissemination of the comments and data to the public, all comments and data also should be submitted, if possible, in electronic form, on either a 5¼ or a 3½ inch computer disk, with a label on the disk stating the name of the commenter and the name and version of the word processing program used to create the document. (Programs based on DOS are preferred. Files from other operating systems should be submitted in ASCII text format to be accepted.) Individuals filing comments or data need not submit multiple copies, and need not submit such materials in electronic form.

The FTC will make this notice and all comments and data received in response to this notice available to the public through the Internet, to the extent technically possible. To access this notice and the comments and data filed in response to this notice, access the World Wide Web at the following address: http://www.ftc.gov. At this time, the FTC cannot receive comments or data made in response to this notice over the Internet.

FOR FURTHER INFORMATION CONTACT: Kevin M. Bank, (202) 326–2675, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 6th and Pennsylvania Avenue, NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

1. Background

The Guides for the Use of Environmental Marketing Claims or ''guides'' were issued by the Commission on July 28, 1992, and

published in the Federal Register on August 13, 1992 (57 FR 36363). Like other industry guides issued by the Commission, the Environmental Marketing Guides ''are administrative interpretations of laws administered by the Commission for the guidance of the public in conducting its affairs in conformity with legal requirements.'' 16 CFR 1.5. They provide the basis for advertisers' voluntary compliance with the law, as well as simultaneous abandonment of unlawful practices. Conduct inconsistent with the guides may result in corrective action by the Commission if this conduct is found to be in violation of applicable statutory provisions. The Commission promulgates industry guides ''when it appears to the Commission that guidance as to the legal requirements applicable to particular practices would be beneficial in the public interest and would serve to bring about more widespread and equitable observance of laws administered by the Commission.'' 16 CFR 1.6.

The Environmental Marketing Guides indicate how the FTC will apply Section 5 of the Federal Trade Commission Act (''FTC Act''), which prohibits unfair or deceptive advertising claims, in the area of environmental marketing claims.[1] The guides apply to all forms of marketing of products to the public, whether through advertisements, labels, package inserts, or promotional materials.

The guides reiterate Commission policy regarding how Section 5 applies to advertising claims generally, as enunciated in the Commission's Policy Statement on Deception,[2] and its Policy Statement on the Advertising Substantiation.[3] Four general principles are outlined that apply to all environmental marketing claims: Qualifications and disclosures should be sufficiently clear and prominent to prevent deception; claims should make clear whether they apply to the product, the package or a component of either; claims should not overstate an environmental attribute or benefit, expressly or by implication; and comparative claims should be presented in a manner that makes the basis for the comparison sufficiently clear to avoid consumer deception.

In addition, the guides address eight specific categories of environmental claims: general environmental benefits, ''degradable,'' ''compostable,'' ''recyclable,'' ''recycled content,'' ''source reduction,'' ''refillable,'' and ''ozone safe''/''ozone friendly.'' Each guide describes the basic elements necessary to substantiate the claim, including examples of qualifications that may be used to avoid deception. In addition, each guide is followed by several examples that illustrate different uses of the particular term that do and do not comport with the guides. In many of the examples, one or more options are presented for qualifying a claim. The guides state that these options are intended to provide a ''safe harbor'' for marketers who want certainty about how to make environmental claims, but that they do not represent the only permissible approach to qualifying a claim.

The guides included a provision that three years after adoption, the Commission would seek public comment on ''whether and how the guides need to be modified in light of ensuing developments.'' Pursuant to this provision, the Commission sought comment on the guides in a Federal Register Notice published on July 31, 1995 (60 FR 38978) (hereinafter ''Notice''). The Commission sought comment on a number of general issues relating to the guides' efficacy and the need, if any, to revise or update the guides. The Commission also sought comment on a number of specific issues related to particular environmental claims addressed by the guides. In addition, the Notice announced that Commission staff would be conducting a Public Workshop-Conference at the conclusion of the comment period to discuss issues raised by the written comments. Forty-four of the ninety-nine commenters participated in the workshop, which was held on December 8 and 9, 1995.

2. Overview of Comments and Public Workshop-Conference

The ninety-nine comments received in response to the Notice came from forty-five trade associations or trade association coalitions, twenty-eight manufacturers, distributors or retailers, twelve consumers, environmental or public advocacy organizations, one standards organization, two certification organizations, two federal government agencies or officials, four State government officials or bodies, one city government official, one individual, one educational institution, one consulting company, and one public-private recycling coalition. Virtually all the commenters supported the guides in general, although many recommended specific changes. A brief overview of the comments received in response to questions posed in the Notice follows. This summary is not intended to be comprehensive. The full texts of the written comments and the transcript of the Public Workshop-Conference are available for inspection and copying at the Federal Trade Commission, 6th and Pennsylvania Avenue, N.W., Washington, D.C., Room 130. These materials are also accessible to the public through the Internet on the World Wide Web at the following address: http://www.ftc.gov

(a) Continuing Need for the Guides

The commenters who addressed whether there is a continuing need for the guides all agreed that there is such a need. A handful of commenters, while supporting the guides, indicated that they would prefer a trade regulation rule because it would have the force of law and preempt state laws regulating the use of environmental advertising claims.

(b) The Costs and Benefits of the Guides to Consumers and Industry

There was a general consensus among commenters that the guides benefit consumers by stemming the tide of spurious environmental claims; bolster consumer confidence; increase the flow of specific and accurate environmental information to consumers, enabling them to make informed purchasing decisions; and encourage manufacturers to improve the environmental characteristics of their products and packaging. The commenters either felt that the guides do not impose any costs on consumers or that any costs associated with the guides are insignificant and greatly outweighed by their benefits. Several commenters raised serious concerns, however, that the Recyclable guide unnecessarily restricts the flow of information to consumers regarding the recyclability of products. One commenter voiced similar concerns about the Compostable guide.

In addition, commenters generally agreed that the guides benefit industry by providing uniform, consistent guidance regarding the making of non-deceptive environmental claims; promoting national consistency in the treatment of environmental marketing claims; assisting advertisers in determining what claims would likely lead to Commission challenge; encouraging network review and industry self-regulation; and allowing flexibility for manufacturers to improve the environmental attributes of their products and to communicate those improvements to consumers. For the most part, commenters stated that the

[1] 15 U.S.C. 45.

[2] Federal Trade Commission Policy Statement on Deception, *appended to Cliffdale Assocs., Inc.,* 103 F.T.C. 110 (1984).

[3] Federal Trade Commission Policy Statement Regarding Advertising Substantiation, *appended to Thompson Medical Co.,* 104 F.T.C. 648 (1984).

guides accomplish their goals without undue burden on industry, although this view was not unanimous. Again, several commenters complained of what they believe are undue restrictions placed on their ability to make recyclable claims. They believe that recyclability is an important product attribute and that they should be able to more flexibly inform consumers regarding the recyclability of their products.[4]

(c) Effect of Changes in Technology or Economic Conditions

The commenters identified few technological or economic changes that might impact the guides. A number of comments from industry cited increases in recycling rates and the number of recycling programs as justification for making the Recyclable guide less ''restrictive.'' Others stated that recycling rates have not increased sufficiently, overall, to require modification of the guides. Several environmental organizations pointed out that while the already high recycling rates for some items such as newspapers and plastic soda bottles and milk jugs have further increased, there has been little increase in the recycling rates of less frequently recycled items like most other types of plastic packaging. Therefore, they stated that the Recyclable guide should not be made less ''restrictive.''

(d) Effect of the Guides in Fostering National Uniformity in the Regulation of Environmental Claims

There was general agreement among the commenters that the guides have helped promote uniformity in the regulation of environmental marketing claims. There was also general agreement that any conflict between the guides and some state laws is becoming less significant as a result of states such as California, New York, and Rhode Island either repealing or modifying pre-existing laws concerning environmental marketing claims to be consistent with the guides.[5] However, a few manufacturers continued to express concern that a lack of national uniformity inhibited them from advertising the environmental attributes of their products. They urged the Commission to try to encourage more states to adopt the guides. A significant number of commenters, especially industry representatives, voiced strong opposition to changing the guides in any way that would undermine the important state support the guides are now receiving.

(e) International Developments Affecting the Guides

A number of commenters noted that the International Standards Organization (ISO) is in the process of drafting standards for environmental labeling claims made by manufacturers and by third-party awarders of eco-seals. Some commenters encouraged the Commission to try to harmonize with ISO to ensure international uniformity. Other commenters noted that Canada, Japan, and a number of European countries have adopted official eco-seal programs to award seals to products they consider environmentally superior. Most commenters who referenced such programs view the use of some eco-seals, without further qualification, as potentially vague and exaggerated general environmental benefit claims. Several of these commenters stated that such seals may impose trade barriers because, in practice, they favor manufacturers in the country which awards the seal.

(f) Effect of the Guides in the Marketplace

The Notice sought comment as to the extent to which the guides have reduced consumer skepticism about environmental claims, the degree of industry compliance with the guides, and the impact of the guides on the flow of information to consumers. Commenters who addressed the issue of consumer skepticism believe that it has lessened but continues to exist. Many commenters indicated their belief that there is general industry compliance with the guides. Some commenters, however, complained that there are still too many unqualified ''recyclable'' claims being made. Others were concerned by the number of broad, unqualified environmental benefit claims still in the marketplace, like ''environmentally safe'' and ''environmentally friendly.'' There was general agreement that the number of environmental claims in the marketplace has not diminished, although certain claims, like degradable claims for products that are typically disposed of in landfills, are now rare. Although most commenters believe that the guides encourage the flow of useful information to consumers, several industry members complained that the guides reduce the flow of useful information by restricting their ability to make what they consider to be truthful ''recyclable'' claims. Furthermore, one trade association submitted a survey of its members in which 56% of those responding indicated that they thought that the guides had generally inhibited their use of environmental marketing claims.

(g) Specific Claims

Over a dozen commenters urged the Commission to make no changes at all to the guides, while some opposed making specific changes that were recommended by other commenters. Many commenters asked that a few specific changes be made. Recyclability issues generated the most comments, including whether unqualified claims imply local and national availability of facilities to consumers; the adequacy of various qualifications suggested in the guides to convey the fact of limited availability of facilities for recycling many products; the meaning of ''Please Recycle'' on package labels and whether the guides should address them; how consumers interpret the unqualified three chasing arrows symbol; and the guides' treatment of the Society of the Plastics Industry plastic resin identification code (SPI code). The other primary areas of discussion included whether ''no CFCs'' claims are deceptive for products that do not contain upper ozone depleters, but do contain volatile organic compounds (VOCs) which can contribute to smog, and whether the guides should require disclosures of post-consumer recycled content for ''recycled'' claims. Several commenters discussed the issue of whether the guides should address claims based on ''lifecycle'' analysis and the use of environmental seals and certifications by marketers. A number of commenters suggested that additional claims be covered by the guides, including non-toxic claims, chlorine-free claims, and claims that a product is ''environmentally preferable.'' No commenter suggested that any of the eight specific categories of claims covered by the guides be dropped.

(h) Empirical Evidence

The Notice solicited new evidence concerning consumer perception of environmental claims. Only a small amount of consumer research was submitted on how consumers perceive specific claims.

[4] Because of the serious concerns raised about the Recyclable guide, the Commission is seeking additional data.

[5] A potential conflict was identified by commenters who oppose a change in the Commission's approach to the Society of the Plastics Industry plastics resin identification code (''SPI code''). They noted that the SPI code is required by laws in thirty-nine states to be placed on plastic containers and that if the Commission advises that the use of the code is deceptive on products and requires that it be changed there will be a conflict.

3. Request for Further Comment

The Commission specifically sought comment as to whether consumers perceive that products made from reconditioned parts that would otherwise have been thrown away are ''recycled'' products, and what modifications, if any, should be made to the guides to address these consumer perceptions. The Commission received no empirical evidence in response to this request, but did receive several comments discussing this issue. The Commission has determined to give further consideration to this question, as well as to the related issue of whether product parts that can be reconditioned and/or reused in the manufacture of new products should be considered ''recyclable'' if adequate infrastructures for collecting the parts are available. The Commission is seeking consumer perception data on these issues, as well as further information responsive to the questions outlined below.

The Recycled guide defines ''recycled content'' as material that a marketer can substantiate has been recovered or otherwise diverted from the waste stream. This could be interpreted to include products made from reconditioned and/or reused parts, as well as products made from recycled raw materials like steel from melted down cans. However, the Recyclable guide states further that for something to be recyclable it must be diverted from the solid waste stream for use as ''raw materials in the manufacture or assembly of a new product or package.'' Therefore, product parts that are capable of being reconditioned and/or reused in the manufacture of new products are not considered ''recyclable'' under the guides, because the parts are not actually reprocessed into raw materials before reuse. In addition, products manufactured from such parts may not be considered ''recycled'' under the guides.

The Commission is seeking comment and consumer perception data on whether product parts that can be reconditioned and/or reused in the manufacture of new products should be considered ''recyclable'' under the guides (assuming adequate infrastructures for collecting the parts are available), and on whether products manufactured from reconditioned and/or reused parts should be considered ''recycled.'' In addition, the Commission seeks comment on whether consumers perceive that the term ''recycled'' conveys information about the quality of a product, and whether consumers' concerns about quality differ with respect to products made from reconditioned or reused parts and those made from recycled raw materials. The Commission also requests comment on whether consumer perception of a product being recycled would be affected if marketers of products made from reconditioned and/or reused parts could prove that the quality of those products is substantially equivalent to that of comparable products made from recycled raw materials.

The Commission has received some consumer survey evidence on the issue of whether consumers consider products made from reconditioned parts to be ''recycled.'' This evidence is responsive to a question included in a survey conducted by the Council on Packaging in the Environment (COPE) in April 1996. The Commission is placing this survey evidence on the public record and seeks comment on it. The survey, including this evidence, is available for inspection and copying at the Federal Trade Commission, 6th and Pennsylvania Avenue, N.W., Washington, D.C., Room 130.

The Commission also solicits public comment on the following questions relating to reconditioned and reused parts:

1. Do consumers generally perceive that parts that can be taken from products for reconditioning and/or reuse in the manufacture of new products are ''recyclable''? Why or why not? Please provide any empirical data.

2. Do consumers generally perceive that products manufactured from reconditioned and/or reused parts are ''recycled''? Why or why not? Please provide any empirical data.

3. Do consumers generally perceive that the term ''recycled'' conveys information about the quality of a product? Do consumers' concerns about product quality differ with respect to whether a product is made from reconditioned and/or reused parts recovered from the solid waste stream or from raw materials like steel from melted cans recovered from the solid waste stream? Please provide any empirical data.

4. Would consumer perception about whether a product is or is not ''recycled'' be affected if marketers of products made from reconditioned and/or reused parts could prove that those products are ''substantially equivalent'' in quality to comparable products made from recycled raw materials? If so, how? Please provide any empirical data.

5. What evidence should be required to show that products containing reconditioned and/or reused parts are ''substantially equivalent'' in quality to comparable products made from recycled raw materials? Please provide any empirical data.

6. Are consumers likely to be deceived about the quality of products made from reconditioned and/or reused parts if they are advertised as ''recycled''? If so, how should the Commission address this concern?

7. What are the costs and benefits to consumers and to industry if:

(a) Parts that can be taken from products for reconditioning and/or reuse in the manufacture of new products are marketed as ''recyclable''? or

(b) Products manufactured from reconditioned and/or reused parts are marketed as ''recycled'' products? Please provide any empirical data.

4. Modifications to the Guides

After careful review of the comments and the discussion at the Public Workshop-Conference, the Commission has determined to make modifications to the General Environmental Benefit Claims guide, the Degradable/Biodegradable/Photodegradable guide, the Recycled Content guide and the Ozone Safe/Ozone Friendly guide. Some modifications have also been made in the prefatory sections. The changes have been made to ensure that the guides continue to reflect current technology and changing consumer perception, as well as to address newer environmental claims in the marketplace that the Commission believes have been, or could be, used in a deceptive manner.[6] In deciding whether to modify the guides, the Commission analyzed what the covered claims convey to consumers, and the extent to which available empirical evidence indicates that consumer perception of particular claims has changed. Some changes were also made for purposes of clarification.

The Commission is still in the process of reviewing the Recyclable and Compostable guides and will not reissue them until it evaluates the results of ongoing consumer research. One purpose of this research is to examine whether these claims continue to imply that consumers can recycle or compost the advertised product in their own area. The research will be placed on the public record when it is completed. The current Recyclable and Compostable guides, codified at 16 C.F.R. 260.7 (c)–(d) (1996), remain in effect until the Commission completes its evaluation. While the review of these two guides continues, the Commission seeks the submission of any further empirical data on consumers' understanding and

[6] No changes have been made to the Source Reduction guide or the Refillable guide.

perceptions of ''recyclable'' and ''compostable'' claims. Additional data may be filed with the Secretary of the Commission in the manner noted above.

Changes to the guides are as follows:

(a) *Modifications to the Prefatory Sections.*

(i) Review Procedure.

The Commission has updated the section on the review procedure for the guides. This section now states that the Environmental Marketing Guides will be reviewed in the future as part of the Commission's general program of reviewing all industry guides on an ongoing basis. The provision permitting parties to petition the Commission to amend the guides in light of substantial new evidence has not been changed.

(ii) Interpretation and Substantiation of Environmental Marketing Claims.

The definition of ''competent and reliable scientific evidence'' has been clarified and is now consistent with the language used in recent Commission consent orders. Such evidence is now defined as ''tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.''

(iii) General Principles.

The Commission has added a new example to this section under the subsection Overstatement of An Environmental Benefit. This example is based on the consent agreement in the *Mr. Coffee, Inc.* case,[7] where the Commission challenged a ''chlorine-free process'' claim for paper coffee filters that, while not bleached with elemental chlorine, had been bleached in a new process with a chlorine compound. The Commission alleged that the new bleaching process contained some elemental chlorine which continued to release a significant amount of the environmentally harmful dioxins and furans associated with elemental chlorine bleaching, though in lesser amounts. The example explains that a ''chlorine-free process'' claim is likely to overstate the environmental benefit provided by a product if the manufacturing process continues to release into the environment a significant, even if reduced, amount of the same harmful byproducts associated with chlorine bleaching. The example illustrates one possible way to make substantiated claims of this nature, *i.e.*, that the filters are bleached with a process that ''substantially reduces, but does not eliminate, harmful substances associated with chlorine bleaching.''

(iv) Preamble to Environmental Marketing Claims Section.

The footnote on lifecycle claims stated that the guides do not address claims based on a ''lifecycle'' theory of environmental benefit because such analyses are still in their infancy, and the Commission lacks sufficient information on which to base guidance. The Commission continues to lack sufficient information to provide guidance on these claims; however, it is no longer accurate to continue to characterize ''lifecycle'' analyses as being in their ''infancy.'' The footnote has been modified to state that the guides do not currently address these types of claims, because the Commission lacks sufficient information on which to base guidance.

(b) *General Environmental Benefit Claims Guide.*

Three new examples have been added to this guide. One illustrates that in some contexts, a ''non-toxic'' claim may convey to consumers that a product does not pose any risk to human health or the environment, and that the claim would be deceptive if the product does, in fact, pose a significant risk to either human health or the environment. This example is based on the *Orkin Exterminating Company, Inc.* and *Safe Brands Corp., et al.* cases.[8] In *Orkin,* the Commission alleged that the company had made unsubstantiated ''practically non-toxic'' claims for lawn care pesticide products which implied that the products did not pose any significant risk to human health or the environment. In *Safe Brands,* the Commission charged that advertisements for a propylene glycol-based antifreeze product, which included claims that the product was ''essentially non-toxic'' and ''the ultimate in * * * environmental safety,'' implied that the product was absolutely safe for people, pets and the environment. The example states that phrases like ''essentially non-toxic'' and ''practically non-toxic'' can convey absolute claims of safety both to health and to the environment when used to advertise products such as lawn care pesticides and antifreeze. The example states that such claims are deceptive if the product does, in fact, pose a significant risk to human health or the environment.

The other new examples address ''seal of approval'' and ''environmentally preferable'' claims. Several commenters noted that when environmental seals of approval are found on product labels, they have been placed there to indicate that the products are environmentally superior to others. Based on these comments, the Commission believes that consumers would interpret environmental seals of approval that are not accompanied by qualifying text to mean that the product is environmentally superior to other products. The Commission also believes that unqualified ''environmentally preferable'' claims are likely to convey broad messages of environmental superiority to consumers.

The example on ''seal of approval'' claims states that the use of an environmental seal with no textual qualification, or inadequate qualification, is likely to convey to consumers that the product is environmentally superior to other products. Therefore, if the manufacturer cannot substantiate this broad claim of environmental superiority, the claim is likely to be deceptive. The claim would not be deceptive, however, if the manufacturer qualified it with clear and prominent language limiting the superiority representation to the particular product attribute or attributes for which the claim of environmental superiority could be substantiated, provided that no other deceptive implications were created by the context. The new example addressing ''environmentally preferable'' claims states similarly that the term is likely to convey a broad claim of environmental superiority to consumers, which must be substantiated or adequately qualified.

(c) *Degradable/Biodegradable/ Photodegradable Guide.*

A new example has been added to address concerns raised about a possible conflict between the degradable guide and the requirements of federal and state laws concerning performance standards for photodegradability of certain products. The example states that symbols, such as a diamond logo, that are required by some state laws to appear on certain photodegradable plastics to indicate that they meet performance standards to ensure they will photodegrade if littered, do not constitute claims of degradability. A footnote has also been added to clarify that the guides' treatment of degradable claims is intended to help prevent consumer deception and is not intended to establish performance standards for laws intended to ensure that products degrade when littered so as to a avoid a potential hazard to wildlife.

(d) *Recycled Content Guide.*

[7] *Mr. Coffee, Inc.*, Docket C–3486 (March 25, 1994).

[8] *Orkin Exterminating Company, Inc.*, Docket C–3495 (May 25, 1994); *Safe Brands Corp., et al.*, Docket C–3647 (March 26, 1996).

Several examples have been amended for purposes of clarification and one new example has been added to this Guide. The new example addresses the use of the ''three chasing arrows'' symbol without any textual qualification. Consumer perception data[9] indicates that the use of the three chasing arrows symbol by itself conveys to consumers that a product is made entirely from recycled material and that it is recyclable. The new example provides that if a marketer of a product bearing the three chasing arrows symbol without qualification cannot substantiate both of these claims, it should qualify the claim to indicate whether the symbol refers to the recyclability and/or recycled content of the product. The example states that further qualification of these claims may be necessary. For instance, a recycled content claim should also disclose the percentage of recycled content, if that amount is less than 100%.

Modifications have been made to several examples in the Recycled Content guide for purposes of consistency and clarification. Example 1 has been modified to eliminate the reference to scraps from ''trimming finished products'' in the description of materials that do not qualify as pre-consumer recycled material, *i.e.*, those manufacturing byproducts that are normally reused by industry in the original manufacturing process after only minimal reprocessing. The phrase scraps from ''trimming finished products'' could be misinterpreted to mean that scraps or trimmings from finished paper products, which require significant reprocessing before they can be used again in the manufacture of other paper products, do not qualify as pre-consumer recycled material. The new example, therefore, deletes the reference to scraps from ''trimming finished products.''

In addition, modifications have been made to Examples 3, 4 and 9 to make them consistent with Example 7. Example 7 permits recycled content claims for paper to be made on a fiber weight basis (*i.e.*, stated as ''contains X% recycled fiber''), whereas Examples 3, 4 and 9 contain language in which the recycled content of a paper product is expressed as a percentage of the total weight of the paper. EPA regulations regarding federal government procurement of recycled content paper products use the ''fiber weight'' standard,[10] as do a number of state procurement laws. To promote consistency and eliminate any possible ambiguity, the hypothetical claims in Examples 3, 4 and 9 are now expressed in terms of a fiber weight, rather than total weight basis.

(e) *Ozone Safe and Ozone Friendly Guide.*

The Ozone Safe/Ozone Friendly guide has been modified to state, not only that it is deceptive to misrepresent that a product is safe or ''friendly'' to the ozone layer, but also that it is deceptive to misrepresent that a product is safe or ''friendly'' to the atmosphere. In addition, an example has been added to the guide to illustrate that a claim such as ''ozone friendly'' conveys to consumers that a product is harmless not only to the upper ozone layer but to the atmosphere as a whole. Such claims are, therefore, deceptive for products that contain volatile organic compounds (VOCs), ingredients that can contribute to ground level ozone, a component of smog. This additional example is based on consumer perception data obtained by the Commission since the guides were issued.[11] These data indicate that consumers interpret an ''Ozone Friendly'' claim to mean that a product does not contribute to smog or air pollution generally, and is safe for the atmosphere as whole.

A change has also been made to Example 1 of the Ozone Safe/Ozone Friendly guide. This example lists certain chemicals that are classified as ''Class I'' ozone depleters in Title VI of the Clean Air Act Amendments of 1990.[12] The Amendments grant EPA the authority to designate other chemicals as ozone depleters. Since the guides were issued in 1992, EPA has designated two additional chemicals, methyl bromide and hydrobromofluorocarbons (HBFCs) as Class I ozone depleters. These two chemicals have now been added to the list of Class I ozone depleters in Example 1.

5. Text of Modified Guides

List of Subjects in 16 CFR Part 260

Advertising, Environmental protection, Labeling, Trade practices.

For the reasons set forth in the preamble, 16 CFR Part 260 is amended by revising sections 260.1 through 260.6, 260.7 (a) and (b), 260.7 (e) through (h), and 260.8 to read as follows:

[9] See ''Public Understanding of the Chasing Arrows Symbol and Recycled Content Claims,'' conducted for the Paper Recycling Coalition and placed on the public record on July 28, 1995.

[10] See 61 FR 26986 (May 29, 1996).

[11] See Maronick and Andrews, ''Consumers' Interpretations of Environmental Claims,'' March 10, 1993, placed on the public record with the Request for Comment on July 28, 1995.

[12] 42 U.S.C. 7671 *et seq.*

PART 260—GUIDES FOR THE USE OF ENVIRONMENTAL MARKETING CLAIMS

Sec.

260.1 Statement of purpose.
260.2 Scope of guides.
260.3 Structure of the guides.
260.4 Review procedure.
260.5 Interpretation and substantiation of environmental marketing claims.
260.6 General principles.
260.7 Environmental marketing claims.
260.8 Environmental assessment.

Authority: 15 U.S.C. 41–58.

§ 260.1 Statement of purpose.

The guides in this part represent administrative interpretations of laws administered by the Federal Trade Commission for the guidance of the public in conducting its affairs in conformity with legal requirements. These guides specifically address the application of Section 5 of the FTC Act to environmental advertising and marketing practices. They provide the basis for voluntary compliance with such laws by members of industry. Conduct inconsistent with the positions articulated in these guides may result in corrective action by the Commission under Section 5 if, after investigation, the Commission has reason to believe that the behavior falls within the scope of conduct declared unlawful by the statute.

§ 260.2 Scope of guides.

These guides apply to environmental claims included in labeling, advertising, promotional materials and all other forms of marketing, whether asserted directly or by implication, through words, symbols, emblems, logos, depictions, product brand names, or through any other means. The guides apply to any claim about the environmental attributes of a product or package in connection with the sale, offering for sale, or marketing of such product or package for personal, family or household use, or for commercial, institutional or industrial use.

Because the guides are not legislative rules under Section 18 of the FTC Act, they are not themselves enforceable regulations, nor do they have the force and effect of law. The guides themselves do not preempt regulation of other federal agencies or of state and local bodies governing the use of environmental marketing claims. Compliance with federal, state or local law and regulations concerning such claims, however, will not necessarily

preclude Commission law enforcement action under Section 5.

§ 260.3 Structure of the guides.

The guides are composed of general principles and specific guidance on the use of environmental claims. These general principles and specific guidance are followed by examples that generally address a single deception concern. A given claim may raise issues that are addressed under more than one example and in more than one section of the guides. In many of the examples, one or more options are presented for qualifying a claim. These options are intended to provide a ''safe harbor'' for marketers who want certainty about how to make environmental claims. They do not represent the only permissible approaches to qualifying a claim. The examples do not illustrate all possible acceptable claims or disclosures that would be permissible under Section 5. In addition, some of the illustrative disclosures may be appropriate for use on labels but not in print or broadcast advertisements and vice versa. In some instances, the guides indicate within the example in what context or contexts a particular type of disclosure should be considered.

§ 260.4 Review procedure.

The Commission will review the guides as part of its general program of reviewing all industry guides on an ongoing basis. Parties may petition the Commission to alter or amend these guides in light of substantial new evidence regarding consumer interpretation of a claim or regarding substantiation of a claim. Following review of such a petition, the Commission will take such action as it deems appropriate.

§ 260.5 Interpretation and substantiation of environmental marketing claims.

Section 5 of the FTC Act makes unlawful deceptive acts and practices in or affecting commerce. The Commission's criteria for determining whether an express or implied claim has been made are enunciated in the Commission's Policy Statement on Deception.[13] In addition, any party making an express or implied claim that presents an objective assertion about the environmental attribute of a product or package must, at the time the claim is made, possess and rely upon a reasonable basis substantiating the claim. A reasonable basis consists of competent and reliable evidence. In the context of environmental marketing claims, such substantiation will often require competent and reliable scientific evidence, defined as tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results. Further guidance on the reasonable basis standard is set forth in the Commission's 1983 Policy Statement on the Advertising Substantiation Doctrine. 49 FR 30999 (August 2, 1984); *appended to Thompson Medical Co.*, 104 F.T.C. 648 (1984). The Commission has also taken action in a number of cases involving alleged deceptive or unsubstantiated environmental advertising claims. A current list of environmental marketing cases and/or copies of individual cases can be obtained by calling the FTC Public Reference Branch at (202) 326–2222.

§ 260.6 General principles.

The following general principles apply to all environmental marketing claims, including, but not limited to, those described in § 260.7. In addition, § 260.7 contains specific guidance applicable to certain environmental marketing claims. Claims should comport with all relevant provisions of these guides, not simply the provision that seems most directly applicable.

(a) *Qualifications and disclosures:* The Commission traditionally has held that in order to be effective, any qualifications or disclosures such as those described in the guides in this part should be sufficiently clear and prominent to prevent deception. Clarity of language, relative type size and proximity to the claim being qualified, and an absence of contrary claims that could undercut effectiveness, will maximize the likelihood that the qualifications and disclosures are appropriately clear and prominent.

(b) *Distinction between benefits of product and package:* An environmental marketing claim should be presented in a way that makes clear whether the environmental attribute or benefit being asserted refers to the product, the product's packaging or to a portion or component of the product or packaging. In general, if the environmental attribute or benefit applies to all but minor, incidental components of a product or package, the claim need not be qualified to identify that fact. There may be exceptions to this general principle. For example, if an unqualified ''recyclable'' claim is made and the presence of the incidental component significantly limits the ability to recycle the product, then the claim would be deceptive.

Example 1: A box of aluminum foil is labeled with the claim ''recyclable,'' without further elaboration. Unless the type of product, surrounding language, or other context of the phrase establishes whether the claim refers to the foil or the box, the claim is deceptive if any part of either the box or the foil, other than minor, incidental components, cannot be recycled.

Example 2: A soft drink bottle is labeled ''recycled.'' The bottle is made entirely from recycled materials, but the bottle cap is not. Because reasonable consumers are likely to consider the bottle cap to be a minor, incidental component of the package, the claim is not deceptive. Similarly, it would not be deceptive to label a shopping bag ''recycled'' where the bag is made entirely of recycled material but the easily detachable handle, an incidental component, is not.

(c) *Overstatement of environmental attribute:* An environmental marketing claim should not be presented in a manner that overstates the environmental attribute or benefit, expressly or by implication. Marketers should avoid implications of significant environmental benefits if the benefit is in fact negligible.

Example 1: A package is labeled, ''50% more recycled content than before.'' The manufacturer increased the recycled content of its package from 2 percent recycled material to 3 percent recycled material. Although the claim is technically true, it is likely to convey the false impression that the advertiser has increased significantly the use of recycled material.

Example 2: A trash bag is labeled ''recyclable'' without qualification. Because trash bags will ordinarily not be separated out from other trash at the landfill or incinerator for recycling, they are highly unlikely to be used again for any purpose. Even if the bag is technically capable of being recycled, the claim is deceptive since it asserts an environmental benefit where no significant or meaningful benefit exists.

Example 3: A paper grocery sack is labeled ''reusable.'' The sack can be brought back to the store and reused for carrying groceries but will fall apart after two or three reuses, on average. Because reasonable consumers are unlikely to assume that a paper grocery sack is durable, the unqualified claim does not overstate the environmental benefit conveyed to consumers. The claim is not deceptive and does not need to be qualified to indicate the limited reuse of the sack.

Example 4: A package of paper coffee filters is labeled ''These filters were made with a chlorine-free bleaching process.'' The filters are bleached with a process that releases into the environment a reduced, but still significant, amount of the same harmful byproducts associated with chlorine bleaching. The claim is likely to overstate the product's benefits because it is likely to be

[13] *Cliffdale Associates, Inc.*, 103 F.T.C. 110, at 176, 176 n.7, n.8, Appendix, reprinting letter dated Oct. 14, 1983, from the Commission to The Honorable John D. Dingell, Chairman, Committee on Energy and Commerce, U.S. House of Representatives (1984) (''Deception Statement'').

interpreted by consumers to mean that the product's manufacture does not cause any of the environmental risks posed by chlorine bleaching. A claim, however, that the filters were ''bleached with a process that substantially reduces, but does not eliminate, harmful substances associated with chlorine bleaching'' would not, if substantiated, overstate the product's benefits and is unlikely to be deceptive.

(d) *Comparative claims:* Environmental marketing claims that include a comparative statement should be presented in a manner that makes the basis for the comparison sufficiently clear to avoid consumer deception. In addition, the advertiser should be able to substantiate the comparison.

Example 1: An advertiser notes that its shampoo bottle contains ''20% more recycled content.'' The claim in its context is ambiguous. Depending on contextual factors, it could be a comparison either to the advertiser's immediately preceding product or to a competitor's product. The advertiser should clarify the claim to make the basis for comparison clear, for example, by saying ''20% more recycled content than our previous package.'' Otherwise, the advertiser should be prepared to substantiate whatever comparison is conveyed to reasonable consumers.

Example 2: An advertiser claims that ''our plastic diaper liner has the most recycled content.'' The advertised diaper does have more recycled content, calculated as a percentage of weight, than any other on the market, although it is still well under 100% recycled. Provided the recycled content and the comparative difference between the product and those of competitors are significant and provided the specific comparison can be substantiated, the claim is not deceptive.

Example 3: An ad claims that the advertiser's packaging creates ''less waste than the leading national brand.'' The advertiser's source reduction was implemented sometime ago and is supported by a calculation comparing the relative solid waste contributions of the two packages. The advertiser should be able to substantiate that the comparison remains accurate.

§ 260.7 Environmental marketing claims.

Guidance about the use of environmental marketing claims is set forth in this section. Each guide is followed by several examples that illustrate, but do not provide an exhaustive list of, claims that do and do not comport with the guides. In each case, the general principles set forth in § 260.6 should also be followed.[14]

(a) *General environmental benefit claims:* It is deceptive to misrepresent, directly or by implication, that a product or package offers a general environmental benefit. Unqualified general claims of environmental benefit are difficult to interpret, and depending on their context, may convey a wide range of meanings to consumers. In many cases, such claims may convey that the product or package has specific and far-reaching environmental benefits. As explained in the Commission's Ad Substantiation Statement, every express and material, implied claim that the general assertion conveys to reasonable consumers about an objective quality, feature or attribute of a product must be substantiated. Unless this substantiation duty can be met, broad environmental claims should either be avoided or qualified, as necessary, to prevent deception about the specific nature of the environmental benefit being asserted.

Example 1: A brand name like ''Eco-Safe'' would be deceptive if, in the context of the product so named, it leads consumers to believe that the product has environmental benefits which cannot be substantiated by the manufacturer. The claim would not be deceptive if ''Eco-Safe'' were followed by clear and prominent qualifying language limiting the safety representation to a particular product attribute for which it could be substantiated, and provided that no other deceptive implications were created by the context.

Example 2: A product wrapper is printed with the claim ''Environmentally Friendly.'' Textual comments on the wrapper explain that the wrapper is ''Environmentally Friendly because it was not chlorine bleached, a process that has been shown to create harmful substances.'' The wrapper was, in fact, not bleached with chlorine. However, the production of the wrapper now creates and releases to the environment significant quantities of other harmful substances. Since consumers are likely to interpret the ''Environmentally Friendly'' claim, in combination with the textual explanation, to mean that no significant harmful substances are currently released to the environment, the ''Environmentally Friendly'' claim would be deceptive.

Example 3: A pump spray product is labeled ''environmentally safe.'' Most of the product's active ingredients consist of volatile organic compounds (VOCs) that may cause smog by contributing to ground-level ozone formation. The claim is deceptive because, absent further qualification, it is likely to convey to consumers that use of the product will not result in air pollution or other harm to the environment.

Example 4: A lawn care pesticide is advertised as ''essentially non-toxic'' and ''practically non-toxic.'' Consumers would likely interpret these claims in the context of such a product as applying not only to human health effects but also to the product's environmental effects. Since the claims would likely convey to consumers that the product does not pose any risk to humans or the environment, if the pesticide in fact poses a significant risk to humans or environment, the claims would be deceptive.

Example 5: A product label contains an environmental seal, either in the form of a globe icon, or a globe icon with only the text ''Earth Smart'' around it. Either label is likely to convey to consumers that the product is environmentally superior to other products. If the manufacturer cannot substantiate this broad claim, the claim would be deceptive. The claims would not be deceptive if they were accompanied by clear and prominent qualifying language limiting the environmental superiority representation to the particular product attribute or attributes for which they could be substantiated, provided that no other deceptive implications were created by the context.

Example 6: A product is advertised as ''environmentally preferable.'' This claim is likely to convey to consumers that this product is environmentally superior to other products. If the manufacturer cannot substantiate this broad claim, the claim would be deceptive. The claim would not be deceptive if it were accompanied by clear and prominent qualifying language limiting the environmental superiority representation to the particular product attribute or attributes for which it could be substantiated, provided that no other deceptive implications were created by the context.

(b) *Degradable/biodegradable/photodegradable:* It is deceptive to misrepresent, directly or by implication, that a product or package is degradable, biodegradable or photodegradable. An unqualified claim that a product or package is degradable, biodegradable or photodegradable should be substantiated by competent and reliable scientific evidence that the entire product or package will completely break down and return to nature, *i.e.*, decompose into elements found in nature within a reasonably short period of time after customary disposal. Claims of degradability, biodegradability or photodegradability should be qualified to the extent necessary to avoid consumer deception about:

(1) The product or package's ability to degrade in the environment where it is customarily disposed; and

(2) The rate and extent of degradation.

Example 1: A trash bag is marketed as ''degradable,'' with no qualification or other disclosure. The marketer relies on soil burial tests to show that the product will decompose in the presence of water and oxygen. The trash bags are customarily disposed of in incineration facilities or at sanitary landfills that are managed in a way that inhibits degradation by minimizing moisture and oxygen. Degradation will be irrelevant for those trash bags that are incinerated and, for those disposed of in landfills, the marketer does not possess adequate substantiation that the bags will degrade in a reasonably short period of time in a landfill. The claim is therefore deceptive.

Example 2: A commercial agricultural plastic mulch film is advertised as

[14] These guides do not currently address claims based on a ''lifecycle'' theory of environmental benefit. The Commission lacks sufficient information on which to base guidance on such claims.

''Photodegradable'' and qualified with the phrase, ''Will break down into small pieces if left uncovered in sunlight.'' The claim is supported by competent and reliable scientific evidence that the product will break down in a reasonably short period of time after being exposed to sunlight and into sufficiently small pieces to become part of the soil. The qualified claim is not deceptive. Because the claim is qualified to indicate the limited extent of breakdown, the advertiser need not meet the elements for an unqualified photodegradable claim, *i.e.*, that the product will not only break down, but also will decompose into elements found in nature.

Example 3: A soap or shampoo product is advertised as ''biodegradable,'' with no qualification or other disclosure. The manufacturer has competent and reliable scientific evidence demonstrating that the product, which is customarily disposed of in sewage systems, will break down and decompose into elements found in nature in a short period of time. The claim is not deceptive.

Example 4: A plastic six-pack ring carrier is marked with a small diamond. Many state laws require that plastic six-pack ring carriers degrade if littered, and several state laws also require that the carriers be marked with a small diamond symbol to indicate that they meet performance standards for degradability. The use of the diamond, by itself, does not constitute a claim of degradability.[15]

(c) * * *

(d) * * *

(e) *Recycled content:* A recycled content claim may be made only for materials that have been recovered or otherwise diverted from the solid waste stream, either during the manufacturing process (pre-consumer), or after consumer use (post-consumer). To the extent the source of recycled content includes pre-consumer material, the manufacturer or advertiser must have substantiation for concluding that the pre-consumer material would otherwise have entered the solid waste stream. In asserting a recycled content claim, distinctions may be made between pre-consumer and post-consumer materials. Where such distinctions are asserted, any express or implied claim about the specific pre-consumer or post-consumer content of a product or package must be substantiated. It is deceptive to misrepresent, directly or by implication, that a product or package is made of recycled material. Unqualified claims of recycled content may be made only if the entire product or package, excluding minor, incidental components, is made from recycled material. For products or packages that are only partially made of recycled material, a recycled claim should be adequately qualified to avoid consumer deception about the amount, by weight, of recycled content in the finished product or package.

Example 1: A manufacturer routinely collects spilled raw material and scraps left over from the original manufacturing process. After a minimal amount of reprocessing, the manufacturer combines the spills and scraps with virgin material for use in further production of the same product. A claim that the product contains recycled material is deceptive since the spills and scraps to which the claim refers are normally reused by industry within the original manufacturing process, and would not normally have entered the waste stream.

Example 2: A manufacturer purchases material from a firm that collects discarded material from other manufacturers and resells it. All of the material was diverted from the solid waste stream and is not normally reused by industry within the original manufacturing process. The manufacturer includes the weight of this material in its calculations of the recycled content of its products. A claim of recycled content based on this calculation is not deceptive because, absent the purchase and reuse of this material, it would have entered the waste stream.

Example 3: A greeting card is composed 30% by fiber weight of paper collected from consumers after use of a paper product, and 20% by fiber weight of paper that was generated after completion of the paper-making process, diverted from the solid waste stream, and otherwise would not normally have been reused in the original manufacturing process. The marketer of the card may claim either that the product ''contains 50% recycled fiber,'' or may identify the specific pre-consumer and/or post-consumer content by stating, for example, that the product ''contains 50% total recycled fiber, including 30% post-consumer.''

Example 4: A paperboard package with 20% recycled fiber by weight is labeled as containing ''20% recycled fiber.'' Some of the recycled content was composed of material collected from consumers after use of the original product. The rest was composed of overrun newspaper stock never sold to customers. The claim is not deceptive.

Example 5: A product in a multi-component package, such as a paperboard box in a shrink-wrapped plastic cover, indicates that it has recycled packaging. The paperboard box is made entirely of recycled material, but the plastic cover is not. The claim is deceptive since, without qualification, it suggests that both components are recycled. A claim limited to the paperboard box would not be deceptive.

Example 6: A package is made from layers of foil, plastic, and paper laminated together, although the layers are indistinguishable to consumers. The label claims that ''one of the three layers of this package is made of recycled plastic.'' The plastic layer is made entirely of recycled plastic. The claim is not deceptive provided the recycled plastic layer constitutes a significant component of the entire package.

Example 7: A paper product is labeled as containing ''100% recycled fiber.'' The claim is not deceptive if the advertiser can substantiate the conclusion that 100% by weight of the fiber in the finished product is recycled.

Example 8: A frozen dinner is marketed in a package composed of a cardboard box over a plastic tray. The package bears the legend, ''package made from 30% recycled material.'' Each packaging component amounts to one-half the weight of the total package. The box is 20% recycled content by weight, while the plastic tray is 40% recycled content by weight. The claim is not deceptive, since the average amount of recycled material is 30%.

Example 9: A paper greeting card is labeled as containing 50% recycled fiber. The seller purchases paper stock from several sources and the amount of recycled fiber in the stock provided by each source varies. Because the 50% figure is based on the annual weighted average of recycled material purchased from the sources after accounting for fiber loss during the production process, the claim is permissible.

Example 10: A packaged food product is labeled with a three chasing arrows symbol without any further explanatory text as to its meaning. By itself, the symbol is likely to convey that the packaging is both ''recyclable'' and is made entirely from recycled material. Unless both messages can be substantiated, the claim should be qualified as to whether it refers to the package's recyclability and/or its recycled content. If a ''recyclable claim'' is being made, the label may need to disclose the limited availability of recycling programs for the package. If a recycled content claim is being made and the packaging is not made entirely from recycled material, the label should disclose the percentage of recycled content.

(f) *Source reduction:* It is deceptive to misrepresent, directly or by implication, that a product or package has been reduced or is lower in weight, volume or toxicity. Source reduction claims should be qualified to the extent necessary to avoid consumer deception about the amount of the source reduction and about the basis for any comparison asserted.

Example 1: An ad claims that solid waste created by disposal of the advertiser's packaging is ''now 10% less than our previous package.'' The claim is not deceptive if the advertiser has substantiation that shows that disposal of the current package contributes 10% less waste by weight or volume to the solid waste stream when compared with the immediately preceding version of the package.

Example 2: An advertiser notes that disposal of its product generates ''10% less waste.'' The claim is ambiguous. Depending on contextual factors, it could be a comparison either to the immediately preceding product or to a competitor's product. The ''10% less waste'' reference is deceptive unless the seller clarifies which comparison is intended and substantiates that comparison, or substantiates both possible interpretations of the claim.

[15] The guides' treatment of unqualified degradable claims is intended to help prevent consumer deception and is not intended to establish performance standards for laws intended to ensure the degradability of products when littered.

(g) *Refillable:* It is deceptive to misrepresent, directly or by implication, that a package is refillable. An unqualified refillable claim should not be asserted unless a system is provided for the collection and return of the package for refill or the later refill of the package by consumers with product subsequently sold in another package. A package should not be marketed with an unqualified refillable claim, if it is up to the consumer to find new ways to refill the package.

Example 1: A container is labeled ''refillable x times.'' The manufacturer has the capability to refill returned containers and can show that the container will withstand being refilled at least x times. The manufacturer, however, has established no collection program. The unqualified claim is deceptive because there is no means for collection and return of the container to the manufacturer for refill.

Example 2: A bottle of fabric softener states that it is in a ''handy refillable container.'' The manufacturer also sells a large-sized container that indicates that the consumer is expected to use it to refill the smaller container. The manufacturer sells the large-sized container in the same market areas where it sells the small container. The claim is not deceptive because there is a means for consumers to refill the smaller container from larger containers of the same product.

(h) *Ozone safe and ozone friendly:* It is deceptive to misrepresent, directly or by implication, that a product is safe for or ''friendly'' to the ozone layer or the atmosphere. For example, a claim that a product does not harm the ozone layer is deceptive if the product contains an ozone-depleting substance.

Example 1: A product is labeled ''ozone friendly.'' The claim is deceptive if the product contains any ozone-depleting substance, including those substances listed as Class I or Class II chemicals in Title VI of the Clean Air Act Amendments of 1990, Public Law 101–549, and others subsequently designated by EPA as ozone-depleting substances. Chemicals that have been listed or designated as Class I are chlorofluorocarbons (CFCs), halons, carbon tetrachloride, 1,1,1-trichloroethane, methyl bromide and hydrobromofluorocarbons (HBFCs). Chemicals that have been listed as Class II are hydrochlorofluorocarbons (HCFCs).

Example 2: An aerosol air freshener is labeled ''ozone friendly.'' Some of the product's ingredients are volatile organic compounds (VOCs) that may cause smog by contributing to ground-level ozone formation. The claim is likely to convey to consumers that the product is safe for the atmosphere as a whole, and is therefore, deceptive.

Example 3: The seller of an aerosol product makes an unqualified claim that its product ''Contains no CFCs.'' Although the product does not contain CFCs, it does contain HCFC–22, another ozone depleting ingredient. Because the claim ''Contains no CFCs'' may imply to reasonable consumers that the product does not harm the ozone layer, the claim is deceptive.

Example 4: A product is labeled ''This product is 95% less damaging to the ozone layer than past formulations that contained CFCs.'' The manufacturer has substituted HCFCs for CFC–12, and can substantiate that this substitution will result in 95% less ozone depletion. The qualified comparative claim is not likely to be deceptive.

§ 260.8 Environmental assessment.

National Environmental Policy Act. In accordance with § 1.83 of the FTC's Procedures and Rules of Practice [4] and § 1501.3 of the Council on Environmental Quality's regulations for implementing the procedural provisions of National Environmental Policy Act, 42 U.S.C. 4321 *et seq.* (1969),[5] the Commission prepared an environmental assessment when the guides were issued in July 1992 for purposes of providing sufficient evidence and analysis to determine whether issuing the Guides for the Use of Environmental Marketing Claims required preparation of an environmental impact statement or a finding of no significant impact. After careful study, the Commission concluded that issuance of the Guides would not have a significant impact on the environment and that any such impact ''would be so uncertain that environmental analysis would be based on speculation.'' [6] The Commission concluded that an environmental impact statement was therefore not required. The Commission based its conclusions on the findings in the environmental assessment that issuance of the guides would have no quantifiable environmental impact because the guides are voluntary in nature, do not preempt inconsistent state laws, are based on the FTC's deception policy, and, when used in conjunction with the Commission's policy of case-by-case enforcement, are intended to aid compliance with section 5(a) of the FTC Act as that Act applies to environmental marketing claims.

The Commission has concluded that modifications to the guides in this part will not have a significant effect on the environment, for the same reasons that the issuance of the original guides in 1992 was deemed not to have a significant effect on the environment. Therefore, the Commission concludes that an environmental impact statement is not required in conjunction with the 1996 modifications to the Guides for the Use of Environmental Marketing Claims.

[4] 16 CFR 1.83.

[5] 40 CFR 1501.3.

[6] 16 CFR 1.83(a).

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–25938 Filed 10–10–96; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 522 and 556

Animal Drugs, Feeds, and Related Products; Doramectin

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 a new animal drug application (NADA) filed by Pfizer, Inc. The NADA provides for subcutaneous and intramuscular use of doramectin for treatment and control of gastrointestinal roundworms, lungworms, eyeworms, grubs, lice, and mange mites in cattle.

EFFECTIVE DATE: October 11, 1996.

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: Pfizer, Inc., 235 East 42d St., New York, NY 10017–5755, is sponsor of NADA 141–061, which provides for the use of Dectomax® 1 percent injectable solution (doramectin) for treatment and control of gastrointestinal roundworms, lungworms, eyeworms, grubs, lice, and mange mites in cattle. The NADA is approved as of July 30, 1996, and the regulations are amended in part 522 (21 CFR part 522) by adding new § 522.770 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In addition, part 556 (21 CFR part 556) is amended by adding new § 556.225 to provide for tolerances for residues of doramectin in edible cattle tissues.

Under section 512(c)(2)(F)(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(i)), this approval qualifies for 5 years of marketing exclusivity beginning July 30, 1996, because no active ingredient (including any ester or salt of the active ingredient) has been previously approved in any other application filed under section 512(b)(1) of the act.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

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.

List of Subjects

21 CFR Part 522

Animal drugs.

21 CFR Part 556

Animal drugs, Foods.

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 parts 522 and 556 are amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

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

2. New § 522.770 is added to read as follows:

§ 522.770 Doramectin.

(a) *Specifications*. Each milliliter of sterile aqueous solution contains 10 milligrams of doramectin.

(b) *Sponsor*. See No. 000069 in § 510.600 (c) of this chapter.

(c) *Related tolerances*. See § 556.225 of this chapter.

(d) *Conditions of use*. *Cattle*—(1) *Amount*. 200 micrograms per kilogram (10 milligrams per 110 pounds).

(2) *Indications for use*. For treatment and control of gastrointestinal roundworms, lungworms, eyeworms, grubs, lice, and mange mites, and protection against infection or reinfection with *Ostertagia ostertagia* for up to 21 days.

(3) *Limitations*. Administer as a single subcutaneous or intramuscular injection. Do not slaughter cattle within 35 days of treatment. Not for use in female dairy cattle 20 months of age or older. Do not use in calves to be processed for veal.

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

3. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: Secs. 402, 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342, 360b, 371).

4. New § 556.225 is added to subpart B to read as follows:

§ 556.225 Doramectin.

A tolerance of 0.1 part per million is established for parent doramectin (marker residue) in liver (target tissue) of cattle.

Dated: September 23, 1996.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 96–26212 Filed 10–10–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–96–086]

RIN–AE84

Special Local Regulations for Marine Events; Atlantic Ocean, Ocean City, MD

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This document implements regulations for the Ocean City Offshore Grand Prix, a marine event to be held on October 13, 1996 in the Atlantic Ocean off of Ocean City, Maryland. These special local regulations are needed to provide for the safety of the participants and spectators on navigable waters during this event. This rule will restrict general navigation in the regulated area.

EFFECTIVE DATES: 33 CFR 100.517 is effective from 11 a.m. to 4 p.m., October 13, 1996. If the event is postponed due to weather conditions, 33 CFR 100.517 is effective from 11 a.m. to 4 p.m., October 14, 1996.

FOR FURTHER INFORMATION CONTACT: BMCM Niblett, marine events coordinator, Commander, Coast Guard Group Eastern Shore, Chincoteague, Virginia 23336–1510, (804) 336–2833.

SUPPLEMENTARY INFORMATION: On October 13, 1996, the United States Offshore Racing Association will hold the Ocean City Offshore Grand Prix in the Atlantic Ocean off of Ocean City, Maryland. The event will consist of approximately forty to sixty powerboats, ranging from 24 to 50 feet in length, racing on a designated course within the regulated area described in 33 CFR 100.517(a). To enhance the safety of the participants and spectators, 33 CFR 100.517 will be in effect during this event. Under provisions of 33 CFR 100.517, a vessel may not enter the regulated area unless it receives permission from the Coast Guard patrol commander. These restrictions will be in effect for a limited period and should not result in significant disruption of maritime traffic. The Coast Guard patrol commander will announce the specific periods during which the restrictions will be enforced.

Dated: September 23, 1996.

Kent H. Williams,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 96–26151 Filed 10–10–96; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 100

[CGD08–96–041]

RIN 2115–AE46

Special Local Regulation; Big River Rendezvous, Mississippi River Mile 483.0–493.0

AGENCY: Coast Guard, DOT.

ACTION: Temporary Final Rule.

SUMMARY: A special local regulation is being adopted for the Big River Rendezvous which will be held on the Mississippi River in Davenport, IA on October 10–13, 1996. The sponsor of this event is the Scott County Sesquicentennial Association. This regulation is needed to control vessel traffic in the vicinity of the event. The regulation will restrict general navigation in the regulated area for the safety of spectators, participants and commercial traffic.

EFFECTIVE DATES: This regulation is effective on October 10–14, 1996.

FOR FURTHER INFORMATION CONTACT: LT R. G. Moulton, Supervisor, Designated Patrol Commander, U.S. Coast Guard, MSD Quad Cities, Rock Island Arsenal Bldg 218, P.O. Box 3220, Rock Island, IL 61204. The telephone

number is (309) 782–0627, fax (309) 782–0604.

SUPPLEMENTARY INFORMATION:

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable.

Background and Purpose

The Big River Rendezvous consists of a national celebration of the steamboat era in America. The event will run from 7 a.m. to 1 a.m. local time, October 10 through October 13, 1996. In order to provide for the safety of spectators and participants, and for safe passage of through traffic, the Coast Guard will restrict vessel movement in the regulated area. The river will be closed during part or all of the affected period to all vessel traffic except official regatta vessels and patrol craft.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempt from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary because of the event's short duration.

Federalism Assessment

The Coast Guard has analyzed this action in accordance with the principles and criteria of Executive Order 12612 and has determined that this rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2.B.2.C of Commandant Instruction M16475.1B, (as revised by 61 FR 13563; March 27, 1996) this rule is excluded from further environmental documentation

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and record keeping requirements, Waterways.

Temporary Regulation

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows.

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35

2. A temporary section 100.35T08–041 is added, to read as follows:

§ 100.35–T08–041 Upper Mississippi River, Davenport, IA

(a) *Regulated Area.* Mississippi River mile 483.0 to 493.0.

(b) *Special Local Regulations:*

(1) Except for official regatta vessels and patrol craft no person or vessel may enter or remain in the regulated area without permission of the Patrol Commander.

(2) The Coast Guard Patrol Commander will be a commissioned officer designated by the Commanding Officer, Marine Safety Office, St. Louis, MO, and may be contacted, during the event, on VHF–FM Channel 16 (156.8 MHZ) by the call sign ''Scioto Control.'' The Patrol Commander may:

(i) Direct the anchoring, mooring, or movement of any vessel within the regulated area,

(ii) Restrict vessel operation within the regulated area to vessels having particular operating characteristics,

(iii) Terminate the marine event or the operation of any vessel when necessary for the protection of life and property.

(iv) Allow vessels to transit the regulated area whenever an event is not being conducted and the transit can be completed.

(3) Coast Guard commissioned or petty officers will patrol the event on board patrol vessels which display the Coast Guard Ensign. If radio or other voice communications are not available with a vessel, they will use a series of sharp, short blast by whistle or horn to signal the operator of any vessel in the vicinity of the regulated area to stop. When signaled, the operator of any vessel in the immediate vicinity of the regulated area shall stop the vessel immediately and shall proceed as directed.

(4) Vessels desiring to transit the regulated area may do so only with the prior approval and direction of the Patrol Commander.

(5) The Patrol Commander will terminate enforcement of this section at the conclusion of the marine event if earlier than the announced termination time.

(c) *Effective Dates.* This section is effective from 7 a.m. October 10 to 1 a.m. October 11; 7 a.m. October 11 to 1 a.m. October 12; 7 a.m. October 12 to 1 a.m. October 13; and 7 a.m. October 13 to 1 a.m. October 14, local time, 1996.

Dated: September 19, 1996.

T.W. Josiah,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 96–26150 Filed 10–10–96; 8:45 am]

BILLING CODE 4910–14–M

POSTAL SERVICE

39 CFR Part 111

Experimental First-Class and Priority Mail Small Parcel Automation Rate Category; Prescribed ZIP Code Areas

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: On April 18, 1996, the Postal Service published a final rule in the Federal Register (61 FR 17206–17215) and adopted amendments to the Domestic Mail Manual implementing the Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on the Experimental First-Class and Priority Mail Small Parcel Automation Rate Category, Docket No. MC96–1. Since that time, certain aspects of the original Domestic Mail Manual amendments dealing with prescribed ZIP Code areas for the test have been affected by ZIP Code realignments that this rule change accommodates.

EFFECTIVE DATE: July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Paul H. Lettmann, (202) 268–6261, or Susan Duchek, (202) 268–2990.

SUPPLEMENTARY INFORMATION: This change is necessitated by a realignment and redesignation of certain ZIP Codes in southwest Florida that took effect on July 1, 1996. Previously, the area of eligibility in Florida comprised 3-digit ZIP Code area 337 and the following 5-digit ZIP Codes: 33504 (redesignated as 33744), 34634 (redesignated as 33786), 34635 (redesignated as 33785), 34640–34649 (redesignated as 33770–33779), and 34664–34666 (redesignated as 33780–33782). The area of eligibility originally delineated for the test has therefore been neither expanded nor

contracted on account of these redesignations.

Accordingly, section G091.1.4 of the Domestic Mail Manual is amended to indicate that qualifying parcels claimed at the experimental automation rates for First-Class Mail and Priority Mail must be entered at a post office for which outgoing primary distribution is performed at the St. Petersburg, FL, Processing & Distribution Center (P&DC) (ZIP Code area 337).

List of Subjects in 39 CFR Part 111

Postal Service.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR part 111).

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise G091.1.4 of the Domestic Mail Manual as set forth below:

G General Information

* * * * *

G090 Experimental Classifications and Rates

G091 Barcoded Small Parcels

1.0 Basic Eligibility

* * * * *

1.4 Test Sites

As specified in the authorization letter, mail prepared under G091 must be entered at a post office for which outgoing primary distribution is performed as follows:

a. For Priority Mail, at either the St. Petersburg, FL, Processing and Distribution Center (P&DC) (3-digit ZIP Code area 337) or the Philadelphia, PA, Airport Mail Center (3-digit ZIP Code areas 080–084, 189–194, and 197–199).

b. For First-Class Mail, at either the St. Petersburg, FL, P&DC (3-digit ZIP Code area 337) or the Southeastern, PA, P&DC (3-digit ZIP Code areas 189, 193, and 194).

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 96–26088 Filed 10–10–96; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[WA52–7125; FRL–5631–6]

Approval and Promulgation of Maintenance Plan for Air Quality Planning Purposes for the State of Washington: Carbon Monoxide

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is redesignating the Central Puget Sound (also referred to as the Seattle-Tacoma area) nonattainment area to attainment for the carbon monoxide (CO) air quality standard and approving a maintenance plan that will insure that the area remains in attainment. Under the Clean Air Act as amended in 1990 (CAA), designations can be revised if sufficient data is available to warrant such revisions. In this action, EPA is approving The Washington Department of Ecology's request because it meets the redesignation requirements set forth in the CAA.

EFFECTIVE DATE: This rulemaking is effective as of October 11, 1996.

ADDRESSES: Copies of the State's redesignation request and other information supporting this action are available during normal business hours at the following locations: EPA, Alaska-Washington Unit (OAQ–107), 1200 Sixth Avenue, Seattle, Washington, 98101, and the Washington State Department of Ecology, Air Quality Program, P.O. Box 47600, Olympia, Washington 98504–7600.

FOR FURTHER INFORMATION CONTACT: Christi Lee, EPA Region 10 Washington Operation's Office, at (360) 753–9079.

SUPPLEMENTARY INFORMATION:

I. Background

In a March 15, 1991, letter to the EPA Region 10 Administrator, the Governor of Washington recommended the Central Puget Sound area, including the western portions of King, Pierce, and Snohomish Counties, be designated as nonattainment for carbon monoxide (CO) as required by section 107(d)(1)(A) of the 1990 Clean Air Act Amendments (CAA) (Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). The area which includes lands within the Puyallup Reservation, Tulalip Reservation and Muckleshoot Reservation, was designated nonattainment and classified as ''moderate'' under the provisions outlined in sections 186 and 187 of the CAA. (See 56 FR 56694 (Nov. 6, 1991), codified at 40 CFR part 81, § 81.348.)

The Washington State Department of Ecology (WDOE) requested that the Central Puget Sound area be redesignated to attainment in a letter dated February 19, 1996, and received by EPA on March 6, 1996. On June 11, 1996, EPA proposed to approve the WDOE's requested redesignation. The WDOE has met all of the CAA requirements for redesignation pursuant to section 107(d)(3)(E). EPA has approved all State Implementation Plan (SIP) requirements for the Central Puget Sound area that were due under the 1990 CAA. In addition, on June 11, 1996, EPA proposed redesignation to attainment those areas in the Central Puget Sound CO nonattainment area that are located within the Tulalip Reservation, the Puyallup Reservation and the Muckleshoot Reservation.

The WDOE provided monitoring, modeling and emissions data to support its redesignation request. The 1993 CO attainment emissions inventory totals in tons per day are 316, 214, 1497, 61, respectively, for the area, non-road, mobile and point sources. The emission budget established through the year 2010 is 1,497 tons per day. The State relied on the existence of an approved Inspection and Maintenance (I/M) program as part of the maintenance demonstration. The WDOE will discontinue implementation of the oxygenated fuel program in the Central Puget Sound Consolidated Metropolitan Statistical Area (CMSA) once approval of the CO maintenance plan becomes effective.

The WDOE will retain the oxygenated fuels program as a contingency measure as required under section 175A(d) of the CAA. The program will be re-implemented the next full winter season following the date of a quality assured violation of the CO National Ambient Air Quality Standards (NAAQS).

II. Public Comment/EPA Response

The following comments were received during the public comment period ending July 11, 1996. EPA's response follows each comment.

(1) *Comment:* The removal of the oxygenated fuels program should not be considered. It is imperative that the most sensitive segment of the population be protected, and to do that the carbon monoxide (CO) levels must be kept significantly below the standard.

Response: Under Title I of the CAA, Congress established a system of state and federal cooperation. EPA is required to establish the National Ambient Air Quality Standards (NAAQS)—i.e., the

level at which air quality is determined to be protective of human health. However, the States take the primary lead in determining the measures necessary to attain and maintain the NAAQS. These measures are incorporated into the state implementation plan (SIP). The CAA requires EPA to approve a SIP submission that meets the requirements of the CAA. If the State fulfills its obligations in developing a SIP that meets the requirements of the CAA, EPA has no authority to supplement or revise that plan with a federal implementation plan.

Once a State has attained the NAAQS for a particular pollutant, such as CO, and the State can demonstrate that it has met the other requirements specified in section 107(d)(3)(E), including the requirement for a maintenance plan, the state can request redesignation to attainment for the area. The maintenance plan, which is submitted as a revision to the State's SIP, must demonstrate maintenance of the NAAQS for ten years following redesignation. The maintenance plan need not be based on continued implementation of all the measures in the SIP prior to redesignation, but must provide that if a violation of the standard occurs, ''the State will implement all measures * * * which were contained in the [SIP] for the area before redesignation as an attainment area.'' CAA § 175(d).

The Washington State Department of Ecology (WDOE) submitted air quality modeling and monitoring data as a part of their redesignation request. These data show that the Central Puget Sound area is currently in attainment of the NAAQS for CO and is expected to remain in attainment for at least the next 10 years despite elimination of the oxygenated fuels program. Moreover, the maintenance plan includes the oxygenated fuels program as a contingency measure to be implemented in the event of a violation of the CO standard. Because the State has submitted a maintenance plan that complies with the CAA, EPA must approve the maintenance plan under section 110(k)(3). Furthermore, since the State has met the redesignation requirement to demonstrate that the air quality meets the NAAQS, EPA believes the air quality is sufficient to protect the public health and EPA cannot reject the redesignation request on this basis.

(2) *Comment:* The Puget Sound Air Pollution Control Agency's (PSAPCA) board was informed by their legal counsel that they did not have the authority to continue oxygenated fuels solely on the basis of toxic reductions. This legal advice was improper and misleading and consequently affected their decision to remove the oxygenated fuels program.

Response: EPA is obligated to act on the maintenance plan and redesignation request submitted by the State. As described in the previous response, the State takes the lead in developing a plan to attain and maintain the NAAQS. If the maintenance plan meets the requirements of the Act, EPA must approve the plan under section 110(k)(3) of the Act. Since the State has submitted a maintenance plan that meets the requirements of section 175, EPA must approve that plan. Furthermore, the State has demonstrated that the Central Puget Sound area has met the redesignation criteria in section 107(d)(3)(E) and, therefore, should be redesignated to attainment for CO. Since the State submitted a maintenance plan and redesignation request that comply with the Act, and there is no issue whether the State has the authority to implement the measures included in the submission, EPA has no authority to examine the State's reasoning for selection of the measures in the maintenance plan.

(3) *Comment:* The oxygenate industry was not notified of the redesignation process nor were they included on the advisory committee where the recommendation to remove oxygenated fuel was made.

Response: EPA's requirement regarding the public hearing process that states must follow is stated in CFR Part 51, Appendix V and the CAA 110(a)(2). In summary, EPA requires that each implementation plan submitted by the State be adopted by the state after reasonable notice and public hearing of the proposed change(s). EPA is satisfied that the public participation process employed by PSAPCA meets this requirement. Any additional public procedures provided are at the State's discretion.

(4) *Comment:* The Proposed Federal Register notes that the region has maintained the CO standard since 1990/91 prior to implementation of oxygenated fuels and therefore oxygenated fuels are unnecessary to show maintenance. The data does not support this assertion. The Bellevue monitoring site recorded two readings over 9.0 (12/24/94 and 1/5/95); if the oxygenated fuels program would not have been in place these readings would be over 11ppm using the PSAPCA methodology of accounting for 25% decrease in the design value attributed to oxygenated fuels.

Response: The comment suggests that additional analysis beyond assessment of the monitored values is necessary for a state to show that the area is attaining the standard. This assumption is not accurate. The proposed Federal Register correctly states that the Central Puget Sound area has ambient monitoring data showing attainment of the CO NAAQS, since 1991. For CO, an area may be considered attaining the NAAQS if there are no violations, as determined in accordance with 40 CFR 50.8, based on two complete, consecutive calendar years of quality assured monitoring data.

(5) *Comment:* PSAPCA's analysis of non-monitored sites assumed that the monitored sites were the worst case sites in the region. However, the recent worst case monitor, the Bellevue site, is not included in the analysis.

Response: The attainment probability analysis for non-monitored sites was performed using four intersections which were chosen based on their congestion and traffic volumes. In addition, PSAPCA's analysis of non-monitored sites included an analysis of two worst-case monitoring sites which were considered to be representative of future trends in the region, based on both historical CO concentrations recorded at the sites and their urban setting. The recently established Bellevue monitoring site was not included in the probability analysis for non-monitored sites since there was a limited data record available (one CO season worth of data) at the time the analysis was performed.

(6) *Comment:* A recent bag sampling study by Ecology suggests that there are at least three new sites that deserve monitoring and have higher concentrations than the current monitored sites.

Response: It is assumed that the commenter is referring to: the November 1, 1994 ''Southeast Puget Sound Carbon Monoxide Study'' (southeast saturation study), and the September 6, 1995 ''East Puget Sound Carbon Monoxide Study'' (east saturation study) reports, both prepared by Ashley and Williamson. In the conclusions to both reports the authors recommended additional monitoring sites be considered as candidates for prospective permanent network sites. As the commenter correctly noted, no permanent sites have yet been established at these locations.

Saturation studies are a tool for identifying potential candidate locations for future permanent monitoring sites. The portable samplers used to measure CO concentrations during a saturation study are not reference monitors, however, and cannot be used to

determine whether the NAAQS has been exceeded. Such data can only be used to estimate true concentrations and give indications of potential NAAQS exceedances.

When determining redesignation status for a particular pollutant, EPA is required to assess whether the integrity of the air quality monitoring network has been properly established and preserved, and will provide data that is representative of CO concentrations in the nonattainment area. Although EPA acknowledges the reports findings that data gaps apparently exist for maximum CO monitoring information in particular areas sampled during the saturation studies, we believe that the current Central Puget Sound area monitoring network is representative of the areawide CO levels and the integrity of the CO monitoring system, for the purposes of determining attainment and maintenance of the CO standard, has been sustained.

Our reasons are three fold: (1) although the saturation studies noted above concluded that particular un-monitored locations showed high CO concentrations, the portable samplers used did not indicate that the levels in these locales were likely to be higher than the NAAQS; (2) saturation studies are regularly done in the State of Washington to suggest new locations for permanent monitoring. EPA endorses the rationale behind these studies. It is not EPA's position, however, that saturation study results by themselves should be used to delay or disapprove a redesignation and maintenance plan unless the studies indicate significant gaps in the permanent network; (3) although EPA agrees that the WDOE should move forward with its recommendation for installing permanent monitors at the identified locales, the lack of permanent monitoring at these sites does not constitute significant data gaps that would delay the redesignation to attainment of the Central Puget Sound area. A significant gap would, in our view, be indicated by a situation where relatively large unmonitored areas with CO levels anticipated to be at or above the NAAQS appear to be present within the boundaries of the nonattainment area.

EPA will continue to work with the state to ensure that the CO monitoring network is modified, as appropriate, to accommodate pollutant concentration changes resulting from new traffic patterns, and shifting population density, etc. If future changes are made to the state's monitoring network which result in monitored violations of the CO NAAQS, a contingency measure (reimplementation of the oxygenated fuel program) will be implemented the following winter season as provided for in the WDOE maintenance plan.

(7) *Comment:* The PSAPCA roll forward analysis does not take into effect future peak spreading and traffic congestion, making the probability of attainment precarious, especially in the non-monitored sites.

Response: The maintenance plan uses four methods to demonstrate continued maintenance of the CO NAAQS. These are maintenance of the attainment emissions level, roll-forward emissions modeling, multi-year rollback analysis, and intersection modeling. Under EPA policy on redesignation requests and maintenance plans, maintenance of attainment level emissions and a roll-forward emissions modeling are sufficient demonstrations for approvability. Taken together, the four different demonstrations reinforce the conclusion of continued maintenance of the NAAQS.

The comment implies that future peak spreading and traffic congestion effects are required elements of a roll-forward analysis. The roll-forward analysis assumes that CO concentrations are directly related to regional on-road vehicle emissions. While this assumption ignores the influence of factors such as peak spreading and congestion that can influence the observed CO value at a specific monitoring site, the method of partitioning the ambient CO level between regional mobile source emissions and background probably has a larger influence on the results than the failure to deal with site-specific factors. It should be noted that the roll-forward modeling projects CO values that are well below the standard. EPA believes that the roll-forward analysis included in the maintenance plan is adequate in the absence of these elements.

(8) *Comment:* There are at least 5 major projects (including the Sea-Tac Airport project) whose intersections do not meet CO standards without oxygenated fuels. Some of these have already proceeded on the assumption that oxygenated fuels would be in place. According to EPA approved modeling, these intersections with major projects will be out of attainment if the oxygenated fuel program were removed.

Response: EPA does not agree with the comment that projected NAAQS exceedances that are part of Environmental Impact Statements (EIS) within the nonattainment area provide a basis for requiring use of oxygenated fuels in the Maintenance Plan. EPA expects that before the activities evaluated in those EISs are approved, the activities will be modified to conform to the State Implementation Plan, consistent with the Clean Air Act.

Under section 176 of the CAA, federal agencies and metropolitan planning organizations may not approve or otherwise support an activity which does not conform to an approved implementation plan. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. of the Federal Transit Act (''transportation conformity''), as well as all other Federal actions (''general conformity''). Congress provided for the States to establish conformity requirements one year after the date of promulgation of final EPA conformity regulations. EPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188) and final general conformity regulations on November 30, 1993 (58 FR 63214). These conformity rules require that the States adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under section 175A of the CAA.

Section 176(c) of the CAA establishes the requirements that federal agencies and metropolitan planning organizations must follow to evaluate the potential impact of planned activities on NAAQS. Before they may approve a planned activity, the agencies must ensure that such activity will not cause or contribute to any new violation of any standards in the area, increase the frequency or severity of an existing violation of a standard in the area, or delay timely attainment of a standard or other required emission reductions. If the planned action does not initially conform with the applicable SIP, then a plan for mitigation measures or for finding emission offsets necessary for a conformity determination should be identified. EPA general conformity regulations at 40 CFR § 51.860 require that the agency obtain written commitments to mitigation measures prior to a positive conformity determination, and that such commitments must be fulfilled. EPA transportation conformity requirements at 40 CFR § 51.458 also require written commitments for project-level mitigation or control measures prior to a positive conformity determination.

The requirement to comply with the conformity provisions of the Act continues to apply to areas after redesignation to attainment. While redesignation of an area to attainment enables the area to avoid further compliance with most requirements of

section 110 and part D, since those requirements are linked to the nonattainment status of an area, the conformity requirements apply to both nonattainment and maintenance areas. Although the state conformity requirements have not been approved by EPA, EPA's federal conformity rules require the performance of conformity analyses in the absence of state-adopted rules. Therefore, a delay in adopting state rules does not relieve an area from the obligation to implement conformity requirements.

The commenter is correct that completed conformity determinations need not be revisited if changes subsequently occur in baseline conditions. This same comment was made as part of PSAPCA's public participation procedures before the Maintenance Plan was adopted. The PSAPCA Staff Response Summary noted that the Puget Sound Regional Council's analysis indicates conformity at the regional level through the year 2010, even without oxygenated fuels, based upon the regional motor vehicle emissions budgets in the Maintenance Plan. New baseline conditions without oxygenated fuels must be considered in any new determinations of conformity at the project level and for determining conformity of the Regional Transportation Plan and Transportation Improvement Plan. The PSAPCA Staff Response Summary also noted that the modeling approaches used in conformity evaluations to compare relative air quality impacts of various alternatives are not reliable for predicting actual concentrations of CO likely to result from a specific project alternative. As a result, there is no direct relationship between modeled exceedances and the actual measured concentrations of CO likely to result from a specific project alternative. In order to better understand the potential for modeling to overpredict emissions, PSAPCA is conducting a study of modeling with the objectives to (1) document the potential for overprediction, and (2) develop a correlation between predicted emissions and measured air quality.

(9) *Comment:* Discontinuing the oxygenated fuels program is ill-advised in light of the growth in population and the subsequent increase in vehicle miles traveled (VMT) and congestion in the Puget Sound area.

Response: The growth in VMT and population does continue to increase over the maintenance period in the Central Puget Sound area. However, these parameters were included in the demonstration of maintenance and projection of the emission inventory. Despite the projected growth in population and VMT, the State was able to demonstrate maintenance of the CO NAAQS through the year 2010 without an implemented oxygenated fuels program.

(10) *Comment:* Since the inspection and maintenance program may not be as effective at reducing emissions as some are suggesting, now is not the time to dismantle a program (oxygenated fuels) that has proven effective in providing important air quality and health benefits.

Response: The oxygenated fuels program, which was originally mandated in 1990 by the Clean Air Act has promoted CO reductions supportive of attainment. However, at the present time the state has determined that it is not necessary to keep this control in place except as a contingency measure. EPA has approved the Washington State Inspection and Maintenance (I/M) program and believes the state has taken the appropriate emission reduction credit for this program. The State has demonstrated that the I/M program coupled with the Federal Motor Vehicle Control Program (FMVCP) is an effective control measure that ensures future maintenance of the CO NAAQS.

(11) *Comment:* A public hearing was requested to discuss leaving the Sea-Tac Airport area classified as nonattainment for CO until additional monitoring information could be acquired.

Response: EPA acts on SIP submissions and redesignation requests in accordance with the procedures set forth in the Administrative Procedure Act. 42 U.S.C. 553(c). Section 553(c) provides that an agency ''shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments *with or without opportunity for oral presentation*.'' EPA believes several opportunities for the public to participate by oral presentation were provided during the state and local process. PSAPCA held public workshops to discuss the redesignation proposal and both the Department of Ecology and PSAPCA held public hearings prior to the maintenance plan and redesignation request being submitted to EPA for approval. In light of the several opportunities that existed for the oral presentation of information, EPA will not exercise its discretion to provide for a hearing.

The Region received two public comments which were in support of the redesignation and, therefore, will not be addressed here.

Since none of the comments provided information that contradicts EPA's finding that the area has met the criteria for redesignation to attainment, delay in redesignation of the Central Puget Sound area to attainment is unwarranted and would deny redesignation to an area that meets Clean Air Act requirements. Therefore, EPA is redesignating the Central Puget Sound area to attainment of the CO NAAQS.

III. Rulemaking Action

EPA is approving the WDOE's request to redesignate the Central Puget Sound area to attainment of the CO standard because the State's submittal meets the requirements of the Federal law for redesignation to attainment. These requirements are in section 107(d)(3)(E) of the CAA. This approval will put into place a revision to the SIP for the Central Puget Sound area that will assure that the CO standard continues to be maintained through the year 2010. Because EPA is approving the maintenance plan and because the area meets CAA requirements for redesignation to attainment, the Central Puget Sound area will be designated as attaining the CO NAAQS.

In addition, EPA, after notification of and consultation with the affected tribal governments, is approving redesignation to attainment those areas in the Central Puget Sound CO nonattainment area that are located within the Tulalip Reservation, the Puyallup Reservation and the Muckleshoot Reservation. The Agency believes that the redesignation requirements are effectively satisfied, based on information provided by WDOE and requirements contained in the WDOE SIP and maintenance plan.

Pursuant to Section 553(d)(3) of the Administrative Procedures Act (APA), this final notice is effective upon the date of publication in the Federal Register. Section 553(d)(3) of the APA allows EPA to waive the requirement that a rule be published 30 days before the effective date if EPA determines there is ''good cause'' and publishes the grounds for such a finding with the rule. Under section 553(d)(3), EPA must balance the necessity for immediate federal enforceability of these SIP revisions against principles of fundamental fairness which require that all affected persons be afforded a reasonable time to prepare for the effective date of a new rule. *United States* v. *Gavrilovic*, 551 F 2d 1099, 1105 (8th Cir., 1977). The purpose of the requirement for a rule to be published 30 days before the effective date of the rule is to give all affected persons a reasonable time to prepare for the effective date of a new rule.

EPA is making this rule effective upon October 11, 1996 to provide as much

time as possible for State and local air authorities to notify fuel distributors that distribution plans can be modified in response to these changes. In addition, this approval imposes no new requirements on sources since the measures in the maintenance plan were previously approved as part of the SIP and the maintenance plan contains no new requirement for the area.

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

IV. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Regional Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a major rule as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 10, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations.

40 CFR Part 81

Air pollution control.

Dated: September 30, 1996.

Chuck Clarke,

Regional Administrator.

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

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart WW—Washington

2. Section 52.2470 is amended by adding paragraph (c) (67) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(67) On February 29, 1996 the Director of WDOE submitted to the Regional Administrator of EPA a revision to the Carbon Monoxide State Implementation Plan for the Central Puget Sound area containing a maintenance plan that demonstrated continued attainment of the NAAQS for carbon monoxide through the year 2010 and also containing an oxygenated fuels program as a contingency measure to be implemented if the area violates the CO NAAQS.

(i) Incorporation by reference.

(A) The February 29, 1996 letter from WDOE to EPA requesting the redesignation of the Puget Sound carbon monoxide nonattainment area to attainment and submitting the

maintenance plan; the Central Puget Sound Region Redesignation Request and Maintenance Plan for the National Ambient Carbon Monoxide Standard dated January 1996.

(ii) Additional Material.

(A) Letter dated May 2, 1996, to EPA from the Puget Sound Air Pollution Control Agency, subject ''Carbon Monoxide SIP Applicability on Indian Lands;'' and Appendices to the Puget Sound Region Redesignation Request and Maintenance Plan for the National Ambient Carbon Monoxide Standard dated January 1996: Appendix A, Technical Analysis Protocol; Appendix B, Carbon Monoxide Air Quality Data Monitoring Network; Appendix C, Ambient Carbon Monoxide Monitoring Data; Appendix D, Historical and Projected Puget Sound Region VMT and Employment; Appendix E, Emission Inventory Projection; Appendix F, Analysis of the Probability of Continued CO Attainment in Puget Sound; and Appendix G, Transportation Conformity Process.

PART 81—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

2. In § 81.348, the table for ''Washington-Carbon Monoxide,'' is amended by revising the entry for Seattle-Tacoma Area to read as follows:

§ 81.348 Washington.

* * * * *

Washington-Carbon Monoxide

Designated Area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * * * * * *				
Seattle-Tacoma Area:				
Seattle-Tacoma Urban Area (as defined by the Washington Department of Transportation urban area maps).				
King County (part)		Attainment		
Pierce County (part)		Attainment		
Snohomish County (part)		Attainment		
* * * * * * *				

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

[FR Doc. 96–25979 Filed 10–10–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5634–3]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of Northwest 58th Street Landfill Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 4 announces the deletion of the Northwest 58th Street Landfill Site, Dade County, Florida, from the National Priorities List (NPL). The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Florida Department of Environmental Protection (FDEP) have determined that the Site poses no significant threat to public health or the environment and therefore, further response measures pursuant to CERCLA are not appropriate.

EFFECTIVE DATE: October 11, 1996.

ADDRESSES: Richard D. Green, Acting Director, Waste Management Division, U.S. Environmental Protection Agency, 100 Alabama Street S.W., Atlanta, Georgia 30303. Comprehensive information on this Site is available through the Region 4 public docket, which is available for viewing at the Northwest 58th Street Landfill information repositories at two locations. Locations and phone numbers are: U.S. EPA Record Center, 100 Alabama Street S.W., Atlanta, Georgia 30303, (404) 562–8190, and Metropolitan Dade County, Department of Environmental Resource Management, Hazardous Waste Section, 33 S.W. 2nd Avenue, Suite 800, Miami, Florida 33130, (305) 372–6804.

FOR FURTHER INFORMATION CONTACT: Pam Scully 404–562–8935.

SUPPLEMENTARY INFORMATION: The Northwest 58th Street Landfill Site in Dade County, Florida, is being deleted from the NPL.

A Notice of Intent to Delete for this site was published on August 2, 1996 (61 FR 40371). The closing date for comments on the Notice of Intent to Delete was September 3, 1996. EPA received no comments and therefore did not prepare a Responsiveness Summary.

The EPA identifies sites which appear to present a significant risk to public health welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be subject of Hazardous Substance Response Trust Fund (Fund) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 301.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL in the unlikely event that conditions at the site warrant such action. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous Waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: September 27, 1996.

A. Stanley Meiburg,

Acting Regional Administrator, USEPA Region 4.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp. p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp. p.193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the Site for ''Northwest 58th Street Landfill, Hialeah, Florida''.

[FR Doc. 96–25958 Filed 10–10–96; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Subchapter D

RIN 1018–AD72

Removal of Subchapter D; Management of Wildlife Research Areas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) removes Subchapter D, Management of Wildlife Research Areas from Title 50. Subchapter D (Part 60) provides special regulations for the Patuxent Wildlife Research Center (PWRC). Since the land base of PWRC is managed only by the Service as a part of the National Wildlife Refuge System and all public use must be compatible with the primary purpose of the area, future public use regulations will be published in parts 25–32 of title 50. The regulations regarding fishing, contained in this section prior to this action, have been relocated. The Service has determined that this action is consistent with principles of sound fish and wildlife management, and is otherwise in the public interest.

EFFECTIVE DATE: This rule is effective October 11, 1996.

FOR FURTHER INFORMATION CONTACT: Stephen R. Vehrs, Telephone (703) 358–2397.

SUPPLEMENTARY INFORMATION: This administrative action was not published as a proposed rule since it does not increase or decrease protection for the unit, or impose any management actions where the public is impacted. The Service will manage the unit under the regulations contained in Parts 25–32 which are essentially the same, if not identical to, those removed here. The PWRC historically was managed in partnership with the Service's Research Region, and this organization and function recently was reassigned to the National Biological Service. The National Wildlife Refuge System (Refuge System) has management jurisdiction over the wildlands of the Center. This rule is an administrative action to simplify and reduce unnecessary Federal regulations.

For the forgoing reasons, and in accordance with 5 U.S.C. Sec. 553(b)(3)(B), the Department of the Interior, U.S. Fish and Wildlife Service, for good cause finds that notice and opportunity for public comment are unnecessary.

National wildlife refuges generally are closed to hunting and sport fishing until opened by rulemaking. Public uses are controlled under Parts 25–32 of Title 50 CFR. The Secretary of the Interior (Secretary) may open units of the Refuge System to hunting, fishing and other public uses upon a determination that such uses are compatible with the purpose(s) for which the area was established. The action also must be in accordance with provisions of all laws applicable to the areas, must be consistent with the principles of sound fish and wildlife management, and otherwise must be in the public interest. The Service removes Subchapter D, Management of Wildlife Research Areas from Title 50 CFR.

The special regulations pertaining to fishing removed by this action (50 CFR 60.11) were relocated to (50 CFR 32.39). The Service published those regulations as part of a final rule, September 3, 1996 at 61 FR 46390. This rule is final upon publication. The Service has determined that any further delay in the implementation of these refuge regulations would not be in the public interest in that it would hinder the effective planning and administration of the refuge programs. Delay of 30 days would jeopardize the refuge program and thereby lessen the management effectiveness of this regulation. Therefore, the Service finds good cause to make this rule effective upon publication (5 U.S.C. 553 (d)(3)).

Statutory Authority

Patuxent Wildlife Research Center is a unit within the Refuge System administered by the Service on behalf of the Secretary. The National Wildlife Refuge System Administration Act of 1966, as amended (NWRSAA) (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (RRA) (16 U.S.C. 460k) govern the administration and public use of units of the Refuge System. Specifically, Section 4(d)(1)(A) of the NWRSAA authorizes the Secretary to permit the use of any areas within the Refuge System for any purpose including, but not limited to, hunting, fishing, public recreation and accommodations, and access, when the Secretary determines that such uses are compatible with the purposes for which each unit was established. The Secretary receives additional authority from the RRA to administer refuge areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the refuges were established.

Paperwork Reduction Act

The Service has examined this regulation under the Paperwork Reduction Act of 1995 and has found it to contain no information collection requirements. General regulations in Subchapter C apply to all National Wildlife Refuges and the specific regulations for Patuxent Wildlife Research Center in Title 50 CFR 32.39 will remain in effect. Removal of Part 60 has no impact on what activities are allowed on the refuge.

Economic Effect

This rulemaking was not subject to Office of Management and Budget review under Executive Order 12866. In addition, a review under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) has revealed that the rulemaking would not change public recreation or visitation to the surrounding area of the Patuxent Wildlife Research Center. Therefore, the rulemaking would not have a significant effect on a substantial number of small entities, such as businesses, organizations and governmental jurisdictions in the area.

Environmental Considerations

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), an environmental assessment was not prepared for this action. With regard to the Endangered Species Act, the Service determined that this final action is administrative in nature and will not affect any Federally listed or proposed for listing threatened or endangered species or their critical habitats.

Unfunded Mandates

The Service has determined and certifies pursuant to the Unfunded Mandates Act, 2 U.S.C. 1502 et seg., that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities.

Civil Justice Reform

The Department has determined that these final regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Primary Author

Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC, is the primary author of this final rulemaking document.

List of Subjects in Part 60

Research, Wildlife.

Accordingly, under the authority 16 U.S.C. 460(k) subchapter D, consisting of part 60, is removed and reserved.

Dated: August 13, 1996.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 96–25961 Filed 10–10–96; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register

Vol. 61, No. 199

Friday, October 11, 1996

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.

FARM CREDIT ADMINISTRATION

12 CFR Parts 620 and 630

RIN 3052–AB62

Disclosure to Shareholders; Disclosure to Investors in Systemwide and Consolidated Bank Debt Obligations of the Farm Credit System; Quarterly Report

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA) proposes to amend its regulations governing the preparation, filing, and distribution of Farm Credit System (FCS or System) bank and association reports to shareholders and investors. The proposal would implement the recent statutory amendment that eliminates the regulatory requirement that FCS institutions disseminate quarterly reports to shareholders. Routine distribution of quarterly reports to shareholders would be voluntary rather than mandatory, but FCS institutions would be required to make quarterly reports available to shareholders on request. Associations would no longer be required to distribute quarterly reports along with their information statements regardless of the date of their annual meetings.

However, to further promote shareholder access to timely information and full disclosure regarding adverse events affecting their institutions, the FCA proposes that FCS institutions prepare and distribute a notice to shareholders when an institution's permanent capital falls below the regulatory minimum standard. The proposal would also remove the requirement that banks present their financial statements on a combined basis with their related associations to ensure that the preparation of FCS institutions' financial statements is solely guided by generally accepted accounting principles (GAAP).

Lastly, the proposal would permit FCS debt securities offering documents to be referenced in the System's report to investors to reduce the repetition of information in documents provided to investors.

DATES: Comments should be received on or before November 12, 1996.

ADDRESSES: Comments may be mailed or delivered to Patricia W. DiMuzio, Associate Director, Regulation Development, Office of Examination, McLean, Virginia 22102–5090, or sent by facsimile transmission to FAX number (703) 734–5784. Copies of all communications received will be available for examination by interested parties in the Office of Examination, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Laurie A. Rea, Policy Analyst, Office of Examination, Farm Credit Administration, McLean, VA 22102–5090, (703)883–4498; or

William L. Larsen, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703)883–4020, TDD (703)883–4444.

SUPPLEMENTARY INFORMATION:

I. Change From Mandatory to Voluntary Dissemination of Quarterly Reports to Shareholders

On February 10, 1996, the President signed the Farm Credit System Reform Act of 1996 (1996 Act) into law.[1] Section 211 of the 1996 Act provides that ''the requirements of the Farm Credit Administration governing the dissemination to stockholders of quarterly reports of System institutions may not be more burdensome or costly than the requirements applicable to national banks.'' Section 211 applies only to dissemination requirements and does not affect the requirement that FCS institutions continue to prepare and file quarterly reports with the FCA in accordance with the quarterly report filing and content requirements of part 620.

Current § 620.10 requires each Farm Credit Bank (FCB), agricultural credit bank (ACB), bank for cooperative (BC) and direct lender association to distribute quarterly reports to shareholders, either by mail or by publication in newspapers or periodicals in a trade area with circulation wide enough to be reasonably assured that all of the institution's shareholders are reached on a timely basis. Each FCB and ACB is also required to distribute its quarterly reports to the shareholders of related associations under certain circumstances. These quarterly report dissemination requirements conflict with section 211 of the 1996 Act because they exceed the requirements applicable to national banks, which are not required to disseminate quarterly reports to shareholders.[2] Accordingly, to conform with the 1996 Act, the FCA proposes to amend § 620.10 and several related provisions.[3]

Under the FCA's proposal, a substantial portion of existing § 620.10 would be removed.[4] While FCS institutions would still be required to prepare and file quarterly reports with the FCA under proposed §§ 620.2(a) and 620.10(a), they would no longer be required to distribute quarterly reports to shareholders. Banks would no longer have to distribute quarterly reports to shareholders of related direct lender associations under § 620.10(e) for quarters in which a significant event has occurred or which occurred during the preceding quarters that continues to materially affect the related associations. However, to ensure that shareholders who wish to obtain a copy of their association's or related bank's quarterly report can continue to do so, the FCA proposes to modify § 620.2 relating to preparing and filing reports.

Proposed § 620.2(h)(1) would require each FCS institution to include a statement in a prominent location within its annual report that the

[1] *See* Pub. L. 104–105, 110 Stat. 162 (Feb. 10, 1996).

[2] National banks that meet the reporting threshold of the Securities Exchange Act disclosure rules that are incorporated by reference in the Office of the Comptroller of the Currency's (OCC) rules at 12 CFR Part 11 must file quarterly reports with the OCC. These quarterly reports, while publicly available, are not required to be distributed to shareholders. Further, all national banks must file quarterly call reports with the OCC pursuant to 12 U.S.C. 161 and 12 CFR 4.11. These quarterly reports of condition are available from the OCC, but are not required to be distributed to shareholders.

[3] On April 10, 1996, the Board informed FCS institutions that they did not have to comply with the quarterly report distribution requirements in § 620.10 pending amendment of FCA quarterly report dissemination requirements to conform with the 1996 Act.

[4] Existing paragraphs (d), (e), (f), and (g) would be removed and paragraphs (a) and (c) would be modified and redesignated as new paragraphs (a) and (b).

institution's quarterly financial information is available on request to shareholders free of charge. In addition, the proposed regulation would require that the statement include approximate dates of availability of the quarterly financial information and the telephone numbers and addresses where shareholders may obtain a copy of the reports. Proposed § 620.2(h)(2) would further require each association to include a statement in a prominent location within each annual and quarterly report that the shareholders' investments in the association may be affected materially by the financial condition and results of operations of the association's related bank and that a copy of the bank's most recent financial report, if not otherwise provided, will be made available on request free of charge. The statement must also include the telephone numbers and addresses where shareholders may obtain copies of the related bank's financial reports.

Current § 620.20 requires each association to prepare and distribute to its shareholders, at least 10 days prior to any meeting at which directors are to be elected, an information statement that contains information pertinent to the annual meeting and incorporates by reference the association's annual report. Section 620.20(c) further requires that any association that holds its annual meeting of shareholders more than 134 days after the end of its fiscal year must also provide shareholders with its most recent quarterly report, either preceding or accompanying the information statement.[5] Under the proposal, § 620.20(c) would be removed and associations would not be required to provide shareholders with quarterly statements along with or prior to the information statement, regardless of the date of the association's annual meeting. Nevertheless, the FCA encourages associations that hold annual meetings significantly after the end of the fiscal year to provide shareholders with the most recent financial information. In particular, current financial information may be essential when the shareholders are voting on matters of significant financial interest to the association.

Section 620.20(b) would continue to require each association, in its information statement, to incorporate by reference the annual report to shareholders and include other information necessary to make the information statement, in light of the circumstances under which it is made, not misleading. Under this requirement, for example, if a significant event (as defined by redesignated § 620.1(r)) has occurred subsequent to the annual report distribution, this provision would require an association to include sufficient current financial information about the significant event in the information statement so that the annual report incorporated by reference is not misleading.

No changes are proposed to § 615.5250(a)(2) of this chapter, which requires institutions to provide prospective borrowers with a copy of the institution's most recent quarterly report (if more recent than the annual report) prior to loan closing when the borrower must purchase equities as a condition for obtaining a loan. By providing updated financial information that may be important to the prospective shareholder's decision to purchase equity in the institution as a condition of obtaining a loan, in this situation, the quarterly report functions as a prospectus rather than a periodic disclosure report. FCS institution reports to shareholders thus serve the dual purpose of providing current financial information regarding an institution to both existing shareholders and to prospective borrowers/shareholders.[6] Since national banks are subject to extensive securities offering disclosure rules and prospectus delivery requirements under 12 CFR part 16, the FCA considers the quarterly report delivery requirement of § 615.5250(a)(2) of the FCA regulations to be compatible with the 1996 Act. Furthermore, this requirement is unlikely to cause an undue burden because the updated financial information can be furnished to prospective borrowers along with other loan documents.

Lastly, although the proposed amendments eliminate routine distribution of quarterly reports to shareholders, the FCA emphasizes that FCS institutions are not prohibited by the 1996 Act from continuing to distribute or publish quarterly reports to their shareholders. The FCA recognizes that the quarterly report may be used to promote and maintain borrower/shareholder interest and participation in the institution, and supports the continued distribution or publication of the report for such purposes.

II. Proposed Notice to Shareholders

In conformance with the cooperative structure of the System and as a matter of law, borrowers must become stockholders of FCS institutions. The Farm Credit Act of 1971, as amended (Act), encourages borrower/shareholder participation in management, control, and ownership of FCS institutions.[7] In the Farm Credit Amendments Act of 1985,[8] Congress expressly authorized the FCA to regulate disclosure to shareholders. Unlike shareholders of companies subject to Securities and Exchange Commission (SEC) disclosure requirements who have access to an established marketplace for financial information based on SEC filings,[9] System shareholders rely primarily on FCS institutions to provide them with current information regarding their institutions. The FCA believes that it is critical that shareholders receive timely notice of material changes in the capital position of the institutions they own so that they are equipped to exercise their ownership role. For these reasons, the FCA proposes to add a new subpart D relating to the preparation and distribution of a notice to shareholders.

The FCA has previously noted that one of the reasons that the FCS institutions need sufficient capital is to protect the ownership, investment, and rights of shareholders.[10] The FCA continues to believe shareholders have the right to timely notice that their institution's capital is at such a critical level that it may threaten the institution's viability, the value of its stock, or its ability to meet the future credit needs of its borrowers. Furthermore, since 1986, the Act has

[5] In comparison, national banks must prepare and make available to shareholders and others an annual disclosure statement. The annual disclosure statement must be made available by March 31 of each year, or by an earlier date as necessary to be made available to security holders in advance of the annual meeting of shareholders. National banks must make the annual disclosure statement continually available until the annual disclosure statement for the succeeding year becomes available, but there is no requirement that the statement be updated with subsequent periodic report information. National banks having a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 may satisfy the annual disclosure statement requirement using either their annual reports to shareholders or their annual report filed with the Comptroller. *See* 12 CFR Part 18.

[6] *See* 51 FR 21336, June 12, 1986.

[7] *See* 12 U.S.C. 2001(b).

[8] Pub. L. 99–205, 99 Stat. 1678 (Dec. 23, 1985). *See* section 5.19(b)(1) of the Act.

[9] In addition to annual and quarterly filings, under sections 13 or 15(d) of the Securities Exchange Act of 1934, registrants are required to file with the SEC a current report within 5–15 days (depending on the event) upon determination of the occurrence of any of the following events: (1) Changes in control of registrant, (2) significant acquisition or disposition of assets, (3) bankruptcy or receivership, (4) changes in registrant's certifying accountant, (5) other events that the registrant deems of significant importance to security holders, and (6) resignations of registrant's directors because of a disagreement with the registrant on any matter relating to the registrant's operation, policies, or practices. The SEC does not require current reports to be distributed to shareholders.

[10] *See* proposed capital regulations at 60 FR 38521, July, 27, 1995. Amendments to the capital regulations were reproposed in June 1996. See 61 FR 42092, August 13, 1996.

required the FCA to ''cause institutions to achieve and maintain adequate capital by establishing minimum levels of capital for such System institutions and by using such other methods as the [FCA] deems appropriate.'' [11] One method to promote the maintenance of adequate capital is through informed shareholder participation in System institutions. While the FCA has the statutory authority to establish regulatory minimum capital standards, shareholders and their elected directors play an important role in making certain that institutions achieve and maintain adequate capital.

Accordingly, the FCA proposes that notice be provided to shareholders when an institution's capital falls below the regulatory minimum permanent capital standard. Proposed § 620.15(a) would require each FCS bank and direct lender association to prepare, file with the FCA, and distribute to shareholders, a notice within 20 days following the month-end that the institution initially determines that it is not in compliance with the minimum permanent capital standards established in part 615 of the FCA regulations.

Under certain circumstances, reporting institutions would be required to prepare and distribute a subsequent notice to shareholders. If the reporting institution's permanent capital ratio decreases by one-half of 1 percent or more from the level reported in a notice, the reporting institution would be required to distribute to shareholders another notice within 20 days of the end of the current month. The FCA believes that such subsequent notices are necessary in circumstances when an institution's capital position continues to deteriorate.

Proposed § 620.15(c) would stipulate that each FCS institution required to prepare a notice under § 620.15(a) or (b) must distribute the notice to shareholders by mail or otherwise furnish the information required in the notice by publishing it in any publication with circulation wide enough to be reasonably assured that all of the institution's shareholders have access to the information in a timely manner.

The contents of notices need not be extensive, but must provide sufficient information to apprise shareholders of the institution's permanent capital position. Proposed § 620.17(a) requires reporting institutions to present the required information in any format that is conspicuous, easily understandable, and not misleading.

[11] *See* 12 U.S.C. 2154.

Proposed § 620.17(b) establishes the following minimum information requirements for notices:

(1) A statement that (i) briefly describes the regulatory minimum permanent capital standard established by the FCA and the notice requirement of proposed § 620.15(a); (ii) indicates the institution's current level of permanent capital; and (iii) notifies shareholders that the institution's permanent capital is below the FCA regulatory minimum standard.

(2) A statement of the effect that noncompliance has had on the institution and its shareholders, including whether the institution is currently prohibited by statute or regulation from retiring stock or distributing earnings or whether the FCA has issued a capital directive or other enforcement action to the institution.

(3) A complete description of any event(s) that may have significantly contributed to the institution's noncompliance with the minimum regulatory permanent capital standard.

(4) A statement that the institution is required by regulation to distribute another notice to shareholders if the institution's permanent capital ratio decreases by one-half of 1 percent or more from the level reported in the notice.

In addition, pursuant to proposed § 620.2(h)(1), the notice must include a statement in a prominent location that the institution's quarterly reports are available free of charge on request. The statement shall include approximate dates of availability of the quarterly reports and the telephone numbers and addresses where shareholders may obtain a copy of the reports.

Although the proposed regulation would require a reporting institution to distribute a notice to shareholders for noncompliance with the permanent capital standard, the FCA is considering using noncompliance with the total surplus to risk-adjusted assets ratio proposed by the FCA in June, 1996,[12] to trigger distribution of a notice to shareholders. Thus, if an institution's total surplus ratio falls below the regulatory standard, the institution would be required to notify shareholders of the noncompliance. The FCA specifically invites comments on the use of the total surplus to risk-adjusted assets standard as the point at which shareholders would be informed that their institution is experiencing financial difficulties.

[12] *See* proposed capital regulations at 60 FR 38521, July 27, 1995. Amendments to the capital regulations were reproposed in June 1996. *See* 61 FR 42092, August 13, 1996.

In addition, the FCA proposes to amend § 620.2(b)(3)(i) to allow the same alternatives FCS institutions have for director certification of quarterly reports to be applied to notices to shareholders. Thus, each notice need only be dated and manually signed by one board member on behalf of the individual board members, the person designated by the board to certify reports of condition and performance, and the chief executive officer.[13]

In proposing these regulations, the FCA seeks to balance the competing considerations of providing adequate notice to shareholders concerning their investments and the potential for regulatory burden on the FCS institutions. The FCA believes that the notice requirement will accentuate the importance of achieving and maintaining institutional viability through adequate capital and stress director and management accountability to shareholders who are interested in protecting their investment and maintaining their source of credit. The FCA recognizes that FCS institutions required to file and distribute a notice may incur costs associated with preparing and distributing the materials. On balance, the notice would be required only in those extraordinary circumstances where an institution is not in compliance with the FCA's minimum permanent capital standard.[14] Thus, the FCA does not believe the regulations will impose an undue regulatory burden. Moreover, given the cooperative structure of the System, the FCA believes such notifications are essential for timely and adequate disclosure to shareholders/members who have investments at risk and rely on the dependable credit services of the FCS institutions.

III. Combined Financial Statement Presentation Requirements

A. Background

Each FCS institution is required by statute to make and publish an annual report of condition as prescribed by the FCA. The law and FCA regulations require that such reports contain

[13] Section 620.2(b)(3)(i) provides three certification signature alternatives for individual board members: the chairperson of the board, the chairperson of the audit committee; or a board member designated by the chairperson of the board.

[14] All FCS institutions were in compliance with the regulatory minimum permanent capital standard as of June 30, 1996. In addition, as noted in the proposed capital regulations, most FCS institutions would be able to meet the total surplus ratio requirement, if the standard was in effect today. *See* proposed capital regulations at 60 FR 38521, July 27, 1995.

financial statements prepared in accordance with GAAP, except as otherwise directed by statute, and any additional information required by the FCA. With regard to consolidation/combination policy, GAAP provides that ''the aim should be to make the financial presentation which is most meaningful in the circumstances.'' [15] Under GAAP, readers of the financial statements should be given information that is suitable to their needs without unnecessary detail.

In 1985, the System and its external auditor examined the issue of combining the financial statements of the banks and their related associations. After considering the financial and operational interdependence of the banks and their related associations, they concluded that presentation of combined financial statements would provide the most meaningful information to shareholders under the circumstances, and thus was the preferred disclosure approach under GAAP. Subsequently, in response to a request for clarification by the System, the FCA included a provision in its disclosure to shareholders regulations that required banks to present their financial statements on a combined basis with their related associations in reports to shareholders.[16]

After careful consideration of the appropriate accounting guidance in light of the structural changes that have occurred within the System, the FCA concludes that GAAP standards pertaining to combined financial statements do not require combined bank and association financial statements in all cases.[17] For instance, presentation of the financial statements of an ACB and its related associations (which represent only a minority interest in the bank) on a combined basis may not be the most appropriate reporting format because combined financial statements may obscure the financial strength and standing of the bank and confuse the majority of the bank's non-System cooperative shareholders.

However, with respect to FCBs and related associations, the FCA continues to believe that GAAP supports presentation of combined financial statements as the most appropriate method of disclosure to shareholders. This conclusion is based on the closer bilateral effect of the results of operations on the banks and their respective associations and the majority voting control of the FCB by its related associations. Similarly, the FCA believes that GAAP supports the FCA's conclusion that financial statements for the *Report to Investors of the Farm Credit System* (Report to Investors) prepared on a combined basis continue to provide the most meaningful disclosure under current circumstances because of the financial and operational interdependence of the banks and their associations, and the banks' joint and several liability for Systemwide debt securities.

B. Proposed Amendments

The FCA proposes to amend its regulations by removing the requirement that banks must present the financial statements of the bank and its related associations on a combined basis. Under the proposal, FCS institutions would be exclusively guided by GAAP in making their determination of whether stand-alone, consolidated, or combined financial statement presentation is the preferred method. The FCA believes the proposed change will facilitate the presentation of financial statements by FCS institutions in a manner that conforms with GAAP and is the most appropriate under the institutions' prevailing circumstances.

Proposed § 620.2(g) would require each FCS institution to present its reports in accordance with GAAP and in a manner that provides the most meaningful disclosure to shareholders. Proposed § 620.2(g)(1) would further require that any FCS institution that presents its annual and quarterly financial statements on a combined or consolidated basis shall also include, in the footnotes to the primary financial statements in the report, the statement of condition and statement of income of the institution on a stand-alone basis. The stand-alone statements may be in summary form and shall disclose the basis of presentation if different from accounting policies of the combined or consolidated statements. Conversely, proposed § 620.2(g)(2) would require banks that prepare bank-only financial statements to provide, in the footnotes to the primary statements, a condensed statement of condition and statement of income for its related associations, if any, on a combined basis.

The relationship between a bank and its related associations is an important one that warrants discussion in the financial statements to achieve full and complete disclosure regardless of how the bank presents its financial statements. Therefore, the FCA believes that the condensed association statements required to be prepared by a bank presenting bank-only statements should be accompanied by supplemental disclosures, either as a part of the footnotes or the *Management's Discussion and Analysis* section of the bank's financial statements. The FCA believes such supplemental disclosures are consistent with existing § 620.5(a)(9), which requires reporting entities to disclose the nature of business relationships with related FCS institutions.

Pursuant to § 620.5(a)(9), the supplemental disclosures should address the bank's statutory and regulatory authority to supervise or take actions that may affect the operating and financial policies of the associations, and any operational and financial interdependency of the bank and its related associations. Under § 620.5(e)(1) the supplemental disclosures should also address the statutory limitations on the associations' access to funds from sources other than the bank. Pursuant to § 620.5(e) (2) and (3), the FCA would expect a bank presenting financial statements on a bank-only basis to disclose the provisions of its capital-sharing agreements with related associations, if any, and the ability of the bank to gain access to the capital of the associations.

The FCA also proposes to amend existing § 620.4. The amendments would continue to require any bank that presents its financial statements on a combined basis to distribute its annual report to the shareholders of related associations. In such circumstances, FCS association borrowers/shareholders need the financial statements of both the bank and association to properly

[15] *See* American Institute of Certified Public Accountants Accounting Research Bulletin 51.

[16] The FCA fully supported the concept of combined bank and related association financial statements as the principal statements to be prepared by a district bank. The FCA believed excluding the associations from the banks' statements would result in publication of financial statements that did not show the true financial condition of the district bank, and that, under the circumstances, combined reporting was the preferred method of presentation under GAAP. *See* 51 FR 21336, June 12, 1986.

[17] In the fall of 1995, CoBank, ACB (CoBank), petitioned the FCA to amend its regulations to allow it to prepare its general purpose financial statements on a bank-only basis. CoBank stated that, due to its recent corporate restructuring, combining the bank and association financial statements would not be the most meaningful presentation of its financial position and results of operations for the majority of stockholders. Among other things, CoBank asserted that combining the financial statements of a class of customers/stockholders to the exclusion of other customers/stockholders would result in a confusing financial presentation for all readers of the financial statements. In December 1995, the FCA Board informed CoBank that, subject to specific conditions and pending review and consideration of whether to amend existing § 620.2(g), the FCA would not criticize the bank for preparing its financial statements on a stand-alone basis, separate from its related associations, or for distributing its financial statements to the stockholders of the related associations only on request.

evaluate the operations and financial position of the association. In contrast, however, where GAAP supports bank preparation of bank-only financial statements, the FCA believes that the relationship between the bank and its related associations would no longer necessitate that the bank distribute its annual report to the shareholders of related associations in ordinary circumstances. Proposed § 620.4(b)(2) provides, however, that for periods where the bank has experienced a significant event that has a material effect on the associations, the bank's annual report must be distributed to the related associations' shareholders.

The FCA expects all reporting institutions to continue to prepare combined financial statements in accordance with part 630 of this chapter, which covers the *Report to Investors of the Farm Credit System*.

IV. Proposed Technical Changes to Part 620

The FCA proposes technical changes to part 620 to clarify the reporting requirements of related organizations. Proposed § 620.2(i) delineates the reporting requirements for the reporting institution when a significant event has materially affected a related organization. Specifically, any events that have affected one or more related organizations of the reporting institution that are likely to have a material effect on the financial condition, results of operations, cost of funds, or reliability of sources of funds of the reporting institution, would be considered significant events for the reporting institution and would require disclosure in the annual and quarterly reports under proposed §§ 620.5(g)(2)(vi) and 620.10(b). In addition, any events affecting a related organization that occurred during the preceding fiscal quarters that continue to have a material effect on the reporting institution would be considered significant events of the current fiscal quarter and would require disclosure in the annual and quarterly reports under proposed §§ 620.5(g)(2)(vi) and 620.10(b).

V. Report to Investors

The Farm Credit Banks Funding Corporation (Funding Corporation) petitioned the FCA to amend its regulations to allow it to incorporate by reference information contained in the *Federal Farm Credit Banks Consolidated Systemwide Bonds and Discount Notes Offering Circular* (Offering Circular) into the Report to Investors. Since incorporation by reference to another document is not currently provided for in the Report to Investors regulations (12 CFR part 630), the Funding Corporation must provide some of the same disclosures in its annual and quarterly information statements as it does in its Offering Circular. The Funding Corporation asserts that allowing the use of incorporation by reference is a prudent and practical approach to disseminating information to investors because it improves the readability of the offering documents made available to investors by eliminating duplicative information.

The Report to Investors originally served as both the System's financial report and a prospectus for investors in Systemwide debt obligations issued by the Funding Corporation on behalf of the banks. The FCA recognizes that the dual purpose of the report has diminished due to the Funding Corporation's increased usage of offering circulars as the primary method to distribute prospectus information to investors. The FCA also recognizes that incorporation by reference is an accepted practice and is routinely permissible in reports filed with the SEC. Accordingly, the FCA proposes to amend its regulations by adding a new § 630.3(f),[18] which would permit the Funding Corporation to incorporate by reference information contained in offering documents for Farm Credit debt securities into the Systemwide financial reports to investors.

VI. Regulatory Impact

The FCA has determined that the proposed regulations would not have a significant effect on the general economy and would not be a significant regulatory action under Executive Order 12866. In addition, the proposed regulations pertain only to FCS institutions, and, therefore, would not present a conflict with the rules and regulations of other financial regulatory agencies. Due to the nature of the regulations, it is unlikely that the regulations would have any material impact on governmental entitlements, grants, user fees, or loan programs.

List of Subjects

12 CFR Part 620

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

12 CFR Part 630

Accounting, Agriculture, Banks, banking, Credit, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, parts 620 and 630 of chapter VI, title 12 of the Code of Federal Regulations are proposed to be amended to read as follows:

PART 620—DISCLOSURE TO SHAREHOLDERS

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

Authority: Secs. 5.17, 5.19, 8.11 of the Farm Credit Act (12 U.S.C. 2252, 2254, 2279aa–11).

Subpart A—General

2. Section 620.1 is amended by redesignating paragraphs (o), (p), and (q) as new paragraphs (p), (q), and (r), respectively, and adding new paragraph (o) to read as follows:

§ 620.1 Definitions.

* * * * *

(o) *Report* refers to the annual report, quarterly report, notice, or information statement required by this part unless otherwise specified.

* * * * *

3. Section 620.2 is amended by revising paragraphs (a), (b)(3)(i), and (f) through (i) to read as follows:

§ 620.2 Preparing and filing the reports.

* * * * *

(a) Three copies of each report required by this section, including financial statements and related schedules, exhibits, and all other papers and documents that are part of the report shall be filed with the Chief Examiner, Farm Credit Administration, McLean, Virginia 22102–5090, or with such other Farm Credit Administration offices as the Chief Examiner designates. The Farm Credit Administration must receive the report within the period prescribed under applicable subpart sections. The reports shall be available for public inspection at the issuing institution and the Farm Credit Administration office with which the reports are filed. Bank reports shall also be available for public inspection at each related association office.

(b) * * *

(3)(i) For each quarterly report or notice filed under this section, each member of the board or one of the following board members formally designated by action of the board to certify reports of condition and performance on behalf of the individual board members: The chairperson of the board; the chairperson of the audit committee; or a board member

[18] Under the proposed rule, existing § 630.3(f) and (g) would be redesignated as new paragraphs (g) and (h), respectively.

designated by the chairperson of the board.

* * * * *

(f) No disclosure required by subparts B and E of this part shall be deemed to violate any regulation of the Farm Credit Administration.

(g) Each Farm Credit institution shall present its reports in accordance with generally accepted accounting principles and in a manner that provides the most meaningful disclosure to shareholders.

(1) Any Farm Credit institution that presents its annual and quarterly financial statements on a combined or consolidated basis shall also include in the report the statement of condition and statement of income of the institution on a stand-alone basis. The stand-alone statements may be in summary form and shall disclose the basis of presentation if different from accounting policies of the combined or consolidated statements.

(2) Any bank that prepares its financial statements on a stand-alone basis shall provide supplemental information in the accompanying footnotes containing a condensed statement of condition and statement of income for the bank's related associations on a combined basis. The condensed statements shall disclose the basis of presentation if different from accounting policies of the bank-only statements.

(h)(1) Each annual report or notice shall include a statement in a prominent location within the report or notice that the institution's quarterly reports are available free of charge on request. The statement shall include approximate dates of availability of the quarterly reports and the telephone numbers and addresses where shareholders may obtain a copy of the reports.

(2) Each association shall include a statement in a prominent location within each report that the shareholders' investment in the association may be materially affected by the financial condition and results of operations of the related bank and that a copy of the bank's financial reports to shareholders, if not otherwise provided, will be made available free of charge on request. The statement shall also include the telephone numbers and addresses where shareholders may obtain copies of the related bank's financial reports.

(3) Each institution shall, after receiving a request for a report, mail or otherwise furnish the report to the requestor. The first copy of the requested report shall be provided to the requestor free of charge.

(i) Any events that have affected one or more related organizations of the reporting institution that are likely to have a material effect on the financial condition, results of operations, cost of funds, or reliability of sources of funds of the reporting institution shall be considered significant events for the reporting institution and shall be disclosed in the reports. Any significant event affecting the reporting institution that occurred during the preceding fiscal quarters that continues to have a material effect on the reporting institution shall be considered significant events of the current fiscal quarter and shall be disclosed in the reports.

Subpart B—Annual Report to Shareholders

4. Section 620.4 is amended by revising paragraph (b) to read as follows:

§ 620.4 Preparing and distributing the annual report.

* * * * *

(b)(1) Any bank that presents its financial statements on a combined basis shall distribute its annual report to the shareholders of related associations within the period required by paragraph (a) of this section. Each bank shall coordinate such distribution with its related associations.

(2) Any bank that presents its financial statements on a bank-only basis shall distribute its annual report to the shareholders of related associations within the period required by paragraph (a) of this section in all instances where the bank experiences a significant event that has a material effect on the associations. Each bank shall coordinate such distribution with its related associations.

* * * * *

5. Section 620.5 is amended by revising paragraph (g)(2)(vi) to read as follows:

§ 620.5 Contents of the annual report to shareholders.

* * * * *

(g) * * *

(2) * * *

(vi) Discuss any events affecting a related organization that are likely to have a material effect on the reporting institution's financial condition, results of operations, cost of funds, or reliability of sources of funds.

* * * * *

Subpart C—Quarterly Report

6. The heading for subpart C is revised as set forth above.

7. Section 620.10 is revised to read as follows:

§ 620.10 Preparing the quarterly report.

(a) Each Farm Credit bank and direct lender association shall prepare a quarterly report within 45 days after the end of each fiscal quarter, except that no report need be prepared for the fiscal quarter that coincides with the end of the fiscal year of the institution.

(b) The report shall contain, at a minimum, the information specified in § 620.11 and, in addition, such other material information (including significant events) as is necessary to make the required disclosures, in light of the circumstances under which they are made, not misleading.

8. Part 620 is amended by redesignating subparts D, E, and F as new subparts E, F, and G, respectively, and adding a new subpart D to read as follows:

Subpart D—Notice to Shareholders

§ 620.15 Notice.

(a) Each Farm Credit bank and direct lender association shall prepare, file with the Farm Credit Administration, and distribute a notice to shareholders, within 20 days following the month-end that the institution initially determines that it is not in compliance with the minimum permanent capital standard prescribed under § 615.5205 of this chapter.

(b) An institution that has given notice to shareholders pursuant to paragraph (a) of this section or subsequent notice pursuant to this paragraph shall also prepare, file with the Farm Credit Administration, and distribute to shareholders a notice within 20 days following any subsequent month-end at which the institution's permanent capital ratio decreases by one-half of 1 percent or more from the level reported in the most recent notice distributed to shareholders.

(c) Each institution required to prepare a notice under § 620.15 (a) or (b) shall distribute the notice to shareholders by mail or otherwise furnish the information required in the notice by publishing it in any publication with circulation wide enough to be reasonably assured that all of the institution's shareholders have access to the information in a timely manner.

§ 620.17 Contents of the notice.

(a) The information required to be included in a notice must be conspicuous, easily understandable, and not misleading.

(b) A notice, at a minimum, shall include:

(1) A statement that:

(i) Briefly describes the regulatory minimum permanent capital standard established by the Farm Credit Administration and the notice requirement of § 620.15(a);

(ii) Indicates the institution's current level of permanent capital; and

(iii) Notifies shareholders that the institution's permanent capital is below the Farm Credit Administration regulatory minimum standard.

(2) A statement of the effect that noncompliance has had on the institution and its shareholders, including whether the institution is currently prohibited by statute or regulation from retiring stock or distributing earnings or whether the Farm Credit Administration has issued a capital directive or other enforcement action to the institution.

(3) A complete description of any event(s) that may have significantly contributed to the institution's noncompliance with minimum regulatory capital standard.

(4) A statement that the institution is required by regulation to distribute another notice to shareholders if the institution's permanent capital ratio decreases by one half of 1 percent or more from the level reported in the notice.

Subpart E—Association Annual Meeting Information Statement

9. Section 620.20 is amended by removing paragraph (c) and revising paragraph (b) to read as follows:

§ 620.20 Preparing and distributing the information statement.

* * * * *

(b) The statement shall incorporate by reference the annual report to shareholders required by subpart B of this part and contain the information specified in § 620.21 and such other material information as is necessary to make the required statement, in light of the circumstances under which it is made, not misleading.

PART 630—DISCLOSURE TO INVESTORS IN SYSTEMWIDE AND CONSOLIDATED BANK DEBT OBLIGATIONS OF THE FARM CREDIT SYSTEM

10. The authority citation for part 630 is revised to read as follows:

Authority: Secs. 5.17, 5.19 of the Farm Credit Act (12 U.S.C. 2252, 2254).

Subpart A—General

11. Section § 630.3 is amended by redesignating existing paragraphs (f) and (g) as new paragraphs (g) and (h), respectively, and adding new paragraph (f) to read as follows:

§ 630.3 Publishing and filing the report to investors.

* * * * *

(f) Information in documents prepared for investors in connection with the offering of debt securities issued through the Federal Farm Credit Banks Funding Corporation may be incorporated by reference in the annual and quarterly reports in answer or partial answer to any item required in the reports under this part. A complete description of any offering documents referenced must be clearly identified in the report (e.g., *Federal Farm Credit Banks Consolidated Systemwide Bonds and Discount Notes*—Offering Circular issued on [insert date]). Offering documents referenced in either an annual or quarterly report prepared under this part must be filed with the Chief Examiner, Farm Credit Administration, McLean, Virginia 22102–5090, either prior to or at the time of submission of the report under paragraph (h) of this section. Any referenced offering document is subject to the delivery and availability requirements set forth in § 630.4(a)(5) and (6).

* * * * *

Dated: October 3, 1996.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 96–25818 Filed 10–10–96; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–SW–34–AD]

Airworthiness Directives; Sikorsky Aircraft-Manufactured Model S–64F Helicopters

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 Sikorsky Aircraft-manufactured S–64F helicopters. This proposal would require inspections, and replacement, if necessary, of the main gearbox second stage lower planetary plate (plate). This proposal is prompted by two incidents in which the second stage planetary plate was found cracked. The actions specified by the proposed AD are intended to prevent failure of the plate due to fatigue cracking, which could lead to failure of the main gearbox and subsequent loss of control of the helicopter.

DATES: Comments must be received by December 10, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–SW–34–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. 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 Erickson Air-Crane Co., 3100 Willow Springs Rd., P.O. Box 3247, Central Point, Oregon 97502. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Uday Garadi, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5114, fax (817) 222–5961.

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 No. 95–SW–34–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, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–SW–34–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

This document proposes the adoption of a new AD that is applicable to Model S–64F helicopters. During the overhaul of a main gearbox assembly, Erickson Air-Crane Co., the type certificate holder, found a plate that was cracked. Subsequent field boroscope inspections performed on other S–64F helicopters revealed a second plate that was also cracked. This condition, if not corrected, could lead to failure of the plate due to fatigue cracking, which could lead to failure of the main gearbox and subsequent loss of control of the helicopter.

The FAA has reviewed Erickson Air-Crane Co. Service Bulletin No. 64F35–2A, which describes procedures for the inspection and replacement, if necessary, of the plate.

Since an unsafe condition has been identified that is likely to exist or develop on other Sikorsky Aircraft-manufactured Model S–64F helicopters of the same type design, the proposed AD would require a daily inspection of main gearboxes containing a plate with more than 2,000 hours time-in-service (TIS) for main gearbox oil filter magnesium contamination and, if magnesium contamination is discovered, replacement of the main gearbox assembly. For main gearbox assemblies containing a plate with more than 2,000 hours TIS, this AD also requires an inspection of the plate within the next 100 hours TIS after the effective date of this AD, and thereafter at intervals not to exceed 500 hours TIS; and replacement of the plate if necessary. This AD also requires, at the next overhaul of the main gearbox assembly, inspection and rework of plates that are not cracked. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 6 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per helicopter to accomplish the borescope inspection and 140 work hours to remove and replace the main gearbox assembly, if necessary, and that the average labor rate is $60 per work hour. Required parts would cost $8,000. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $101,280; $2,880 to accomplish the inspections, and $98,400 to replace the plate in the main gearbox assembly in all 6 helicopters, if necessary.

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), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Erickson Air-Crane Co.: Docket No. 95–SW–34–AD.

Applicability: Sikorsky Aircraft-manufactured Model S–64F helicopters, with main gearbox second stage lower planetary plate, part number (P/N) 6435–20516–101 installed, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the main gearbox second stage lower planetary plate (plate) due to fatigue cracking, which could lead to failure of the main gearbox and subsequent loss of control of the helicopter, accomplish the following:

(a) For main gearbox assemblies containing plate, P/N 6435–20516–101, with 2,000 hours time-in-service (TIS) or more:

(1) Prior to the first flight of each day, inspect the main oil filter for magnesium contamination, and if magnesium contamination is discovered, replace the main gearbox assembly.

(2) Within the next 100 hours TIS after the effective date of this AD, and thereafter at intervals not to exceed 500 hours TIS, inspect or replace the main gearbox assembly in accordance with the Accomplishment Instructions of Section 2, Paragraph B, of Erickson Service Bulletin No. 64F35–2A dated November 8, 1995.

(b) At the next overhaul of the main gearbox assembly, inspect and rework the plate, P/N 6435–20516–101, in accordance with Section 2, Paragraphs C(1) and (3) through (11) of Erickson Service Bulletin No. 64F35–2A, dated November 8, 1995.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Certification Office, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of

compliance with this AD, if any, may be obtained from the Rotorcraft Certification Office.

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

Issued in Fort Worth, Texas, on October 4, 1996.

Eric Bries,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 96–26128 Filed 10–10–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–SW–04–AD]

Airworthiness Directives; Sikorsky Aircraft-Manufactured Model S–64E Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to Sikorsky Aircraft-manufactured Model S–64E and S–64F helicopters, that currently requires initial and repetitive inspections of the main gearbox assembly second stage lower planetary plate (plate) for cracks, and removal and replacement of the plate if cracks are found; and daily inspections of certain main transmission oil filter packs for magnesium chips, and removal and replacement of the main transmission if chips are found. The AD also provides for reworking and re-identifying the plate, as well as establishes a retirement life for the plate, including those that have been reworked and re-identified. This action would require, for Model S–64E helicopters, inspections and rework of the plate and establishes a new retirement life for the plate. This proposal is prompted by the type certificate holder's reports that four plates were discovered to have cracks, three of which had been reworked in accordance with the existing AD. The actions specified by the proposed AD are intended to add another plate to the applicability of the AD, remove the requirements of AD 77–20–01 for the Model S–64F and prevent failure of the plate on the Model S–64E due to fatigue cracking, which could lead to failure of the main gearbox and subsequent loss of control of the helicopter.

DATES: Comments must be received by December 10, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–SW–04–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas, 76137. 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 Erickson Air-Crane Co., 3100 Willow Springs Rd., P.O. Box 3247, Central Point, OR 97502. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Uday Garadi, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5157, fax (817) 222–5961.

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 No. 96–SW–04–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, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–SW–04–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

On September 19, 1977, the FAA issued AD 77–20–01, Amendment 39–3045 (42 FR 51565, September 29, 1977), that was subsequently revised by Amendment 39–3064 (42 FR 56600, October 27, 1977), that was issued on October 18, 1977, to require initial and repetitive inspections of the Model S–64E and S–64F plates for cracks that initiate at and radiate from the lightening holes in the plate web, and removal and replacement of the plates if cracks are found; and daily inspections of certain main transmission oil filter packs for magnesium chips, and removal and replacement of the main transmission if chips are found. The AD also provided for reworking and re-identifying the plates, as well as established a retirement life for the plates, including those that have been reworked and re-identified. That action was prompted by the manufacturer's discovery of plates with cracks in the area of the lightening holes. The requirements of that AD are intended to prevent cracking and failure of the plates.

Since the issuance of that AD, the type certificate holder, Erickson Air-Crane Co. (Erickson), reported that a cracked plate was found during the overhaul of a main gearbox assembly. Three additional cracked plates were found during inspections and maintenance of main gearboxes. These plates had been reworked in accordance with the existing AD and therefore were not subject to recurring inspections. Erickson has issued revised service bulletins for inspections of plates, P/N 6435–20229–102, that have been reworked in accordance with the existing service bulletins, and P/N 6435–20229–104, which have a total time-in-service (TIS) of 1,500 hours or more. This AD applies only to the Model S–64E helicopters because the Model S–64F helicopters utilize a different part-numbered planetary plate. The Model S–64F helicopters, with the different part-numbered planetary plates, are being addressed in a separate AD.

Since an unsafe condition has been identified that is likely to exist or develop on other Sikorsky Aircraft-manufactured Model S–64E helicopters of the same type design, the proposed AD would supersede AD 77–20–01 to require, at 1,300 hours TIS, a fluorescent magnetic particle inspection of the plate, P/N 6435–20229–102 or P/N

643520229–102–TS–107, for cracks, replacement of the plate if a crack is found, and reworking the plate if no crack is found. The proposed AD also requires, at 1,500 hours TIS, and thereafter at intervals not to exceed 70 hours TIS, for reworked plate, P/N 6435–20229–102 or P/N 6435–20229–102–TS–107, and for plate, P/N 6435–20229–104, a borescope inspection for cracks and replacement of the plate if a crack is found. Finally, these part-numbered plates are to be retired upon reaching 2,600 hours TIS.

The FAA estimates that 8 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per helicopter to accomplish the inspections and 56 hours to remove and replace the main gearbox assembly, if necessary, and that the average labor rate is $60 per work hour. Required parts would cost $8,000. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $94,720; $3,840 to accomplish the inspections, and $90,880 to replace the plate in the main gearbox assembly in all 8 helicopters, if necessary.

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 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–3045 (42 FR 51565, September 29, 1977) and Amendment 39–3064 (42 FR 56600, October 27, 1977), and by adding a new airworthiness directive (AD), to read as follows:

Erickson Air-Crane Co.: Docket No. 96–SW–04–AD. Supersedes AD 77–20–01, Amendment 39–3045 and Amendment 39–3064.

Applicability: Sikorsky Aircraft-manufactured Model S–64E helicopters, with main gearbox assembly second stage lower planetary plate (plate), part number (P/N) 6435–20229–102, P/N 6435–20229–102–TS–107, or P/N 6435–20229–104, installed, certificated in any category.

Note 1: This AD applies to each helicopter 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 helicopters 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 helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the plate due to fatigue cracking, which could lead to failure of the main gearbox and subsequent loss of control of the helicopter, accomplish the following:

(a) For plate, part number (P/N) 6435–20229–102 and P/N 6435–20229–102–TS–107, at 1,300 hours total time-in-service (TIS), inspect and rework or replace the plate, as appropriate, in accordance with the Accomplishment Instructions, paragraph 2A., steps (1), and (3) through (11), of Erickson Air Crane Co. Service Bulletin No. 64B35–7C, dated November 8, 1995.

(b) For plate, P/N 6435–20229–104, and for any plate, P/N 6435–20229–102, that has been reworked and identified with ''TS–107'', at 1,500 hours TIS and thereafter at intervals not to exceed 70 hours TIS, inspect the plate in accordance with the Accomplishment Instructions, paragraph 2B., step (1), of Erickson Air-Crane Co. Service Bulletin No. 64B35–7C, dated November 8, 1995. If a crack is found, replace the main gearbox assembly with an airworthy assembly.

(c) Retire the plate upon or before reaching 2,600 hours TIS. This AD revises the airworthiness limitation section of the maintenance manual by establishing a retirement life of 2,600 hours TIS for the main gearbox assembly second stage planetary plate, P/N 6435–20229–102, P/N 6435–20229–102–TS–107, and P/N 6435–20229–104.

(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, Rotorcraft Certification Office, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft 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 helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on October 4, 1996.

Eric Bries,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 96–26127 Filed 10–10–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 352

[Docket No. 78N–0038]

RIN 0910–AA01

Sunscreen Drug Products for Over-the-Counter Human Use; Amendment to the Tentative Final Monograph; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: The Food and Drug Administration is correcting a notice of proposed rulemaking that published in the Federal Register of September 16, 1996 (61 FR 48645). The document proposed to amend the tentative final monograph (proposed rule) for over-the-counter (OTC) sunscreen drug products.

The document was published with several errors. This document corrects those errors.

DATES: Written comments by October 16, 1996; written comments on the agency's economic impact determination by October 16, 1996. The agency is requesting comments within a 30-day period, instead of the normal 90 days, so that the marketing status of OTC avobenzone-containing sunscreen drug products can be determined in an expeditious manner. FDA is proposing that any final rule based on this proposal become effective 12 months after its date of publication in the Federal Register.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Desk copies of these written comments to Debra L. Bowen, Center for Drug Evaluation and Research (HFD–560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD–105), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2304.

In FR Doc. 96–23547, appearing on page 48645 in the Federal Register of Monday, September 16, 1996, the following corrections are made:

1. On page 48646, in the third column, lines 3 through 7 are removed.

2. On page 48651, in Table 2, the ingredient ''Octylsalicyulate'' is corrected to read ''Octyl salicylate''.

PART 352—SUNSCREEN DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

3. The authority citation for 21 CFR part 352 continues to read as follows:

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

§ 352.20 [Corrected]

4. On page 48654, in the third column, in § 352.20, paragraph (a)(3)(i) is revised; paragraphs (a)(3)(iii) through (a)(3)(xx) are redesignated as (a)(3)(iv) through (a)(3)(xxi), respectively; new paragraph (a)(3)(iii) is added; in newly redesignated paragraph (a)(3)(vii), ''Ethyl .4-[bis(hydroxypropyl]'' is corrected to read ''Ethyl 4-[bis(hydroxypropyl]''; in newly redesignated paragraph (a)(3)(x), the word ''Lawsons'' is corrected to read ''Lawsone''. The revision and addition reads as follows:

§ 352.20 Permitted combinations of active ingredients.

(a) * * *

(3) * * *

(i) Aminobenzoic acid 5 to 15 percent.

* * * * *

(iii) Cinoxate 1 to 3 percent.

* * * * *

Dated: October 8, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–26211 Filed 10–10–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 42, 92, 215, 219, 221, 236, 290, 511, 570, 574, 576, 582, 583, 585, 882, 885, 886, 889, 890, 906, 941, 950, 968, 970, and 983

[Docket No. FR–4122–P–01]

RIN 2501–AC31

Office of the Secretary

Displacement, Relocation Assistance, and Real Property Acquisition for HUD and HUD-Assisted Programs; Streamlining Rule

AGENCY: Office of the Secretary, HUD.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice seeks public comment on a rulemaking HUD is considering. In an effort to comply with the President's regulatory reform initiatives, HUD is considering streamlining its regulations for displacement, relocation assistance, and real property acquisition by consolidating into one part similar provisions throughout title 24 of the Code of Federal Regulations (CFR), and by eliminating provisions that repeat statutory language or are otherwise unnecessary. Because of the scope of this effort and the potential difficulties in preparing one set of regulations that would be adapted for all HUD programs, HUD is seeking comments from users of the program regulations to determine whether a consolidated set of relocation regulations would be preferable and feasible.

DATES: Comments must be submitted by December 10, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this advance notice of proposed rulemaking to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Janice Petty, Relocation Specialist, Relocation and Real Estate Division, Room 7168, telephone number (202) 708–1367 (this is not a toll-free number). For legal questions, contact: David Polatsek, Attorney-Advisor, Community Development Division, Room 8158, telephone number (202) 708–2027 (this is not a toll-free number). For hearing- and speech-impaired persons, the telephone numbers may be accessed via TTY by calling the Federal Information Relay Service at (800) 877–8339. The address for both of these persons is: Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

SUPPLEMENTARY INFORMATION: On March 4, 1995, President Clinton issued a memorandum to all Federal departments and agencies regarding regulatory reinvention. In response to this memorandum, HUD conducted a page-by-page review of its regulations to determine which can be eliminated, consolidated, or otherwise improved.

HUD is considering whether the regulations for displacement, relocation, and real property acquisition can be improved and streamlined by consolidating similar requirements throughout individual program regulations in title 24 of the CFR. The major part of these regulations would then refer to part 42 for relocation-related requirements, which would continue to reference the Department of Transportation's government-wide rule at 49 CFR part 24, as well as include HUD-specific requirements. Through a final rule published on October 3, 1996 (61 FR 51756), HUD moved into part 42 relocation requirements implementing section 104(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(d)(4)) (Section 104(d)), which requires a residential antidisplacement and relocation assistance plan (RARAP) by State and local governments receiving funds under the Community Development Block Grant (CDBG), Urban Development Action Grant (UDAG), and HOME Investment Partnerships (HOME) programs.

Several provisions in HUD's regulations throughout title 24 of the

CFR repeat statutory language from the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91–646, 84 Stat. 1894, 42 U.S.C. 4601) (URA). Other provisions repeat language from the Department of Transportation's regulations implementing the URA. Because the requirements apply to more than one program, HUD had repeated the requirements in different program regulations. This repetition is unnecessary, and updating these scattered provisions is cumbersome and often creates confusion.

HUD would like to remove language restating requirements already imposed by statute and replace that language with citations to the specific statutory provision. In addition, HUD would propose regulatory language as necessary that would further develop the statutory requirements, but that would be useful as a single-source reference for all HUD programs. HUD anticipates that this proposed streamlining effort could eliminate approximately 30 pages of unnecessary regulations from the CFR.

Because the subject is complex, HUD anticipates that it will require considerable time and effort to craft a rule that addresses the concerns of a multitude of different program areas. The development of a streamlining proposal will require the involvement of HUD's various program offices to resolve issues such as what constitutes ''initiation of negotiations,'' what is meant by ''project'', and what should be the dates from which eligibility for relocation benefits will be recognized. Because the URA itself is so pervasive, the terms of the statute—and those of the governmentwide rule—are necessarily broad. HUD's job in streamlining its rules on relocation is to construct a matrix for implementation that is concise, as uniform as practical, and as program-specific as needed. Furthermore, any changes made in the regulations would have to be consistent with statutory authority and the Department of Transportation's government-wide rule.

HUD's various program offices have raised a number of questions about the practicality of this consolidation effort. HUD will try to streamline current relocation provisions throughout its regulations as described above; however, as part of its streamlining effort HUD is seeking public input on the consolidation of the various relocation provisions into a single part of its regulations. Therefore, by this notice the public is invited to comment on the following questions that HUD's offices have raised, and any other related matters or suggestions, including whether such a consolidation would be helpful to HUD's clients:

(1) Should HUD change the definition of ''displaced person'' to simplify its provisions or to expand or limit the circumstances under which a person will be considered displaced?

(2) In an effort to ensure some consistency between the eligibility thresholds for relocation benefits at URA and Section 104(d) levels, HUD has defined the thresholds using the same terminology, but with slight differences in the requirements applicable under the alternative (i.e., URA vs. Section 104(d)) levels of benefits. To the extent possible under the statutes, should HUD standardize these eligibility thresholds, and if so, what is the appropriate threshold: Total Tenant Payment (TTP), 30 percent of gross income, Fair Market Rent (as defined in HUD regulations), or some other threshold?

(3) Can HUD standardize other terminology used in the various program regulations on relocation? For example, can HUD define the following, or substitute, terms in a manner that could apply to most or all HUD programs: ''low-income person,'' ''low-income housing,'' ''recipient,'' and ''initiation of negotiations''?

(4) In particular, can HUD make the dates from which eligibility for relocation benefits will be recognized (a concept currently captured within the term ''initiation of negotiations'') clearer and more uniform throughout HUD's programs?

(5) Should HUD define the term ''project''?

(6) Under the current rule, is there confusion about who may appeal an agency's decision, and if so, how can HUD eliminate that confusion?

(7) How should household income be computed for purposes of calculating payments under the URA and of calculating payments and determining eligibility for Section 104(d) relocation benefits?

(8) How should HUD define ''eviction for cause'' when providing that relocation benefits do not have to be extended to persons evicted for cause?

(9) Should HUD develop a uniform standard for measuring size of units and determining replacement housing requirements?

(10) Do the current regulations accurately reflect the role of States that are CDBG grantees?

(11) Are the regulations unclear about when benefits must be paid for temporary relocation and about what constitutes a ''temporary relocation''?

(12) Should HUD reconsider its policy on minimizing displacement; if so, how should HUD change the policy; if not, what assurances should HUD require?

(13) What is the effect and usefulness of the specific requirement that displaced persons be advised of the availability of replacement housing outside areas of minority concentration?

(14) HUD is considering interpreting certain definitions in a way that would impose requirements for replacement of housing units and other relocation requirements when assisted activities result in displacement and the removal or reduction of housing stock through such events as reconfiguration of existing units and the placarding of units as unfit for human habitation, pursuant to local housing and occupancy codes under assisted code enforcement programs. Thus, for example, should HUD define the term ''demolition'' to recognize that such events may reduce the total available housing stock and displace occupants just as effectively as would actually razing structures?

Authority: 42 U.S.C. 3535(d), 4601, 5304, and 12705(b).

Dated: October 2, 1996.

Henry G. Cisneros,

Secretary.

[FR Doc. 96–26119 Filed 10–10–96; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07–96–053]

RIN 2115–AE46

Special Local Regulations; Holiday Boat Parade of the Palm Beaches; Palm Beach, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish special local Regulations for the Holiday Boat Parade of the Palm Beaches. This event would be held annually during the second Saturday of December, from 6:30 p.m. until 9 p.m. EST (Eastern Standard Time). Historically, there have been approximately 60 parade event participant vessels and 200 spectator craft during the boat parade. The resulting congestion of navigable channels creates an extra or unusual hazard in the navigable waters. These proposed regulations are necessary to

provide for the safety of life on navigable waters during the event.

DATES: Comments must be received on or before November 12, 1996.

ADDRESSES: Comments may be mailed to U.S. Coast Guard Group Miami, 100 MacArthur Causeway, Miami Beach, Florida 33139–5101, or may be delivered to the same address between 9 a.m. and 4 p.m. (EST), Monday through Friday, except federal holidays. The telephone number is (305) 535–4448. Comments will become a part of the public docket and will be available for copying and inspection at the same address.

FOR FURTHER INFORMATION CONTACT: QM2 S.E. Fowler, Project Officer, U.S. Coast Guard Group Miami at (305) 535–4448.

SUPPLEMENTARY INFORMATION:

Requests for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names, addresses, identify the notice (CGD07–96–053) and the specific section of this proposal to which their comments apply, and give reasons for each comment. The Coast Guard will consider all comments received during the comment received. The regulations may be changed in view of the comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

No public hearing is planned, but one may be held if the written requests for hearing are received, and it is determined that the opportunity to make oral presentations will add to the rulemaking process.

Discussion of Proposed Regulations

The proposed regulations are needed to provide for the safety of life on the navigable waterways during the Holiday Boat Parade of the Palm Beaches. These regulations are intended to promote safe navigation on the waters off the Palm Beaches during the parade by controlling the traffic entering, exiting, and traveling within these waters. The Holiday Boat Parade of the Palm Beaches is an annual night time boat parade consisting of approximately sixty (60) power and sail boats ranging in length from 18 to 85 feet decorated with lights. Historically, there have been approximately 60 parade event participate vessels and 200 spectator craft during the boat parade. The anticipated concentration of these spectator and parade participant vessels associated with the boat parade poses a safety concern which is addressed in these proposed special local regulations.

The boat parade would take place annually during the second Saturday of December, from 6:30 p.m. until 9 p.m. EST (Eastern Standard Time). The parade would form in the staging area in the Port of Palm Beach turning basin and then proceed south down the Intracoastal Waterway (ICW) to Lake Worth South Daybeacon 23 (LLNR 42300) where the parade would disband. The proposed regulated navigation area would include the Port of Palm Beach Turning Basin and the Intracoastal Waterway extending south from Lake Work South Lt 1 (LLNR 42170) position 26°–39.4′ N and 080°–01.2′ W, to Lake Worth South Daybeacon 23 (LLNR 42300) 26°–45.9′ N and 080°–02.9′ W.

While the parade is transiting, the proposed regulation would prohibit nonparticipating vessels from approaching within 1000 feet ahead of the lead vessel in the parade to 1000 feet astern of the last participating vessel in the parade or within 50 feet on either side of the parade unless authorized by a patrol commander. After the passage of the parade participants all vessels would be allowed to enter the regulated navigation area. A succession of not fewer than 5 short whistle or horn blasts from a patrol vessel would be the signal for any non-participating vessel to stop immediately. The display of an orange distress smoke signal from a patrol vessel would be the signal for any and all vessels to stop immediately.

Regulatory Evaluation

These proposed regulations are not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Entry into the regulated area is prohibited for only 2½ hours on the day of the boat parade.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on the small entities for which a general notice of proposed rulemaking is required. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, would not have a significant economic impact on a substantial number of small entities, because the proposed regulated area encompasses a limited regulated area and would restrict vessel traffic for only 2½ hours on the day of the event. If however, you think that your business or organization qualifies as a small entity and that this proposed rule would have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule would economically affect it.

Federalism

This proposal has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federal Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal consistent with Section 2.B.2. of Commandant Instruction M16475.1B, (as revised by 59 FR 38654, July 29, 1994). In accordance with that instruction section 2.B.2.b., this proposed rule has been environmentally assessed (EA completed), and the Coast Guard has concluded that it would not significantly affect the quality of the human environment. Specifically, the Coast Guard has consulted with the U.S. Fish and Wildlife Service and the Florida Department of Environmental Protection regarding the environmental impact of this event, and it was determined that the event does not jeopardize the continued existence of protected, threatened, or endangered species. An environmental assessment and a finding of no significant impact have been prepared and are available in the docket for inspection and copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Proposed Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, the Coast Guard amends as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, 49 CFR 1.46 and 33 CFR 100.35.

2. A new section 100.723 is added to read as follows:

§ 100.723 Annual Holiday Boat Parade of the Palm Beaches; Palm Beach, FL

(a) *Regulated Area.* A regulated navigation area is established to include the Port of Palm Beach Turning Basin and the Intracoastal Waterway extending south from Lake Worth South LT 1 (LLNR 42170), position 26°–39.4′ N and 080°–01.2′ W, to Lake Worth South Daybeacon 23 (LLNR 42300) position 26°–45.9′ N and 080°–02.9′ W.

(b) *Special Local Regulations.*

(1) While the parade is transiting, nonparticipating vessels will be prohibited from approaching within 1000 feet ahead of the lead vessel in the parade to 1000 feet astern of the last participating vessel in the parade or within 50 feet on either side of the parade unless authorized by the patrol commander. After the passage of the parade participants all vessels may enter the regulated navigation area.

(2) A succession of not fewer than 5 short whistle or horn blasts from a patrol vessel will be the signal for any nonparticipating vessel to stop immediately. The display of an orange distress smoke signal from a patrol vessel will be the signal for any and all vessels to stop immediately.

(c) *Effective Date.* These regulations become effective annually on the second Saturday of December, from 6:30 p.m. until 9 p.m. EST.

Dated: September 4, 1996.

J.D. Hull,

Acting Commander, Seventh Coast Guard District.

[FR Doc. 96–26149 Filed 10–10–96; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CCGD07–96–049]

RIN 2115–AE46

Special Local Regulations; Key West Super Boat Race; Key West, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish permanent special local regulations for the Key West Super Boat Race sponsored by Super Boat Racing, Inc. The Key West Super Boat Race would be held annually on the second Wednesday and Saturday in November, between 10 a.m. and 4 p.m. EST (Eastern Standard Time). These proposed regulations are intended to promote safe navigation on the waters in the Atlantic Ocean in the vicinity of Key West, Florida, by controlling the traffic entering, existing, and traveling within these waters. These proposed regulations are necessary to provide for the safety of life on navigable waters during the event.

DATES: Comments must be received on or before November 12, 1996.

ADDRESSES: Comments may be mailed to U.S. Coast Guard Group Key West, Key West, Florida 33040–0005, or may be delivered to operations office at the same address between 8 a.m. and 4 p.m. EST, Monday through Friday, except federal holidays. The telephone number is (305) 292–8727. Comments will become a part of the public docket and will be available for copying and inspection at the same address.

FOR FURTHER INFORMATION CONTACT: QMC Kent, Project Officer, USCG Group Key West, (305) 292–8727.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names, addresses, identify the notice (CGD07–96–049) and the specific section of this proposal to which their comments apply, and give reasons for each comment. The Coast Guard will consider all comments received during the comment period. The regulations may be changed in view of the comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

No public hearing is planned, but one may be held if written requests for a hearing are received, and it is determined that the opportunity to make oral presentations will add to the rulemaking process.

Discussion of Proposed Regulations

The proposed special local regulations are needed to provide for the safety of life during the Key West Super Boat Race. These proposed regulations are intended to promote safe navigation on the waters in the Atlantic Ocean in the vicinity of Key West, Florida, by controlling the traffic entering, existing, and traveling within these waters. Historically during these races, there have been approximately 80 power boats and 100 spectator craft. The anticipated concentration of event participating vessels and spectator craft associated with the Key West Super Boat Race poses a safety concern, which is addressed in these special local regulations. The Key West Super Boat Race would be held annually from 10 a.m. to 4 p.m. EST, on the second Wednesday and Saturday in November.

These proposed regulations would establish a regulated navigation area for all navigable waters within the area as bounded by the following points:

24–33.65N 081–48.47W; thence to,
24–33.95N 081–48.30W; thence to,
24–34.05N 081–48.45W; thence to,
24–33.58N 081–48.70W; thence to,
24–31.18N 081–51.10W; thence to,
24–31.18N 081–48.88W; thence to,
24–32.94N 081–48.82W.

All coordinates reference use datum: NAD 1983. Entry into this proposed regulated area would be prohibited to all vessels except event participants, unless otherwise authorized by the patrol commander. A succession of not less than 5 short whistle or horn blasts from a patrol vessel would be the signal for any non-event participating vessel to take immediate steps to avoid collision. The display of a red distress flare from a patrol vessel would be a signal for any and all vessels to stop immediately.

Regulatory Evaluation

This proposed regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Entry into the proposed regulated area would be prohibited for only 6 hours on each day of the event.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether the economic impact on small entities of a rule for which a general notice of proposed

rulemaking is required. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities because entry into this proposed regulated area would be prohibited for only 6 hours on each day of the event. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit comments explaining why you think it qualifies and what way and to what degree this rule will economically affect it.

Collection of Information

These proposed regulations contain no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This proposal has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this proposal consistent with Section 2.B.2. of Commandant Instruction M16475.1B (as revised by 59 FR 38654, July 29, 1994). In accordance with that instruction, specifically section 2.B.2.b.(2), this proposal has been environmentally assessed (EA completed), and the Coast Guard has determined that it would not significantly affect the quality of the human environment. An environmental assessment and finding of no significant impact have been prepared. Furthermore, as a condition to the permit, the applicant will be required to educate the operators of spectator craft and parade participants regarding the possible presence of manatees and the appropriate precautions to take if the animals are sighted.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water) Reporting and recordkeeping requirements, Waterways.

Proposed Regulations

In consideration of the foregoing, the Coast Guard is proposing to amend Part 100 of Title 33, Code of Federal Regulations, as follows:

1. The authority citation for part 100 continues to read as follows:

PART 100—[AMENDED]

Authority: 33 U.S.C. 1233, 49 CFR 1.46 and 33 CFR 100.35.

2. A new section 100.722 is added to read as follows:

§ 100.722 Annual Key West Super Boat Race; Key West, FL.

(a) *Definitions.*

(1) Regulated area. All navigable waters within the area bounded by the following points:

24–33.65N, 081–48.47W; thence to,
24–33.95N, 081–48.30W; thence to,
24–34.05N, 081–48.45W; thence to,
24–33.58N, 081–48.70W; thence to,
24–31.18N, 081–51.10W; thence to,
24–31.18N, 081–48.88W; thence to,
24–32.94N, 081–48.82W.

All coordinates reference use datum: NAD 1983.

(2) Coast Guard Patrol Commander. The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the United States Coast Guard who has been designated by Coast Guard Group Key West, Florida.

(b) *Special Local Regulations.*

(1) Entry into the regulated navigation area, by other than event participants, is prohibited unless otherwise authorized by the patrol commander.

(2) A succession of not less than 5 short whistle or horn blasts from a patrol vessel will be the signal for any non-event participating vessel to take immediate steps to avoid collision. The display of a red distress flare from a patrol vessel will be a signal for any and all vessels to stop immediately.

(c) *Effective Dates.* This section is effective at 10 a.m. and terminates at 4 p.m. annually on the second Wednesday and Saturday in November.

Dated: September 11, 1996.

J.W. Lockwood,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 96–26148 Filed 10–10–96; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[CGD07–93–010]

RIN 2115–AE84

Regulated Navigation Area; Mullet Key Channel, Tampa, FL

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of proposed rule; notice of termination.

SUMMARY: This rulemaking project was initiated to protect vessels with drafts greater than 38 feet from safety hazards associated with shoaling within Mullet Key Channel. Since initiation of this rule, Mullet Key Channel has been dredged to a project depth of 45 feet. This dredging has eliminated the shoaling problem in the channel and reduced the risks for vessels with drafts greater than 38 feet. Therefore, the Coast Guard is withdrawing and terminating further rulemaking under docket number CGD07–93–010.

FOR FURTHER INFORMATION CONTACT: LT James Raby, Chief, Port Management Department, Marine Safety Office Tampa, 155 Columbia Dr., Tampa, FL 33606, Phone: (813) 228–2189.

SUPPLEMENTARY INFORMATION: The regulated navigation area for Mullet Key Channel was first published in the Federal Register on November 12, 1993 [58 FR 59975]. This proposed regulation was established to protect vessels with drafts greater than 38 feet from the safety hazards associated with shoaling on the outside edges of the marked channel. Under this proposed regulation, all vessels with a draft in excess of 38 feet transiting Mullet Key Channel, would have been limited to a one way traffic zone. Numerous comments were received from the port community disagreeing on the need for this regulation. Correspondence from the port community agreed that minor shoaling did exist in Mullet Key Channel. However, due to the width of the Channel being 600 feet, there is still sufficient room for even the largest vessels that enter Tampa Bay to transit the Channel simultaneously. The surrounding waters of Mullet Key Channel are also much deeper than what is normally found in the remainder of the bay. This deeper water significantly reduces the hydrodynamic effects on vessels which can pull a vessel out of the channel. These comments, in addition to the completed dredging of the Channel to a project depth of 45 feet, eliminated the need for this regulation. Therefore, this rulemaking is no longer necessary, and the Coast Guard is withdrawing it and terminating further rulemaking under docket number CGD07–93–010.

Dated: September 9, 1996.

J.W. Lockwood,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 96–26147 Filed 10–10–96; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[CGD07–93–011]

RIN 2115–AE84

Regulated Navigation Area; Hillsborough Channel Cut D, Hillsborough Bay, FL

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of proposed rule; notice of termination.

SUMMARY: This rulemaking project was initiated to protect vessels with drafts greater than 39 feet from safety hazards associated with shoaling on the outside quarters of Hillsborough Channel Cut D. It has been determined that very few vessels with the specified draft actually transit the affected Channel. When a vessel does transit the Channel, the preexisting safety precautions have been determined to be adequate for safe navigation. Therefore, this proposed rule is no longer necessary and the Coast Guard is withdrawing it and terminating further rulemaking under docket number CGD07–93–011.

FOR FURTHER INFORMATION CONTACT: LT. James Raby, Chief, Port Management Department, Marine Safety Office Tampa, 155 Columbia Dr., Tampa, FL 33606, Phone: (813) 228–2189.

SUPPLEMENTARY INFORMATION: The regulated navigation area for Hillsborough Channel Cut D was first published in the Federal Register on November 12, 1993 [58 FR 59974]. This proposed regulation was established to protect vessels with drafts greater than 39 feet from safety hazards associated with shoaling on the outside quarters of Hillsborough Channel Cut D. Under this proposed regulation, all vessels with drafts greater than 39 feet which transit the Channel would be limited to a one way traffic zone. Comments received from the port community disagreed with the proposed regulation based on the infrequency of use and the minimal amount of time that vessels with the specified draft transit the Channel. When vessels of the specified draft do transit the Channel, they are always in a docking mode with tugs alongside and proceeding to the dock at minimum safe speed. These safety precautions have been determined to be sufficient for safe navigation through Hillsborough Channel Cut D and have eliminated the need for this regulation. Therefore, this rulemaking is no longer necessary, and the Coast Guard is withdrawing it and terminating further rulemaking under docket number CGD07–93–011.

Dated: September 9, 1996.

J.W. Lockwood,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 96–26146 Filed 10–10–96; 8:45 am]

BILLING CODE 4910–14–M

Notices

Federal Register
Vol. 61, No. 199
Friday, October 11, 1996

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

Food and Consumer Service

Agency Information Collection Activities: Proposed Collection; Comment Request; Form FCS–209, Status of Claims Against Households

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on proposed information collections. Requirements in sections 5, 11, and 13 of the Food Stamp Act of 1977 (the Act) are the basis for the information collected on Form FCS–209, Status of Claims Against Households. The Act requires that State agencies submit reports and other information which the Secretary deems necessary to determine compliance with the Act and its implementing regulations. The Act provides that when coupons are overissued to households due to Inadvertent Household Error (IHE), Intentional Program Violation (IPV) or Administrative Error, State agencies are required to determine the amount of overissuances and establish claims against the households to collect the overissued amounts. The Act authorizes the Secretary to settle and adjust established claims by compromise or denial of all or part of any such claim arising under the Act or regulations issued pursuant to the Act.

DATES: Written comments must be submitted on or before December 10, 1996.

ADDRESSES: 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 has practical utility; (b) 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; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: James I. Porter, Assistant Branch Chief, State Administration Branch, Food Stamp Program, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION: Requests for additional information or copies of the information collection form and instructions should be directed to James Porter, (703) 305–2385.

SUPPLEMENTARY INFORMATION:

Title: Status of Claims Against Households.

OMB Number: 0584–0069.

Form Number: FCS–209.

Expiration Date: 9/30/96.

Type of Request: Reinstatement, without change, of this previously approved collection of information.

Abstract: 7 CFR 273.18(i) of the Food Stamp Program regulations requires that State agencies submit quarterly Form FCS–209, Status of Claims Against Households, reports. The required information provided on this report must be obtained from an accountable system of established claims, repayment demand letters, satisfied and compromised claim amounts, and outstanding claims. The regulations make a distinction between nonfraud claims caused by State agency miscalculation or error and those caused by inadvertent household error. The fraud category of Form FCS–209 includes those cases in which the household committed intentional misrepresentation in order to obtain benefits. States may retain a percentage of fraud and intentional misrepresentation collections as an incentive to pursue action on those cases. In addition, States may also retain a percentage of collections in regard to inadvertent household error. The FCS–209 accommodates the reporting of amounts collected, calculation of amounts to be retained by the State and calculation of amounts due the Federal Government through an offset against the State's administrative funds as a method of payment.

Affected Public: State governments.

Estimated Number of Respondents: 53.

Estimated Time per Response: 3.5 hours.

Estimated Total Annual Burden: 742 hours.

Dated: October 4, 1996.

William E. Ludwig,

Administrator, Food and Consumer Service.

[FR Doc. 96–26136 Filed 10–10–96; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Forest Service

Oregon Coast Provincial Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Oregon Coast Provincial Advisory Committee (PAC) will meet on October 24, 1996, in Florence, Oregon, at the Driftwood Shores Resort and Conference Center (Pacific Room), 88416 First Avenue, Florence, OR. The meeting will begin at 9:00 a.m. and continue until 3:30 p.m. Agenda items to be covered include: (1) updates on current events, (2) Adaptive Management Area social assessment, (3) Jobs-in-the-woods program, (4) watershed councils and other partnerships, and (5) open public forums. All Oregon Coast Provincial Advisory Committee meetings are open to the public. Two ''open forums'' are scheduled; one at 10:30 a.m. and another near the conclusion of the meeting. Interested citizens are encouraged to attend. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Cynthia Leonard, Public Affairs, at (541) 750–7013, or write to Forest Supervisor, Siuslaw National Forest, P.O. Box 1148, Corvallis, Oregon 97339.

Dated: October 3, 1996.
James R. Furnish,
Forest Supervisor.
[FR Doc. 96–26110 Filed 10–10–96; 8:45 am]
BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

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 furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: November 12, 1996.

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 June 28, July 8, August 2 and 16, 1996, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (61 FR 33711, 35709, 40395 and 42584) 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 services 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 orngaizations that will furnish the commodities and services to the Government.

2. The action will not 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

Paper, Bond & Writing

7530–01–071–9794
7530–01–509–8632
7530–01–071–9795
7530–01–071–9792
7530–01–077–5386
7530–01–077–5387
7530–00–160–9165
7530–00–616–7284
7530–00–515–1086
7530–01–078–5649
7530–01–364–9488

Paper, Mimeograph and Duplicating

7530–00–285–3060
7530–00–285–3072
7530–01–037–5556

Pouchfastener, Swivel Assembly

P.S. NIB 38

Services

Janitorial/Custodial

U.S. Coast Guard Academy
New London, Connecticut

Military Unique Subsistence Items Coordination

Defense Personnel Support Center
Philadelphia, Pennsylvania

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

G. John Heyer,
General Counsel.
[FR Doc. 96–26194 Filed 10–10–96; 8:45 am]
BILLING CODE 6353–01–M

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 12, 1996.

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. 37(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:

Administrative Services, Sidney L. Christie Federal Building, 845 Fifth Avenue, Huntington, West Virginia
NPA: Goodwill Industries of KYOWVA Area, Inc., Huntington, WV
Food Service Attendant, Department of Veterans Affairs Medical Center, Hampton, Virginia
NPA: Association for Retarded Citizens of the Peninsula, Inc., Hampton, Virginia
Janitorial/Custodial, Naval Air Station, Meridian, Mississippi
NPA: Allied Enterprises of Meridian, Meridian, Mississippi
Storage and Distribution of Belts and Belt Buckles, Defense Personnel

Support Center, Philadelphia, Pennsylvania
NPA: Travis Association for the Blind, Austin, Texas

G. John Heyer,

General Counsel.

[FR Doc. 96–26195 Filed 10–9–96; 8:45 am]

BILLING CODE 6353–01–M

DEPARTMENT OF COMMERCE

Submission for OMB Review: Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Public Law 104–13. This request is on behalf of DOC and 11 other agencies: Department of Energy; Department of State; Health and Human Services; NASA; Peace Corps; General Services Administration; Department of the Treasury; U.S. Mint; Department of the Interior; Department of Transportation; and, Social Security Administration. An ''emergency'' review has been requested by October 15, 1996.

Title: Performance Management Action Team Vendor Survey.

Agency Form Number: Not applicable.

OMB Approval Number: Not applicable.

Type of Request: New Collection; Emergency Review.

Burden: 5,400 hours.

Number of Respondents: 21,600.

Avg. Hours Per Response: 15 minutes.

Needs and Uses: The Department of Commerce, on behalf of all agencies participating in the Performance Measurement Action Team (PMAT) Coordinating Council, requests approval to issue a survey to their respective vendor communities. The purpose of the proposed vendor survey is to assist agencies in establishing quantitative and qualitative customer service standards for gauging performance. Due to the many changes resulting from the implementation of the Federal Acquisition Streamlining Act (FASA) and the Federal Acquisition Reform Act (FARA), as well as organizational business process reengineering (BPR) efforts, it is vital to assess the affect of these changes on the vendor community. The results of this survey will become a part of the PMAT assessment and utilized in developing customer standards.

Affected Public: Businesses and other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Victoria Baecher-Wassmer, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling Linda Engelmeier, Acting DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Victoria Baecher-Wassmer, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503 or contacted by phone (202) 395–7340.

Dated: October 4, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–26143 Filed 10–10–96; 8:45 am]

BILLING CODE 3510–BP–P

Bureau of the Census

Census Advisory Committee of Professional Associations; Notice of Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409), we are giving notice of a meeting of the Census Advisory Committee of Professional Associations. The meeting will convene on October 24–25, 1996 at the Bureau of the Census, Conference Center, Federal Building 3, Suitland, Maryland, 20233.

The committee is composed of 36 members appointed by the Presidents of the American Economic Association, the American Statistical Association, the Population Association of America, and the Chairman of the Board of the American Marketing Association. The committee advises the Director, Bureau of the Census, on the full range of Census Bureau programs and activities in relation to the areas of expertise.

The agenda for the meeting on October 24 that will begin at 8:30 a.m. and end at 5:15 p.m. is:

- Introductory Remarks by the Director, Bureau of the Census.
- Economic Programs Update.
- 2000 Census Update.
- Census Bureau Responses to Committee Recommendations.
- Will Reengineering Manufacturers' Product Data Better Meet User Needs?
- Decennial Marketing Plan—How Can Marketing Increase Respondent Cooperation in the Decennial Census and What Are Its Limitations?
- What Are the Data Needs for the New Federalism?
- What will be the Impact of the North American Industry Classification System (NAICS) on Data Users for the 1997 Economic Censuses?
- How Do We Benchmark the American Community Survey to the 2000 Census?
- What New Economic Statistics will Data Users need in the Next Decade?
- How Can Data Users help the Bureau Evaluate the Quality and Usefulness of Postcensal County Estimates of Poverty?
- What Are the Economic Program Implications of the 1997 Budget?
- How can the Census Bureau Become More Customer Oriented and Market Driven?
- What Should we Consider in Making the Choice of the Method to Use to Achieve 90% at the Tract Level?

The agenda for the meeting on October 25 that will begin at 8:45 a.m. and end at 12:15 p.m. is:

- What Is the Impact of the Manufacturing Extension Partnership?
- How can the Census Bureau Market its Products and Services via the Internet?
- Administrative Records in Official Statistics—How can our Research on Administrative Records in Census 2000 Lead to Greater Use in 2010?
- Develop Recommendations and Special Interest Activities.
- Closing Session.

The meeting is open to the public, and a brief period is set aside, during the closing session, on October 25, for comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau Committee Liaison Officer, Ms. Maxine Anderson-Brown, Room 3039, Federal Building 3, Washington, DC 20233, at least three days before the meeting.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation, or other auxiliary aids should also be directed to the Census Bureau Committee Liaison Officer.

Persons wishing additional information or minutes for this meeting, or who wish to submit written statements may contact the Committee Liaison Officer on 301–457–2308, TDD 301–457–2540.

Dated: October 7, 1996.

Martha Farnsworth Riche,

Director, Bureau of the Census.

[FR Doc. 96–26113 Filed 10–10–96; 8:45 am]

BILLING CODE 3510–07–P

International Trade Administration

[A–201–504]

Porcelain-on-Steel Cooking Ware From Mexico; Amended Final Results of Antidumping Duty Administrative Review in Accordance With Decision Upon Remand

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of amendment to final results of antidumping duty administrative review in accordance with decision upon remand.

SUMMARY: As a result of a remand from a Binational Panel (the Panel), convened pursuant to the North American Free Trade Agreement (NAFTA), the Department of Commerce (the Department) is amending its final results of administrative review of the antidumping duty order on porcelain-on-steel cooking ware from Mexico, published in the Federal Register on January 9, 1995 (60 FR 6889). The Department has determined, in accordance with the instruction of the Panel, the dumping margin for entries of porcelain-on-steel cooking ware from Mexico made during the period December 1, 1990 through November 30, 1991 to be 9.82 percent.

EFFECTIVE DATE: October 11, 1996.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Richard Herring, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On January 9, 1995, the Department published in the Federal Register (60 FR 2378) the final results of its fifth administrative review of the antidumping duty order on porcelain-on-steel cooking ware from Mexico. On February 8, 1995, the Department amended its final results (60 FR 7521). The review covered the period December 1, 1990 through November 30, 1991.

Subsequent to the amended final results, CINSA, S.A., one of two respondents, challenged the Department's findings and requested that the Panel review the final results of review. Thereafter, the Panel remanded the Department's final results with respect to two issues only. Specifically, the Panel directed the Department (1) to apply the Department's tax-neutral VAT adjustment methodology which was approved by the Court of Appeals for the Federal Circuit in *Federal Mogul* v. *United States*, 63 F.3d 1572 (Fed. Cir. 1995) and (2) to either correct CINSA's clerical error, or allow CINSA to present data sufficient to allow the Department to correct the clerical error. The Department made the tax-neutral VAT adjustment and recalculated the cost of Item No. 10158, the item affected by the clerical error. The Department submitted its remand determination on June 14, 1996.

On July 19, 1996, the Panel affirmed the remand determination of the Department. As a result, the margin for CINSA was reduced from 27.96 percent to 9.82 percent.

Results of Remand

VAT Tax Methodology

In accordance with the order from the Panel, the Department applied a tax-neutral VAT adjustment methodology. Specifically, the Department added the VAT tax to U.S. price rather than subtracting it from home market price. *See Federal Mogul*, 1572 F.3d at 1577, 1580.

Clerical Error

In accordance with the order from the Panel, the Department made a correction to the total cost of Item No. 10158 to account for a clerical error. Although Item No. 10158 was sold in boxes containing two units, CINSA had reported each box as a single unit. To comply with the remand, the Department has recalculated the cost of Item No. 10158 by dividing the cost of producing such item by two.

As a result of our comparison of U.S. price to foreign market value, we determine that an antidumping margin of 9.82 percent exists for CINSA for the period December 1, 1990 through November 30, 1991.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between U.S. price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service. The Department will also instruct the Customs Service to collect duty deposits of 9.82 percent on all shipments of the subject merchandise manufactured by CINSA entered, or withdrawn from warehouse, for consumption on or after the publication date of these amended final results of review.

This amendment to the final results of antidumping duty administrative review notice is in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Department's regulations (19 CFR 353.22 (1989)).

Dated: October 4, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–26221 Filed 10–10–96; 8:45 am]

BILLING CODE 3510–DS–P

Department of Veterans Affairs Medical Center, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 96–078. *Applicant:* Argonne National Laboratory-West, Scoville, ID 83415. *Instrument:* Electron Microscope, Model JEM–2010. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 61 FR 42589, August 16, 1996. *Order Date:* June 12, 1996.

Docket Number: 96–081. *Applicant:* Department of Veterans Affairs Medical Center, New York, NY 10010. *Instrument:* Electron Microscope, Model JEM–1010. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 61 FR 42589, August 16, 1996. *Order Date:* May 28, 1996.

Docket Number: 96–082. *Applicant:* Florida State University, Tallahassee, FL 32306–3015. *Instrument:* Electron Microscope, Model CM120. *Manufacturer:* Philips, The Netherlands. *Intended Use:* See notice at 61 FR 42590, August 16, 1996. *Order Date:* May 1, 1996.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. *Reasons:* Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each

instrument or at the time of receipt of application by the U.S. Customs Service.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 96–26217 Filed 10–10–96; 8:45 am]

BILLING CODE 3510–DS–P

University of Arizona, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 96–079. *Applicant:* University of Arizona, Tucson, AZ 85721. *Instrument:* Mass Spectrometer, Model Sector 54. *Manufacturer:* Micromass, United Kingdom. *Intended Use:* See notice at 61 FR 42589, August 16, 1996. *Reasons:* The foreign instrument provides: (1) an abundance sensitivity of 10ppb at mass U^{237}, (2) an ion-counting Daly type detector with a detection efficiency >90% and (3) motorized computer-controlled multiple collectors.

Docket Number: 96–080. *Applicant:* Berkeley Geochronology Center, Berkeley, CA 94709. *Instrument:* Mass Spectrometer, Model Sector 54. *Manufacturer:* Micromass, United Kingdom. *Intended Use:* See notice at 61 FR 42589, August 16, 1996. *Reasons:* The foreign instrument provides: (1) an abundance sensitivity of $2x10^{8}$, (2) a peak flat specification of 0.01% and (3) a precision of 15 ppm for analysis of $^{87}Sr/^{86}Sr$.

The capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purposes. We know of no instrument or apparatus being manufactured in the United States which is of equivalent scientific value to either of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 96–26216 Filed 10–10–96; 8:45 am]

BILLING CODE 3510–DS–P

University of California; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 96–073. *Applicant:* University of California, Berkeley, CA 94720. *Instrument:* High Pressure Freezing Machine, Model HPM 010. *Manufacturer:* Bal-Tec, Inc. Liechtenstein. *Intended Use:* See notice at 61 FR 41773, August 12, 1996.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides cryogenic sample preparation of biological tissues down to −80 °C at 30 000 lbs/sq. in. in pressure and within 20–50 milliseconds. The National Institutes of Health advises in its memorandum dated July 24, 1996 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 96–26218 Filed 10–10–96; 8:45 am]

BILLING CODE 3510–DS–P

Woods Hole Oceanographic Institution; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 96–067. *Applicant:* Woods Hole Oceanographic Institution, Woods Hole, MA 02543. *Instrument:* 5 Window Beta Detector with Anticoincidence, Model GM–25–5. *Manufacturer:* Riso National Laboratory, Denmark. *Intended Use:* See notice at 61 FR 39948, July 31, 1996.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides: (1) robust design and portability for shipboard operation, (2) one-inch detector windows and (3) a background of 0.178 ± 0.003 counts per minute. Several domestic manufacturers of similar equipment advise that (1) these capabilities are pertinent to the applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 96–26219 Filed 10–10–96; 8:45 am]

BILLING CODE 3510–DS–P

[C–508–605]

Industrial Phosphoric Acid From Israel; Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On June 6, 1996, the Department of Commerce (''the Department'') published in the Federal Register its preliminary results of administrative review of the countervailing duty order on industrial phosphoric acid (IPA) from Israel for the period January 1, 1994 through December 31, 1994 (61 FR 28845). The Department has now completed this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended. For information on the net subsidy for each reviewed company, and for all non-reviewed companies, please see the *Final Results of Review* section of this notice. We will instruct the U.S. Customs Service to assess countervailing duties as detailed in the *Final Results of Review* section of this notice.

EFFECTIVE DATE: October 11, 1996.

FOR FURTHER INFORMATION CONTACT: Cameron Cardozo or Brian Albright, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 355.22(a) of the Department's Interim Regulations, this review covers only those producers or exporters of the subject merchandise for which a review was specifically requested. See Antidumping and Countervailing Duties: Interim regulations; request for comments, 60 FR 25130, 25137 (May 11, 1995) (''Interim Regulations''). Accordingly, this review covers Rotem Amfert Negev Ltd. (Rotem). This review also covers the period January 1, 1994 through December 31, 1994, and nine programs.

We invited interested parties to comment on the preliminary results. Since the publication of the preliminary results on June 6, 1996, the following events have occurred. On July 8, 1996, case briefs were submitted by the Government of Israel (GOI) and Rotem, a producer of the subject merchandise which exported industrial phosphoric acid to the United States during the review period (respondents). On July 12, 1996, rebuttal briefs were submitted by FMC Corporation and Monsanto Company (petitioners).

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (''URAA'') effective January 1, 1995 (''the Act''). References to the Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments, 54 FR 23366 (May 31, 1989) (''Proposed Regulations''), are provided solely for further explanation of the Department's countervailing duty practice. Although the Department has withdrawn the particular rulemaking proceeding pursuant to which the Proposed Regulations were issued, the subject matter of these regulations is being considered in connection with an ongoing rulemaking proceeding which, among other things, is intended to conform the Department's regulations to the URAA. See Advance Notice of Proposed Rulemaking and Request for Public Comments, 60 FR 80 (January 3, 1995).

Scope of the Review

Imports covered by this review are shipments of industrial phosphoric acid (IPA) from Israel. Such merchandise is classifiable under item number 2809.20.00 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Privatization

Previously, we have found that a private party purchasing all or part of a government-owned company can repay prior non-recurring subsidies on behalf of the company as part or all of the sales price. Accordingly, in the preliminary results, we calculated a ratio representing the amount of subsidies remaining with Rotem after each partial privatization in 1992 and 1993. To calculate the benefit provided to Rotem in the POR (1994), we multiplied the benefit calculated for Encouragement of Capital Investment Law grants (the only non-recurring allocable subsidies) by the ratio representing the amount of subsidies remaining with Rotem after the partial privatizations.

Analysis of Programs

Based upon our analysis of the questionnaire responses and written comments from the interested parties, we determine the following:

I. Programs Conferring Subsidies

1. Encouragement of Capital Investments Law (ECIL) Grants

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has led us to change our findings from the preliminary results. For ECIL grants that were tied to IPA production, we have divided the benefit by Rotem's sales of IPA during the POR. For ECIL grants that were not tied specifically to IPA production but were tied to the production of products that can be used as inputs in the production of IPA, we have divided the benefit by Rotem's total sales of all products during the POR. On this basis, the net subsidy for this program is 8.00 percent *ad valorem* for 1994.

2. Long-term Industrial Development Loans

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. We received no comments on our preliminary results and our findings remain unchanged in these final results. On this basis, the net subsidy for this program is less than 0.005 percent *ad valorem* for 1994.

3. Encouragement of Industrial Research and Development Grants (EIRD)

In the preliminary results, we found that this program conferred countervailable benefits on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the preliminary results. On this basis, the net subsidy for this program is 0.06 percent *ad valorem* for 1994.

II. Programs Found Not To Be Used

In the preliminary results, we found that Rotem did not apply for or receive benefits under the following programs:

A. Exchange Rate Risk Insurance Scheme;

B. Reduced Tax Rates under ECIL;

C. ECIL Section 24 Loans;

D. Labor Training Grants;

E. Dividends and Interest Tax Benefits under Section 46 of the ECIL; and

F. ECIL Preferential Accelerated Depreciation.

Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the preliminary results.

Analysis of Comments

Comment 1: Respondents argue that ECIL grants for Project 14 should not be considered subsidies bestowed on the subject merchandise, which is IPA sold as IPA, because the grants were intended to increase production of IPA for use in downstream products. Respondents take issue with the Department's application of section 355.47 of the Proposed Regulations, which the Department cited in its memorandum addressing the treatment of Project 14. (See, Memorandum to File from Team on April 15, 1996, available in the public file of the Central Records Unit, Room B–099, Department of Commerce). According to respondents, section 355.47 does not support the Department's preliminary decision to countervail Project 14 grants that were used in the ''production'' of IPA. While the regulation does speak in terms of ''production,'' respondents argue that this does not contemplate production of a product for use in value-added downstream products that are outside the scope of the order. Rather, the provision contemplates production of the product for sale as the product itself; that is, as the subject merchandise.

Respondents further argue that the Department's treatment of Project 14 is at odds with its treatment of other ECIL grants. Respondents point out that the Department allocated a portion of the grants for Rotem's green acid facility, Project 9, to its calculation of the subsidy on IPA because a portion of green acid was fed to IPA production. IPA was thus, to a certain degree, a downstream product of green acid. According to the Department's analysis, argue respondents, the Project 9 grants, since the grants were for the production of green acid and not downstream IPA, should have been fully allocated to the production of green acid and not IPA.

Finally, respondents question the Department's citations to four earlier determinations which support the ''practice of tying benefits to specific products.'' In doing so, respondents maintain that Project 14 grants should not be ''tied'' to IPA when the sole purpose of the grants was to benefit products other than IPA. Thus, respondents conclude, while the four cited cases do stand for the ''established tenet'' of tying benefits, they are not relevant to the issue of how to treat grants for the ultimate production of downstream products.

In rebuttal, petitioners argue that the Department correctly included Project 14 grants in its calculation of the net subsidy. According to petitioner, the statute makes clear that when a countervailable subsidy is provided with respect to the manufacture or production of a class or kind of merchandise imported into the United States, and the requisite injury determination is made, a duty shall be imposed equal to the amount of the net countervailable subsidy. It is undisputed that the grants made available to Rotem under Project 14 were for the ''manufacture'' or ''production'' of industrial phosphoric acid. Moreover, state petitioners, as a matter of law, the Department has also determined that the grants provided under Project 14 do constitute ''countervailable subsidies.'' Under these circumstances, the Department had no alternative but to include the amount of this countervailable subsidy in its calculation of the net subsidy amount.

Petitioners further maintain that there are several flaws in respondents' argument that the grants are not intended to benefit IPA as subject merchandise. First, it does not square with the language of the statute, which mentions no requirement for any sale, much less a requirement that a sale be for a particular purpose. In addition, state petitioners, respondents' argument would require a finding by the Department that the grants provided to Rotem actually benefited Rotem's sales of IPA in the United States, a so-called competitive-benefits-conferred interpretation of the statute that has been soundly rejected by the Department and the Court of Appeals for the Federal Circuit in the privatization context. According to petitioners, the only relevant legal test has been met in this case, *i.e.*, that the grants received in connection with Project 14 were provided for the production of IPA. What Rotem subsequently did with the production and whether it used the grants to obtain a competitive advantage for its sales of IPA in the United States are legally irrelevant matters.

Department's Position: We disagree with respondents. Where the Department determines that a countervailable benefit is tied to the production or sale of a product or products, as set forth in section 355.47 of the Proposed Regulations, the benefit is attributable to sales of that product or products made during the period of review. As respondents have themselves pointed out, Project 14 grants are clearly tied directly to the production of IPA, the subject merchandise. Contrary to respondents assertion that it is clear that section 355.47 does not contemplate production of an input for use in value-added downstream products, section 355.47 does not address the ''use'' of the product in question in determining whether a benefit is tied to subject merchandise. Rather, as outlined in section 355.47, the Department may countervail a benefit that is tied to production or sale of the subject merchandise.

While respondents have stated that during the POR their capacity to produce IPA expanded in some measure as a result of the Project 14 grant, respondents' submission merely indicated a future intent to manufacture products that can use IPA as an input. See April 15, 1996 submission to the Department from respondents regarding New Factual Information at 5–8. They have submitted no evidence that any increased production of IPA during the POR (1994), which resulted from expansion of capacity from Project 14, was used as an input in the production of downstream products manufactured by Rotem. Moreover, respondents' April 15, 1996 submission indicates that the expansion intended to increase production of IPA ''has not yet come fully on stream.'' If, in future reviews, Rotem increases its production of IPA and record evidence establishes that some portion of Rotem's IPA is used as an input for downstream products manufactured by Rotem, we will then examine how the benefits from Project 14 grants on IPA, whether sold or captively consumed, should be treated for the purpose of calculating the subsidy rate. In this review, however, the information on the record indicates that during the POR Rotem only produced IPA that is sold as IPA.

Respondents have also mistakenly analogized the Department's treatment of Project 14 grants with its treatment of other ECIL grants that were not directly tied to IPA production. In those projects, grants were provided to expand the production of materials (e.g., phosphate rock, green acid) that were either sold or used captively during the POR to produce IPA. Accordingly, consistent with our approach in prior reviews, the Department is allocating benefits from those grants to IPA, (See, e.g., Industrial Phosphoric Acid from Israel; Final Results of Countervailing Duty Administrative Reviews, 61 FR 28841 (June 6, 1996), although utilizing a different allocation methodology (See Department's Position on *Comment 2*). In contrast, the Project 14 grants were provided for the purpose of expanding production of IPA, and are therefore tied directly to the production of the subject merchandise.

Respondents correctly recognize that the four cases cited by the Department stand for the ''established tenet'' of tying benefits and that they are not relevant to the issue of how to treat grants for the ultimate production of downstream products. Project 14 grants were provided to increase production of IPA. Although respondents claim that the ''sole purpose'' of the Project 14 grants was to benefit products other than IPA, record evidence indicates that during the POR, IPA produced was sold as IPA. Therefore, we continue to treat the Project 14 grants as subsidies bestowed directly on the production of the subject merchandise during the 1994 POR and allocate the benefit over sales of IPA during the review period.

Comment 2: Rotem argues that the Department should not have found that three EIRD grants conferred benefits on IPA during the review period, since Rotem stated in its questionnaire response that these grants were not related to IPA production. Two grants benefited a research project concerning green acid, and one grant benefited a research project concerning phosphate. Accordingly, for the final results, Rotem argues that the Department should find that the EIRD grants were not countervailable subsidies to IPA during the period of review. Alternatively, if the Department refuses to accept

Rotem's statements, then the Department must allocate the EIRD grants in the same manner as the ECIL grants that related to the green acid facility.

Petitioners respond that the countervailing duty law does not require that a subsidy directly benefit the subject merchandise. Instead, the statute is quite clear that countervailable subsidies may be provided either directly or indirectly. Both the phosphate raw material and the green acid, which were the direct targets of these grants, are important inputs in the production of IPA. As a result, IPA benefits indirectly from these grants.

Finally, petitioners argue that the Department has dealt previously with this issue in the 1987 administrative review. In that review, respondent advanced a similar argument that a grant provided for research on phosphate rock did not benefit IPA. The Department rejected that argument because rock phosphates are a main input in the production of IPA. This reasoning, argue petitioners, is equally applicable to the EIRD grants at issue in the instant review. To the extent the production of green acid and phosphate is improved by the research made possible through the EIRD grants, IPA will also benefit. Therefore, the Department acted properly in including these EIRD grants in its calculation of the net subsidy rate for IPA.

Department's Position: The statute gives the Department clear authority to countervail benefits that are provided directly or indirectly to the production of the subject merchandise. *See* 19 U.S.C. § 1671(a). To the extent that green acid and phosphate produced by Rotem are inputs in the production of IPA produced by Rotem, the EIRD grants benefit IPA. In making this determination, we are being consistent with our past practice with regard to EIRD grants. The respondent received an EIRD grant for a research project on rock phosphate during the 1990 administrative review. We found this grant countervailable because the research would ''benefit the gathering of raw materials (inputs) required to produce IPA.'' Industrial Phosphoric Acid from Israel; Preliminary Results of Countervailing Duty Administrative Review, 57 FR 21958, 21960 (May 26, 1992) and Final Results of Countervailing Duty Administrative Review, 57 FR 39391 (August 31, 1992). The method used by the Department to calculate the benefit under these grants is therefore reasonable and consistent with our practice in prior reviews.

In consideration of respondents' comment, specifically respondents' argument that EIRD grants should be allocated in the same manner as ECIL grants, we have reexamined our calculation methodology with respect to EIRD and ECIL grants. We have determined that the proper grant allocation methodology to follow is the one that the Department has used to determine the benefit for the EIRD grants. This methodology is consistent with the Department's approach in Final Affirmative Countervailing Duty Determination: Certain Pasta from Italy, 61 FR 30288, 30289 (June 14, 1996) (Certain Pasta). As the Department stated in Certain Pasta, in cases where an input product and the subject merchandise are produced within a single corporate entity, the Department has found that subsidies to the input product benefit total sales of the corporation, including sales of the subject merchandise. See also Final Affirmative Countervailing Duty Determination: Certain Softwood Lumber Products from Canada, 57 FR 22570 (May 28, 1992). Therefore, we are taking the entire amount of grants provided to the production of products that are inputs to IPA and dividing the benefit by Rotem's total sales. As discussed above (*Comment 1*), for grants that are directly tied to IPA production, we will continue to allocate the entire amount of the grant to Rotem's sales of IPA.

Final Results of Review

In accordance with section 355.22(c)(4)(ii) of the Department's Interim Regulations, we calculated an individual subsidy rate for each producer/exporter subject to this administrative review. For the period January 1, 1994 through December 31, 1994, we determine the net subsidy for Rotem to be 8.06 percent *ad valorem*.

Net subsidies—producer/exporter	Net subsidy rate (percent)
Rotem Amfert Negev Ltd.	8.06

We will instruct the U.S. Customs Service (''Customs'') to assess countervailing duties as indicated above. The Department will also instruct Customs to collect cash deposits of estimated countervailing duties in the percentages detailed above of the f.o.b. invoice price on all shipments of the subject merchandise from reviewed companies, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. See section 355.22(a) of the Interim Regulations. Pursuant to 19 C.F.R. 355.22(g), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected, at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. See *Federal-Mogul Corporation and The Torrington Company* v. *United States*, 822 F.Supp. 782 (CIT 1993) and *Floral Trade Council* v. *United States*, 822 F.Supp. 766 (CIT 1993) (interpreting 19 C.F.R. 353.22(e), the antidumping regulation on automatic assessment, which is identical to 19 C.F.R. 355.22(g)). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order are those established in the most recently completed administrative proceeding. See Industrial Phosphoric Acid from Israel; Final Results of Countervailing Duty Administrative Reviews, 61 FR 28841 (June 6, 1996). These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period January 1, 1994 through December 31, 1994, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 C.F.R. 355.34(d). Timely written notification of return/destruction of

APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)).

Dated: October 4, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–26220 Filed 10–10–96; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

National Database for Weights and Measures; Proposed Data Collection; Comment Request

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C.3506(c)(2)(A)).

DATES: Written comments must be submitted on or before December 10, 1996.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC, 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information on the information collection instrument(s) and instructions should be directed to Deborah McGann Ripley, Office of Weights and Measures, National Institute of Standards and Technology, Bldg. 820, Mail Stop 223, Gaithersburg, MD 20899, telephone (301) 975–4406, fax (301) 926–4026, E-mail dripley@nist.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

NIST, in conjunction with The National Conference on Weights and Measures (NCWM), seeks to establish a standard core of data to be collected which would be used to assess the effectiveness of weights and measures programs, the economic impacts of its joint program with the state weights and measures agencies, and to share information and data thus enabling jurisdictions to make marketplace and cost-benefit analysis. The respondents will be State Weights and Measures Inspectors. The results will be used by NCWM and state weights and measures agencies for program evaluation purposes.

II. Method of Collection

State inspectors will enter their inspection data into a database residing on a server at NIST either by direct access to the database through the Internet, by mailing in a disk or using e-mail to transmit the data to NIST to append to database.

III. Data

OMB Number: None.

Form Number: None.

Type of Review: New Collection.

Affected Public: State Employees.

Estimated Number of Respondents: 40.

Estimated Time Per Response: 2 Hours.

Estimated Total Annual Cost: $8,000. (80 × $100 per hour fully burdened cost of a senior level technical manager.)

IV. Requests for Comments

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 (including hours and cost) 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 the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection: they will also become a matter of public record.

Dated: September 25, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–26142 Filed 10–10–96; 8:45 am]

BILLING CODE 3510–13–P

National Oceanic and Atmospheric Administration

[Docket No. 960910251–6251–01]

RIN 0648–ZA24

Announcement of Graduate Research Fellowships in the National Estuarine Research Reserve System for Fiscal Year 1997

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice.

SUMMARY: The Sanctuaries and Reserves Division of the Office of Ocean and Coastal Resource Management is soliciting applications for graduate fellowship funding within the National Estuarine Research Reserve System. This notice sets forth funding priorities, selection criteria, and application procedures.

The National Estuarine Research Reserve System (NERRS) of the National Oceanic and Atmospheric Administration (NOAA) announces a new program of Graduate Research Fellowships. A maximum of 42 Graduate Research Fellowships will be competitively awarded to qualified graduate students whose research occurs within the boundaries of at least on Reserve. Fellowships will start no earlier than June 1, 1997.

DATES: All applications must be postmarked no later than November 29, 1996. Notification regarding the awarding of fellowships will be issued on or about March 1, 1997.

ADDRESSES: Dr. Dwight Trueblood, Science Coordinator, NOAA/ Sanctuaries and Reserves Division, 1305 East-West Highway, N/ORM2, SSMC4, 12th Floor, Silver Spring, MD 20910, Attn: FY97 NERRS Research. Phone: 301–713–3145 ext. 174 Fax: 301–713–4362, internet: dtruebloodocean.nos.noaa.gov. See Appendix I for National Estuarine Research Reserve addresses.

FOR FURTHER INFORMATION CONTACT: For further information on research opportunities under the National Estuarine Research Reserve System, contact the on-site personnel listed in Appendix I. For application information, contact the Science Coordinator of the Sanctuaries and Reserves Division (see Addresses above).

SUPPLEMENTARY INFORMATION:

I. Authority and Background

Section 315 of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. § 1461, establishes the National Estuarine Research Reserve System (NERRS). 16 U.S.C. § 1461(e)(1)(B) authorizes the Secretary of Commerce to make grants to any coastal state or public or private person for purposes of supporting research and monitoring within a national estuarine reserve that are consistent with the research guidelines developed under subsection (c). This program is listed in the Catalog of Federal Domestic Assistance (CFDA) under ''Coastal Zone Management Estuarine Research Reserve,'' Number 11.420.

II. Information on Established National Estuarine Research Reserves

The NERRS consists of estuarine areas of the United States which are designated, developed, and managed for research and educational purposes. Each National Estuarine Research Reserve (Reserve) within the NERRS is chosen to reflect regional differences and to include a variety of ecosystem types in accordance with the classification scheme of the national program as presented in 15 CFR part 921.

Each Reserve is suited to support a wide range of beneficial uses of ecological, economic, recreational, and aesthetic value which are dependent upon maintenance of a healthy ecosystem. Each site provides habitat for a wide range of ecologically and commercially important species of fish, shellfish, birds, and other aquatic and terrestrial wildlife. Each Reserve has been designed to ensure its effectiveness as a conservation unit and as a site for long-term research and monitoring. As part of a national system, the Reserves collectively provide an excellent opportunity to address research questions and estuarine management issues of national significance. For a detailed description of the sites, contact the individual site Managers and/or Research Coordinators listed in Appendix I.

III. Availability of Funds

Funds are expected to be available on a competitive basis to any qualified graduate student to provide funds for graduate research within National Estuarine Research Reserves. Because NOAA has substantial involvement in NERRS research, funds are normally awarded through a cooperative agreement. NOAA may be involved in the award in the following manner:

The Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management, reserves the right to immediately halt activity under this award if it becomes obvious that award activities are not fulfilling the mission of the National Estuarine Research Reserve System. While day-to-day management is the responsibility of the recipient, frequent guidance and direction is provided by the Federal Government for the successful conduct of this award. Noncompliance with a Federally approved project may result in immediate halting of the award.

SRD generally will review and approve each stage of work before the next begins to assure quality scientific progression and results that will produce viable information on which to form valid, productive coastal management decisions.

All staff at NERRS sites are ineligible to submit an application for a fellowship under this Announcement. Federal funds requested must be matched by the applicant by at least 30% of the *TOTAL cost, not the Federal share, of the project.* For $15,000 in Federal fellowship funds, the required match is $6,430. It is anticipated that fellowships receiving funding under this announcement will begin by June 1, 1997.

IV. Purpose and Priorities

The NERR Graduate Research Fellowship program is intended to fund high quality research focused on improving coastal zone management while providing students with hands-on training in conducting ecological monitoring. These fellowships will provide graduate students with funds ($15,000/annum) to conduct their own research projects while also providing hands-on management-related training in ecological monitoring.

Research projects proposed in response to this announcement must: address coastal management issues identified as having local, regional, or national significance; relate them to the ''Scientific Areas of Support'' described below; and be conducted within one or more designated NERR sites. Funding is intended to provide any combination of research support, salary, tuition, supplies, or other costs as needed. As part of the ecological monitoring education program, students will be asked to provide up to 15 hours per week of assistance to the Reserve in which they are conducting research; fellows conducting multi-site projects may fulfill this requirement at one or a combination of sites but for no more than a total of 15 hours per week. This program will be designed with the on-site Reserve staff and may include on-site monitoring or research assistance, or performing additional sampling or analyses for the Reserve; this training may take place throughout the school year or may be concentrated during a specific season. Students are encouraged, but not required, to incorporate these training activities into their own research programs.

Scientific Areas of Support

NERRS specific research priorities are provided below. Proposed research projects submitted in response to this announcement must address one of the following topics:

- Investigate the effects of non-point source pollution on estuarine ecosystems;
- Investigate evaluative criteria and/or methods for estuarine ecosystem restoration;
- Investigate the importance of biodiversity and effects of invasive species on estuarine ecosystems;
- Investigate mechanisms for sustaining resources within estuarine ecosystems.

Note: It is highly recommended that applicants contact the host Reserve (see Appendix I) for site-specific and regional research priorities and to discuss the training opportunities at the site.

V. Guidelines for Application Preparation, Review, and Reporting Requirements

Applicants for SRD research fellowships must follow the guidelines presented herein. Applications not adhering to these guidelines will be returned to the applicant without further review.

Applications for graduate fellowships in the NERRS are solicited annually for award the following fiscal year. Application due dates and other pertinent information are contained in this announcement of research opportunities. *Applicants must submit an original and two (2) copies of each application and all supporting documents (curricula vitae, literature referenced, etc.), excluding transcripts and letters of reference.*

Fellowships may be funded for up to three years; funding for years two and three will be made available based on funding availability and on satisfactory progress of research as determined by the NERR Research Coordinator or Reserve Manager in consultation with the student's faculty advisor. The amount of the award is $15,000/annum; this may be used for any combination of salary, living expenses, tuition, fees and/or research supplies, and this must be matched by at least 30 percent of the award total. The student will be asked to work with the Research Coordinator or Reserve Manager to develop an

ecological monitoring education program for up to 15 hours per week. The recipient must submit an annual technical report to the host Reserve and SRD before the end of each funding cycle on the research accomplishments to-date. The awardee must acknowledge NERRS support in all relevant scientific presentations and publications. Awardees are strongly encouraged to publish their results in peer-reviewed literature and make presentations at scientific meetings.

A. Applications

Students admitted to or enrolled in a full-time Master's or Doctoral program at U.S. accredited universities are eligible to apply. Students should have completed a majority of their course work at the beginning of their fellowship and have an approved thesis research program.

Applicants are required to submit: (1) an academic résumé or a *curriculum vitae* that includes all graduate and undergraduate institutions (department or area of study, degree, and year of graduation), all publications (including undergraduate and graduate theses), awards or fellowships, and work/research experience; (2) a cover letter from the applicant indicating current academic status, research interests, and career goals, and the results of any discussion with NERR staff regarding the ecological monitoring training program; (3) a titled research proposal, not to exceed *seven (7) double-spaced pages* (in a font no smaller than 12-point courier), that includes an Abstract, Introduction, Methods and Materials, Project Significance, and Bibliography; (4) a proposed budget (see Section B, Proposal Content, below for specific guidelines); (5) a letter of support from the applicant's graduate advisor indicating the advisor's contribution (financial and otherwise) to the applicant's graduate studies; (6) an official copy of all undergraduate and graduate transcripts; and (7) two letters of reference (from other than the applicant's graduate advisor) in separate sealed envelopes. One original and two (2) copies of the information requested above, excluding the transcripts and letters of reference, must be submitted to the SRD Science Coordinator at the address in the Addresses section, postmarked no later than November 29, 1996. *Incomplete applications and applications postmarked November 30, 1996 or later, will be returned without review.*

Receipt of all applications will be acknowledged and a copy sent to the appropriate Reserve staff.

B. Proposal Content

The 7-page proposal should contain the sections described below. Note that the 7 double-spaced page limit includes only the abstract and project description; the title page, budget, curriculum vitae, literature cited and other sections are not included in the 7 pages.

1. Title page. A title page must be provided which lists student name, address and telephone number, project title, name of graduate institution, name of institution providing matching funds and amount of matching funds, name of faculty advisor, site where research is to be conducted, and number of years of requested support.

2. Abstract. A one-page abstract must be included. The abstract should state the research objectives, scientific methods to be used, and the significance of the project to a particular Reserve and the NERRS program.

3. Project description. The main body of the proposal should be a detailed statement of the work to be undertaken, and include the following components:

(a) Introduction. This section should introduce the research setting and environment. It should include a brief review of pertinent literature, and describe the research problem in relation to relevant coastal management issues and the research priorities. This section should also present the primary hypothesis upon which the project is focused, as well as any additional or component hypotheses which will be addressed by the research project.

(b) Methods. This section should state the method(s) to be used to accomplish the specific research objectives including a systematic discussion of what, when, where, and how the data are to be collected, analyzed, and reported. Field and laboratory methods should be scientifically valid and reliable and accompanied by a statistically sound sampling scheme. Methods chosen should be justified and compared with other methods employed for similar work.

Techniques should allow the testing of the hypotheses, but also provide baseline data that may be used in answering related ecological and management questions concerning the Reserve environment. Methods should be described concisely and techniques should be reliable enough to allow comparison with those made at different sites and times by different investigators. If the project is envisioned as the initial phase of a long-term effort (e.g., a monitoring program), the methods selected must be stable enough that it is unlikely that they will change drastically over the next 10–15 years. The methods must have proven their utility and sensitivity as indicators for natural or human-induced change.

Analytical methods and statistical tests applied to the data should be documented, thus providing a rationale for choosing one set of methods over alternatives. Quality control measures also should be documented (e.g., statistical confidence levels, standards of reference, performance requirements, internal evaluation criteria). The proposal should indicate by way of discussion how data are to be synthesized, interpreted and integrated into final work products, and how and where the data are to be catalogued and stored for ready retrieval at later dates.

A map clearly showing the study location and any other features of interest *must* be included. Use a U.S. Geological Survey topographic map, or an equivalent, in constructing the location map for the proposal. Consultation with Reserve personnel to identify existing maps is strongly recommended.

(c) Project Significance. This section should discuss how the proposed research effort will enhance or contribute to improving the state of knowledge of the estuary and assist coastal zone management decision making, i.e., why is the proposed research important and how can the results be used to manage coastal resources? This section must also discuss the relation of the proposed research to the research priorities stated in this research announcement. In addition, *the applicant must provide a clear discussion of how the proposed research addresses state and national estuarine and coastal resource management issues and how the results can be utilized by policy makers.* Applicability of research findings to other sites in the NERRS should be given special mention.

4. Milestone schedule. A milestone schedule is required with the proposal, and is especially important for multiple year fellowships. This schedule should show, in table form, anticipated dates for completing field work and data collection, data analysis, progress reports, the final technical report and other related activities. Use ''Month 1, Month 2,'' rather than June, July, etc., in preparing these charts.

5. Personnel and project management. The proposal must include a complete description of how the project will be managed, including the name and expertise of faculty advisors and other team members. Evidence of ability to successfully complete the proposed

research should be supported by reference to similar efforts performed.

6. Literature cited. This section should provide complete references for current literature, research, and other appropriate published and unpublished documents cited in the text of the proposal.

7. Budget. The amount of Federal funds requested ($15,000 per fellowship per year) must be matched by the applicant by at least 30% of the *total* project cost (i.e., $6,430 match for $15,000 in Federal funds). Cash or the value of goods and services, except land, directly benefiting the research project may be used to satisfy the matching requirements. Overhead costs may also be used as match; overhead for these awards are limited to 10 percent of total requested Federal funds. *Funds from other Federal agencies and NERRS staff salaries supported by Federal funds may not be used as match.* General guidelines for the non-Federal share are contained in 15 CFR Part 24 and OMB Circular A–110. SRD recommends that the applicant work with their institution's research office to develop their budget (see section D, below).

The applicant may request funds under any of the categories listed below as long as the costs are reasonable and necessary to perform research. The budget should contain itemized costs with appropriate narratives justifying proposed expenditures. Budget categories are to be broken down as follows, clearly showing both Federal and non-Federal shares *side by side:*

—Salary. The rate of pay (hourly, monthly, or annually) should be indicated. Salaries requested must be consistent with the institution's regular practices. The submitting organization may request that salary data remain confidential information.

—Fringe benefits. Fringe benefits (i.e., social security, insurance, retirement) may be treated as direct costs as long as this is consistent with the institution's regular practices.

—Equipment. While not their primary purpose, fellowship funds may be approved for the purchase of major equipment only if the following conditions are met: (a) a lease versus purchase analysis has been conducted by the applicant or the applicant's institution and the findings determine that purchase is the most economical method of procurement; and (b) the equipment does not exist at the recipient's institution or the Reserve site and is essential for the successful completion of the project.

The justification must discuss each of these points along with the purpose of the equipment and a justification for its use, and include a list of equipment to be purchased, leased, or rented by model number and manufacturer, where known. At the termination of the fellowship, disposition of equipment acquired costing $5,000 or more with a life expectancy of 2 years or more will be determined by the NOAA Property Administrator.

—Travel. The type, extent, and estimated cost (broken down by transportation, lodging and per diem) of travel should be explained and justified in relation to the proposed research; the justification should also identify the person traveling. Travel expense is limited to round trip travel to field research locations and should not exceed 40 percent of total costs.

—Other direct costs. Other anticipated costs should be itemized under the following categories:

• *Materials and Supplies.* The budget should indicate in general terms the types of expendable materials and supplies required and their estimated costs;

• *Research Vessel or Aircraft Rental.* Include purpose, unit cost, duration of use, user, and justification;

• *Laboratory Space Rental.* Funds may be requested for use of laboratory space at research establishments away from the student's institution while conducting studies specifically related to the proposed effort;

• *Telecommunication Services and Reproduction Costs.* Include expenses associated with telephone calls, facsimile, copying, reprint charges, film duplication, etc.;

• *Computer Services.* The cost of unusual or costly computer services may be requested and must be justified.

—Indirect costs. Overhead costs under NERRS fellowship awards are limited to 10% of award amount.

8. Requests for reserve support services. On-site Reserve personnel sometimes can provide limited logistical support for research projects in the form of manpower, equipment, supplies, etc. Any request for Reserve support services, including any services provided as match, should be approved by the Reserve Manager or Research Coordinator prior to application submission and be included as part of the application package in the form of written correspondence. Reserve resources which are supported by Federal funds are not eligible to be used as match.

9. Coordination with other research in progress or proposed. SRD encourages collaboration and cost-sharing with other investigators to enhance scientific capabilities and avoid unnecessary duplication of effort. Applications should include a description of how the research will be coordinated with other research projects that are in progress or proposed, if applicable.

10. Permits. The applicant must apply for any applicable state or Federal permits. A copy of the permit application and supporting documentation should be attached to the application as an appendix. SRD must receive notification of the approval of the permit application before funding can be approved.

C. Application Review and Evaluation

All applications will be evaluated by the Sanctuaries and Reserves Division staff, a host Reserve scientific panel of no less than three reviewers from the scientific community, and the appropriate Research Coordinator and/or Reserve Manager. Criteria for selection include: (1) academic excellence based on the applicant's transcripts and two letters of reference; and (2) the quality of proposed research and its applicability to the NERRS Scientific Areas of Support and specific Reserve research and resource management goals. No more than two Fellowships will be awarded at any one time for any one Reserve. Final funding recommendations will be made by the Chief of the Sanctuaries and Reserves Division, based upon scientific review and programmatic considerations.

D. Fellowship Awards

Awards are normally made to the fellow's graduate institution through the use of a cooperative agreement. Applicants whose projects are recommended for funding will be required to complete all necessary Federal financial assistance forms (SF–424, SF–424A, SF–424B, CD–511, and SF–LLL, OMB Control Numbers 0348–0043, 0348–0044, and 0348–0046), which will be provided by SRD with the letter of fellowship notification. Therefore, SRD recommends that all applicants work with their graduate institution during the development of their application to ensure concurrence on budgetary issues (e.g. the use of salary and fringe benefits as match).

VI. Other Requirements

Recipients and subrecipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal financial assistance awards.

All non-profit and for-profit applicants are subject to a name-check review process. Name checks are

intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either: (1) The delinquent account is paid in full; (2) A negotiated repayment schedule is established and at least one payment is received; or (3) Other arrangements satisfactory to the Department of Commerce are made.

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding. In addition, any recipients who are past due for submitting acceptable final reports under any previous SRD-funded research will be ineligible to be considered for new awards until final reports are received, reviewed and deemed acceptable by SRD.

A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

If an application is selected for funding, the Department of Commerce (DOC) has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC. However, funding priority will be given to the additional years of multi-year proposals upon satisfactory completion of the first year of research.

Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

All primary applicants must submit a completed Form CD–511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matter; Drug-Free Workplace Requirements and Lobbying,'' and the following explanations are hereby provided:

1. Nonprocurement Debarment and Suspension. Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, ''Nonprocurement Debarment and Suspension,'' and the related section of the certification form prescribed above applies;

2. Drug-Free Workplace. Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, ''Governmentwide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies;

3. Anti-Lobbying. Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on the use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form which applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

4. Anti-Lobbying Disclosures. Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR Part 28, Appendix B.

5. Lower Tier Certifications. Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying,'' and disclosure form SF–LLL, ''Disclosure of Lobbying Activities.'' The original form CD–512 is intended for the use of recipients. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

Buy American-Made Equipment or Products: Applicants are hereby notified that any equipment or products authorized to be purchased with funding provided under this program should be American-made to the extent feasible.

Indirect Costs: The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less.

Preaward Activities: If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover preaward costs.

VII. Classification

This notice has been determined to be ''not significant'' for purposes of E.O. 12866.

This action is categorically excluded from the requirement to prepare an environmental assessment by NOAA Administrative Order 216–6.

This notice does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

This notice does not contain a collection of information subject to the Paperwork Reduction Act.

(Federal Domestic Assistance Catalog Number 11.420 Coastal Zone Management Estuarine Research Reserves)

Dated: September 27, 1996.

David L. Evans,

Acting Deputy Assistant Administrator, Ocean Services and Coastal Zone Management.

Appendix I. NERRS On-Site Staff

Alabama

Mr. L.G. Adams, Manager, Weeks Bay National Estuarine Research Reserve, 11300 U.S. Highway 98, Fairhope, AL 36532, (334) 928–9792

California

Mr. Steve Kimple, Manager, Dr. Jane Caffrey, Research Coordinator, Elkhorn Slough National Estuarine Research Reserve, 1700 Elkhorn Road, Watsonville, CA 95076, (408) 728–2822, jcaffrey@cats.ucsc.edu

Mr. Ed Navarro, Acting Manager, Tijuana River National Estuarine Research Reserve, 301 Caspian Way, Imperial Beach, CA 92032, (619) 575–3613 (site), (619) 642–4209 (Navarro)

Delaware

Ms. Sarah Cooksey, Manager, Dr. William Meredith, Research Coordinator, Delaware National Estuarine Research Reserve, Department of Natural Resources and Environmental Control, Division of Soil and Water Conservation, P.O. Box 1401, Dover, DE 19903, (302) 739–3451 (Cooksey), (302) 739–3493 (Meredith), wmeredith@state.de.us

Florida

Mr. Woodward Miley II, Manager, Mr. Lee Edmiston, Research Coordinator, Apalachicola River National Estuarine Research Reserve, 261 7th Street, Apalachicola, FL 32320. (904) 653–8063

Mr. Gary Lytton, Manager, Dr. Todd Hopkins, Research Coordinator, Rookery Bay National Estuarine Research Reserve, 10 Shell Island Road, Naples, FL 33942, (813) 775–8845, thopkins@naplesnet.com

Georgia

Mr. Buddy Sullivan, Manager, Dr. Stuart Stevens, Research Coordinator, Sapelo Island National Estuarine Research Reserve, Department of Natural Resources, P.O. Box 15, Sapelo Island, GA 31327,

(912) 485–2251 (Sullivan), (912) 264–7218 (Stevens), stuart@dnrcrd.dnr.state.ga.us

Maine

Mr. James List, Manager, Dr. Michele Dionne, Research Coordinator, Wells National Estuarine Research Reserve, RR #2, Box 806, Wells, ME 04090, (207) 646–1555, dionne@saturn.caps.maine.edu

Maryland

Ms. Mary Ellen Dore, Manager, Mr. David Nemazie, Research Coordinator, Chesapeake Bay National Estuarine Research Reserve in Maryland, Dept. of Natural Resources, Tawes State Office Building, E–2, 580 Taylor Avenue, Annapolis, MD 21401, (410) 974–3382 (Dore), (410) 228–9250 x615 (Nemazie), nemazie@co.cees.edu

Massachusetts

Ms. Christine Gault, Manager, Dr. Richard Crawford, Research Coordinator, Waquoit Bay National Estuarine Research Reserve, Dept. of Environmental Management, P.O. Box 3092, Waquoit, MA 02536, (508) 457–0495, wbnerr@capecod.net

New Hampshire

Mr. Peter Wellenberger, Manager, Great Bay National Estuarine Research Reserve, New Hampshire Fish and Game Department, 37 Concord Road, Durham, NH 03824, (603) 868–1095

New York

Ms. Elizabeth Blair, Manager, Mr. Chuck Nieder, Research Coordinator, Hudson River National Estuarine Research Reserve, New York State Department of Environmental Conservation, c/o Bard College Field Station, Annandale-on-Hudson, NY 12504, (914) 758–5193, cnieder@ocean.nos.noaa.gov

North Carolina

Dr. John Taggart, Manager, Dr. Steve Ross, Research Coordinator, North Carolina National Estuarine Research Reserve, 7205 Wrightsville Avenue, Wilmington, NC 28403, (910) 256–3721 (Taggart), (910) 395–3905 (Ross), rosss@uncwil.edu

Ohio

Mr. Eugene Wright, Manager, Dr. David Klarer, Research Coordinator, Old Woman Creek National Estuarine Research Reserve, 2514 Cleveland Road, East, Huron, OH 44839, (419) 433–4601, dklarer@ocean.nos.noaa.gov

Oregon

Mr. Michael Graybill, Manager, Dr. Steve Rumrill, Research Coordinator, South Slough National Estuarine Research Reserve, P.O. Box 5417, Charleston, OR 97420, (541) 888–5558, ssnerr@harborside.com

Puerto Rico

Ms. Carmen Gonzalez, Manager, Jobos Bay National Estuarine Research Reserve, Dept. of Natural Resources, Call Box B, Aguirre, PR 00704, (809) 853–4617, cgonzalez@ocean.nos.noaa.gov

Rhode Island

Mr. Allan Beck, Manager, Narragansett Bay National Estuarine Research Reserve, Dept. of Environmental Management, Box 151, Prudence Island, RI 02872, (401) 683–5061

South Carolina

Mr. Michael D. McKenzie, Manager, Dr. Elizabeth Wenner, Research Coordinator, Ashepoo-Combahee-Edisto (ACE) Basin, South Carolina Wildlife and Marine Resources Department, P.O. Box 12559, Charleston, SC 294212, (803) 762–5052 (McKenzie), (803) 736–5050 (Wenner), wennere@cofc.edu

Dr. Dennis Allen, Manager, Dr. Joe Schubauer-Berigan, Research Coordinator, North Inlet-Winyah Bay National Estuarine Research Reserve, Baruch Marine Field Laboratory, P.O. Box 1630, Georgetown, SC 29442, (803) 546–3623, jschubauer@belle.baruch.sc.edu

Virginia

Dr. Maurice P. Lynch, Manager, Dr. Jeffrey Shields, Research Coordinator, Chesapeake Bay National Estuarine Research Reserve in Virginia, Virginia Institute of Marine Science, College of William and Mary, P.O. Box 1347, Gloucester Point, VA 23062, (804) 642–7135, jeff@vims.edu

Washington

Mr. Terry Stevens, Manager, Dr. Douglas Bulthuis, Research Coordinator, Padilla Bay National Estuarine Research Reserve, 1043 Bayview-Edison Road, Mt. Vernon, WA 98273, (360) 428–1558, bulthuis@padillabay.gov

[FR Doc. 96–26206 Filed 10–10–96; 8:45 am]
BILLING CODE 3510–08–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Taiwan

October 8, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 11, 1996.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6719. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing, special shift and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 19, 1995). Also see 61 FR 3004, published on January 30, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 8, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 24, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on October 11, 1996 you are directed to adjust the limits for the following categories, as provided under the terms of the current bilateral textile agreement concerning textile products from Taiwan:

Category	Twelve-month limit [1]
Group I	
200–224, 225/317/326, 226, 227, 229, 300/301/607, 313–315, 360–363, 369–L/670–L/870 [2], 369–S [3], 369–O [4], 400–414, 464–469, 600–606, 611, 613/614/615/617, 618, 619/620, 621–624, 625/626/627/628/629, 665, 666, 669–P [5], 669–T [6], 669–O [7], 670–H [8] and 670–O [9], as a group.	589,846,757 square meters equivalent.
Sublevels in Group I	
625/626/627/628/629.	18,401,129 square meters.
Within Group I Subgroup	
200	695,421 kilograms.
Group II	
237, 239, 330–332, 333/334/335, 336, 338/339, 340–345, 347/348, 349, 350/650, 351, 352/652, 353, 354, 359–C/659–C [10], 359–H/659–H [11], 359–O [12], 431–444, 445/446, 447/448, 459, 630–632, 633/634/635, 636, 638/639, 640, 641–644, 645/646, 647/648, 649, 651, 653, 654, 659–S [13], 659–O [14], 831–844 and 846–859, as a group.	734,462,059 square meters equivalent.
Sublevels in Group II	
239	5,521,888 kilograms.
331	532,312 dozen pairs.
338/339	957,907 dozen.
340	1,284,178 dozen.
345	122,082 dozen.
347/348	1,454,317 dozen of which not more than 1,288,567 dozen shall be in Categories 347–W/348–W [15].
352/652	3,099,837 dozen.
359–H/659–H	4,985,217 kilograms.
433	14,498 dozen.
438	27,683 dozen.
442	44,043 dozen.
443	47,013 numbers.
445/446	142,122 dozen.
631	5,006,303 dozen pairs.
633/634/635	1,667,128 dozen of which not more than 978,503 dozen shall be in Categories 633/634 and not more than 867,079 dozen shall be in Category 635.
638/639	6,513,191 dozen.
640	947,241 dozen of which not more than 281,710 dozen shall be in Category 640–Y [16].
642	831,532 dozen.
647/648	5,464,466 dozen of which not more than 5,141,289 dozen shall be in Categories 647–W/648–W [17].
Group II Subgroup	
333/334/335, 341, 342, 350/650, 351, 447/448, 636, 641 and 651, as a group.	75,386,066 square meters equivalent.
Within Group II Subgroup	
342	225,932 dozen.
351	350,905 dozen.
447/448	20,929 dozen.
636	402,015 dozen.
651	440,823 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

[2] Category 870; Category 369–L: only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6090; Category 670–L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025.

[3] Category 369–S: only HTS number 6307.10.2005.

[4] Category 369–O: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015, 4202.92.6090 (Category 369–L); and 6307.10.2005 (Category 369–S).

[5] Category 669–P: only HTS numbers 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000.

[6] Category 669–T: only HTS numbers 6306.12.0000, 6306.19.0010 and 6306.22.9030.

[7] Category 669–O: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000 (Category 669–P); 6306.12.0000, 6306.19.0010 and 6306.22.9030 (Category 669–T).

[8] Category 670–H: only HTS numbers 4202.22.4030 and 4202.22.8050.

[9] Category 670–O: all HTS numbers except 4202.22.4030 4202.22.8050 (Category 670–H); 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025 (Category 670–L).

[10] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[11] Category 359–H: only HTS numbers 6505.90.1540 and 6505.90.2060; Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[12] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010 (Category 359–C); 6505.90.1540 and 6505.90.2060 (Category 359–H).

[13] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[14] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S).

[15] Category 347–W: only HTS numbers Category 347–W: only HTS numbers 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.22.3030, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.42.4050, 6203.42.4060, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–W: only HTS numbers 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.22.3050, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.62.4055, 6204.62.4065, 6204.69.6010, 6204.69.9010, 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

[16] Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[17] Category 647–W: only HTS numbers 6203.23.0060, 6203.23.0070, 6203.29.2030, 6203.29.2035, 6203.43.2500, 6203.43.3500, 6203.43.4010, 6203.43.4020, 6203.43.4030, 6203.43.4040, 6203.49.1500, 6203.49.2015, 6203.49.2030, 6203.49.2045, 6203.49.2060, 6203.49.8030, 6210.40.5030, 6211.20.1525, 6211.20.3820 and 6211.33.0030; Category 648–W: only HTS numbers 6204.23.0040, 6204.23.0045, 6204.29.2020, 6204.29.2025, 6204.29.4038, 6204.63.2000, 6204.63.3000, 6204.63.3510, 6204.63.3530, 6204.63.3532, 6204.63.3540, 6204.69.2510, 6204.69.2530, 6204.69.2540, 6204.69.2560, 6204.69.6030, 6204.69.9030, 6210.50.5035, 6211.20.1555, 6211.20.6820, 6211.43.0040 and 6217.90.9060.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–26208 Filed 10–10–96; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Army

Draft Environmental Impact Statement (DEIS) for the Relocation of the U.S. Army Chemical School and U.S. Army Military Police School to Fort Leonard Wood, MO

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability (NOA).

SUMMARY: The Army has prepared a DEIS for the relocation of the U.S. Army Chemical School and the U.S. Army Military Police School from Fort McClellan, Alabama, to Fort Leonard Wood, Missouri. The relocation is part of the approved 1995 Base Closure and Realignment actions mandated by the Base Closure and Realignment Act of 1990 (Public Law 101–510), and subsequent actions in compliance with this law. The DEIS describes the proposed action which involves the relocation of military mission activities, construction of support facilities, and relocation of personnel to Fort Leonard Wood. Alternative methods for implementing this mandated Base Realignment and Closure (BRAC) action at Fort Leonard Wood are described and analyzed in the DEIS.

Availability of DEIS Copies

Copies of the DEIS have been forwarded to the U.S. Environmental Protection Agency; other federal, state and local agencies; public officials; and organizations and individuals who previously requested copies of the DEIS. Copies of the DEIS are available for review at the following public and other libraries: Kinderhook Regional Library, 135 Harwood Avenue, Lebanon, Missouri; Kinderhook Regional Library, Historic 66 West, Waynesville, Missouri; Rolla Public Library, 900 Pine Street, Rolla, Missouri; Kansas City Public Library, 311 East 12th Street, Kansas City, Missouri; St. Louis County Library, Main Branch, 1640 South Lindbergh, St. Louis, Missouri; Rolla Public Library, 900 Pine Street, Rolla, Missouri; Clarke Engineer School Library, 3202 Nebraska Avenue North, Fort Leonard Wood, Missouri; Texas County Library, 117 West Walnut Street, Houston, Missouri; and Fisher Library, U.S. Army Chemical School, 5th Avenue, Bldg. 1081, Fort McClellan, Alabama. Copies of the DEIS may also be obtained by writing or calling: U.S. Army Corps of Engineers, Kansas City District, ATTN: MRKEP–PR (Mr. Alan Gehrt), 601 E. 12th Street, Kansas City, MO 64106–2896, or by calling (816) 426–3358 or telefax (816) 426–2142.

DEIS Review Period

The review period for the DEIS will end 45 days after publication of the U.S. Environmental Protection Agency NOA in the Federal Register. Comments on the DEIS will be used in preparing the Final EIS and a Record of Decision for the Army action.

Questions and Comments

Questions about the DEIS and written comments should also be addressed to Mr. Alan Gehrt at the Kansas City District, Corps of Engineers (address, phone and fax as provided above). Written comments may be submitted up to 45 calendar days from publication of this notice in the Federal Register by the U.S. Environmental Protection Agency.

Public Workshop and Public Hearing

A public workshop and public hearing will be held to provide the public with the opportunity to provide comments on the DEIS. The public workshop will be conducted using an open house format. The public workshop will be held in the late afternoon hours. Interested persons are invited to attend this open house public workshop to preview summary information from the DEIS, and to discuss the action with Army representatives. The public hearing will be held later in the evening on the same day as the public workshop. The public hearing will provide an opportunity for all interested parties to present oral and written comments on the DEIS. The specific date, time and location of these meetings will be published in local newspapers and announced in notices to be mailed to all persons on the EIS mailing list.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I,L&E).

[FR Doc. 96–25660 Filed 10–10–96; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507(j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by October 16, 1996. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before December 10, 1996.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer: Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 7th & D Streets, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651. Written comments regarding the regular clearance and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronic mailed to the internet address #FIRB@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3506(c)(2)(A)) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information

collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated:

Gloria Parker,

Director, Information Resources Group.

Office of Educational Research and Improvement

Type of Review: New.

Title: Technology Literacy Challenge Fund (TLCF).

Abstract: The Technology Literary Challenge Fund is a new program to help schools prepare student for the 21st Century. State education agencies (SEAs) will receive formula grants designed to assist local education agencies (LEAs) in achieving four goals for technology in education: train teachers to help students learn using technology; provide access to computers in the classroom; connect every classroom to the information superhighway; and integrate effective software and on-line resources into school's curriculum.

Additional Information: Unlike many other state formula grant programs administered by the Department of Education, funds for the TLCF became available in October, 1996. This is a new program for which each State must submit a statewide educational technology plan. All states must either modify existing technology plans or provide one before funds can be obligated. States must award grants to LEAs competitively and must be afforded time to do so in an orderly way. Because of the urgency of the need to receive State plans, we request that an emergency clearance procedure for the application form be approved.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't SEAs and LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 58.

Burden Hours: 1,160.

[FR Doc. 96–25716 Filed 10–10–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Meeting on TRU Waste Mobile Systems Capability Plan

AGENCY: U.S. Department of Energy.

ACTION: Notice of meeting.

SUMMARY: The Department of Energy (DOE) is announcing that it will hold a meeting to present and discuss the TRU Waste Mobile Systems Capability Plan prepared by the Carlsbad Area Office. This meeting is being held to inform interested vendors of mobile systems applicable to the certification/characterization of TRU waste of the contents of the plan and to solicit vendor feedback on possible methods of requesting proposals for future privatization of the use of mobile systems.

DATES AND ADDRESSES: The meeting will be held on October 31, 1996, from 9 a.m. to 5 p.m. in Room 8–E089 (Program Review Room) of the Forrestal Building, U.S. Department of Energy Headquarters, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: John F. Suermann, Office of National TRU Waste Operations, U.S. Department of Energy, Carlsbad Area Office, PO Box 3090, Carlsbad, NM 88221 or call (505) 234–7475.

SUPPLEMENTARY INFORMATION: This meeting is being jointly sponsored by Mr. Alvin Alm, Assistant Secretary for Environmental Management, and the Carlsbad Area Office to present to commercial sector vendors the concept envisioned by the plan for using mobile systems throughout the DOE complex in the certification and characterization of TRU waste. The plan is aimed at the near term implementation and deployment of developed mobile systems (i.e., those that have progressed to at least the point of field testing and demonstration and not simply conceptual in nature). The Assistant Secretary and the Carlsbad Area Office desire feedback from those attending the meeting on the contents of the plan and also on suggested ways to structure future requests for proposals on the subject of privatizing the employment of mobile systems within the commercial sector. All interested parties are encouraged to attend this meeting and contribute to the afternoon discussion period.

AGENDA: The agenda for the meeting is as follows:

(1) Welcome and introductory remarks;

(2) Overview of the National TRU Waste Management Program;

(3) Preliminary results of the Mobile Systems Capability Plan and considerations for a demonstration program;

(4) Facilitated discussion period with commercial vendors in attendance on their interests and needs regarding technical, management, and financial issues related to privatization;

(5) Comments by and discussion with the Assistant Secretary on privatization and vendor participation in the program.

PUBLIC PARTICIPATION: The meeting will be open to DOE personnel and commercial vendors of mobile systems who wish to attend. However seating is limited and will be available on a first-come, first-served basis and attendees will be required to comply with access security provisions applicable to the meeting room. Individuals who need further assistance should contact John Suermann at (505) 234–7475 [8 a.m.–4 p.m., MDT] by October 24, 1996.

E. Kent Hunter,

Assistant Manager, Office of National TRU Waste Operations.

[FR Doc. 96–26163 Filed 10–10–96; 8:45 am]

BILLING CODE 6450–01–P

Senior Executive Service; Performance Review Board

AGENCY: U. S. Department of Energy.

ACTION: SES Performance Review Board Standing Register.

SUMMARY: This notice provides the Performance Review Board Standing

Register for the Department of Energy. This listing supersedes all previously published lists of PRB members.

EFFECTIVE DATE: These appointments are effective as of September 30, 1996.

Acharya, Sarbeswar NMI
Ackerly, Lawrence R
Alcock, Robert M.
Alvarez, Robert
Andersen, Arthur T
Anderson, Phyllis L.
Arthur III, William John
Baca, Frank A
Bacher, Stephen Eugene
Bajura, Rita A
Baker, Kenneth E
Bamberger, Craig S
Barber, Robert W
Barker Jr., William L
Barnes, Wesley E
Barrett, Lake H.
Bartholomew, John W
Baublitz, John E
Bechtel, Thomas F
Beckett, Thomas H
Beecy, David J
Bell, George E
Bellows, Jerry L
Benedict, George W
Bergholz Jr., Warren E
Berkovitz, Dan M
Bernard, Peter A
Berube, Raymond P
Bielan, Douglas J
Bishop, Yvonne M
Bixby, Willis W
Black, Richard L
Blackwood, Edward B.
Borchardt, Charles A
Borgstrom, Carol M
Borgstrom, Howard G
Bornhoft Jr., Budd B
Bostock, Judith L
Bowman, Gerald C.
Boyd, Gerald G
Bradley, Theron M. Jr.
Brechbill, Susan R
Brendlinger, Terry L.
Bresee, James C
Breznay, George
Brice, James F
Brodman, John R
Brolin, Edson C
Brown, Frederick R
Brown, Richard W.
Brown Jr., Charles H
Brush, Peter N.
Bryant, McKinley E
Buffum, Elizabeth
Canter, Howard R.
Carabetta, Ralph A
Cardinali, Henry A
Carlson, Kathleen Ann
Carlson, Lynda T
Carlson, John T.
Caruso, Guy F.
Castelli, Brian T.
Cecchetti, Elizabeth A
Chappell, Gerald F
Chaput, Ernest S
Cheney, David W.
Christensen, William J
Christopher, Robert K.
Chun, Sun W
Chupka, Marc
Claflin, Alan B
Clark, John R
Clausen, Max Jon
Cole, George F III
Combs, Marshall O
Cone, Ronald E
Conley, Michael W
Cook, John S
Cornwell, Thomas F.
Cote, Joel S.
Cowan, Stephen P.
Crandall, David H.
Crawford, Timothy S.
Creedon, Madelyn R.
Cross, Claudia A.
Crowe, Richard C.
Cumesty, Edward G.
Curtis, James H.
Cygelman, Andre I.
Czajkowski, Anthony F.
Darugh, David G.
Davies, Nelia A.
Davis, James T.
Decker, James F.
Degrasse Jr., Robert W.
Dehanas, Thomas W.
Dehmer, Patricia M.
Deihl, Michael A.
Dempsey, Robert D.
Dennison, William J.
Der, Victor K.
Dials, George E.
Diaz Jr., Romulo L.
Diebold, Robert E.
Difiglio, Carmen
Dirks, Timothy M.
Divone, Louis V.
Doherty, Donald P.
Domagala, Martin J.
Dorinson, Patrick R. C.
Dorsey, William A.
Doyle, Mark J.
Durnan, Denis D.
Edmondson, John J.
Egger, Mary H.
Engel, Walter P.
Erb, Donald E.
Esvelt, Terence G.
Evans, Thomas W.
Fausett, Stephen A.
Feibus, Howard
Feider, James C.
Fiore, James J.
Fiore, Joseph N.
Fiori, Mario P.
Fitzgerald Jr., Joseph E.
Fitzgerald, Cheryl P.
Ford, John A.
Ford, James L.
Fowler, Jennifer Johnson
Fowler, Mary E.
Fox Penner, Peter S.
Frank, Clyde William
Franklin, John R.
Frei, Mark W.
Friedman, Gregory H.
Furiga, Richard D.
Fygi, Eric J.
Garson, Henry K.
Garvie, William H.
Gebus, George R.
Geidl, John C.
Gibson, Judith D.
Gibson Jr., William C.
Gilbertson, Mark A.
Goldenberg, Neal
Goldenberg, Ralph D.
Goldman, David Tobias
Goldsmith, Robert
Gollomp, Lawrence A.
Gottlieb, Paul
Greenwood, Johnnie D.
Gross, Thomas J.
Gruenspecht, Howard K.
Guidice, Carl W.
Guidice, Stephen J.
Gunn Jr., Marvin E.
Gurule, David A.
Guyer, Arthur E.
Haberman, Norton
Hacskaylo, Michael S.
Hahn, Richard D.
Hale, Douglas R.
Hall Jr., Spain W.
Hall, James C.
Hamer Jr., David L.
Hamric, Jon P.
Hanessian, Souren
Hansen, Charles A.
Hardin, Michael G.
Hardy, Randall W.
Harris, Jessie J.
Hartman, James K.
Harvey, Gordon W.
Haspel, Abraham E.
Hawkins, Francis C.
Heath, Charles C.
Heenan, Thomas F.
Heinkel, Joan E.
Henderson, Lynwood H.
Hendrie, David L.
Henry, Carol J.
Hensley Jr., Willie F.
Heusser, Roger K.
Hickey, Sue F.
Hickok, Steven G.
Hirahara, James S.
Hoffman, Allan R.
Holbrook, Phillip L.
Hopf, Richard H.
Hopkins, T. J.
Hughes, Jeffrey L.
Hunter, Ray A.
Hutzler, Mary Jean
Inge Jr., Edwin F.
Inlow, Rush O.
Izatt, Ronald D.
Izell, Kathy D.
Jaffe, Harold
Jhirad, David J.
Johansen, Judith A.

Johnson, Milton D.
Johnson, Gerald W.
Johnson, Owen B.
Johnson, Frederick M.
Johnston, Marc
Jones, C. Rick
Jones, David A.
Joseph, Antionette Grayson
Juckett, Donald A.
Karol, Michael S.
Katz, Maurice J.
Kelly, Cynthia C.
Kenderdine, Melanie Anne
Kennedy, John P.
Kight, Gene H.
Kilgore, Webster C.
Kilpatrick, Michael A.
Kingsbury, Robert L.
Kinzer, Jackson E.
Klein, Keith A.
Klein, Susan Elaine
Kripowicz, Robert S.
Landers, James C.
Lane, Anthony R.
Langenfeld, Cherri J.
Lash, Terry R.
Lavin, Ann W.
Leclaire, David B.
Lewis, Lenora J.
Lewis Jr., William A.
Lewis, Roger A.
Lewis Jr., Howard E.
Lien, Stephen C.T.
Lightner, Ralph G.
Loose, Ronald R.
Lowe, David C.
Lowe, Owen W.
Luongo, Kenneth N.
Lytle, Jill Ellman
MacDougall, Carmen E.
Mahaley, Joseph S.
Mangeno, James J.
Mann, Thomas O.
Marchese, Andrew R.
Marianelli, Robert S.
Marlay, Robert C.
Marquez, Richard A.
Mathamel, Martin S.
Maxey, Kenneth G.
McCallum, Edward J.
McClain, Linda K.
McCoy, Frank R. III
McCraney, Percy P.
McFadden Jr., George L.
McIntyre, Donald D.
Michelsen, Stephen J.
Miller, Clarence L.
Miller, Deborah C.
Miller, Jonathan S.
Millhone, John P.
Milner, Ronald A.
Monlyn, Sylvia McDonald
Moore, Kenneth G.
Moorer, Richard F.
Morris, Marcia L.
Mournighan, Stephen D.
Mravca, Andrew E.
Murphy, Robert E.
Nealy, Carson L.
Neilsen, Finn K.
Nelson, David B.
Nelson, Rodney R.
Nettles Jr., John J.
Nichols, Clayton R.
Nolan, Elizabeth A.
Nulton, John D.
O'Brien Jr., Robert A.
O'Fallon, John R.
Oliver, Lawrence R.
Olson, Gary C.
Owendoff, James M.
Parnes, Sanford J.
Patil, Pandit G.
Patrinos, Aristides A.
Patton, Gloria S.
Pearman Jr., Donald W.
Pearson, Orin F.
Pelletier, Raymond
Perin, Stephen G.
Pesyna, Gail M.
Peters, Franklin G.
Pettengill, Harry J.
Pettis, Lawrence A.
Piper II, Lloyd L.
Plaisance Jr., Paul J.
Podonsky, Glenn S.
Poe, Robert W.
Pollock III, Walter E.
Ponce, Victoria L.
Powers, James G.
Pray, Charles P.
Price Jr., Robert S.
Prudom, Gerald H.
Przybylek, Charles S.
Pumphrey, David L.
Pye, David B.
Rabben, Robert G.
Reddick, William C.
Reicher, Dan W.
Reid, James E.
Rhoades, Daniel R.
Richardson, Steven D.
Richardson, Herbert
Roberson, Jessie M.
Roberts, Michael
Robertson, John S.
Robison, Sally A.
Rock, Bernard J.
Rodeheaver, Thomas N.
Rodekohr, Mark E.
Rohlfing, Joan B.
Rollow, Thomas A.
Romm, Joseph J.
Rooney, John M.
Rosselli, Robert M.
Rousso, Samuel NMI
Rudins, George
Rudy, Gregory P.
Ryder, Thomas S.
Salm, Philip E.
Saltzman, Jerome D.
San Martin, Robert L.
Scheetz, Karl G.
Schmitt, Carl H.
Schmitt, William A.
Schmitt, Eugene C.
Schnapp, Robert
Schneider, Sandra L.
Scott, Randal
Semedo, Barbara
Shafer, John M.
Shelor, Dwight E.
Sherman, Helen O.
Shirley Sr., John W.
Siebert Jr., Arlie B.
Sienkiewicz Jr., E.W.
Simon, Robert M.
Simpson, Charles Kyle
Singer, Marvin I.
Sitzer, Scott B.
Sjostrom, Leonard C.
Smedley, Elizabeth E.
Smith, Douglas W.
Smith, Alexandra B.
Sohinki, Stephen M.
Spigal, Harvard P.
Stadler, Silas D.
Stallman, Robert M.
Stark, Richard M.
Stello Jr., Victor (NMN)
Stewart Jr., Jake W.
Stewart Jr., Frank M.
Stone, Philip M.
Strakey Jr., Joseph P.
Sulak, Stanley R.
Sullivan, Mary Anne
Swink, Denise F.
Sye, Linda G.
Taboas, Anibal L.
Tamura, Thomas T.
Tavares, Antonio F.
Tedrow, Richard T.
Thomas, Iran L.
Thompson, Jerry F.
Throckmorton, Ralph R.
Tierney, Charles R.
Tillman, Luther J.
Todd, G Thomas
Torkos, Thomas M.
Tryon, Arthur E.
Tseng, John C.
Turi, James A.
Turner, James M.
Tuttle III, Edward H.
Twining, Bruce G.
Vaeth, Terry A.
Vagts, Kenneth A.
Vanzandt, Vickie R.
Volpe, Frederick J.
Wagner, Mary Louise
Wagoner, John D.
Walgren, Douglas
Walsh, Robert J.
Walton, Howard L.
Warnick, Walter L.
Watkins, Anthony Lee
Wegner, Gerald C.
Weidenfeller, Nancy K.
Weigand, Gilbert G.
Werner, James D.
Whitaker, Mark B. Jr.
White, James K.
Whiteman, Albert E.
Wieber, Paul R.
Wieker, Thomas L.
Wilcynski, John M.
Wilken, Daniel H.

Williams, Mark H.
Willis, John W.
Wilmot, Edwin L.
Wisenbaker Jr., William
Wooley, John C.
Yuan-Soo Hoo, Camille C.

Issued in Washington, DC.

Archer L. Durham,

Assistant Secretary for Human Resources and Administration.

[FR Doc. 96–26161 Filed 10–10–96; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Efficiency and Renewable Energy

[Case No. DH–007]

Energy Conservation Program for Consumer Products: Granting of the Application for Interim Waiver and Publishing of the Petition for Waiver of HEAT–N–GLO Fireplace Products, Inc. From the DOE Vented Home Heating Equipment Test Procedure

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice.

SUMMARY: Today's notice grants an Interim Waiver to HEAT–N–GLO Fireplace Products, Inc. (HEAT–N–GLO) from the existing Department of Energy (DOE or Department) test procedure regarding pilot light energy consumption for its model AT–SUPREME, BAY–GDV, BAY–STOVE, DVT–INSERT, DVT–STOVE, R5500RH, SL–3000, SL–32S, TOWNSEND I, TOWNSEND II, and 6000XLS vented heaters.

Today's notice also publishes a ''Petition for Waiver'' from HEAT–N–GLO. HEAT–N– GLO's Petition for Waiver requests DOE to grant relief from the DOE vented home heating equipment test procedure relating to the use of pilot light energy consumption in calculating the Annual Fuel Utilization Efficiency (AFUE). Specifically, HEAT–N–GLO seeks to delete the required pilot light measurement (Q_P) in the calculation of AFUE when the pilot is off. The Department is soliciting comments, data, and information respecting the Petition for Waiver.

DATES: DOE will accept comments, data, and information not later than November 12, 1996.

ADDRESSES: Written comments and statements shall be sent to: Department of Energy, Office of Energy Efficiency and Renewable Energy, Case No. DH–007, Mail Stop EE–43, Room 1J–018, Forrestal Building, 1000 Independence Avenue, S.W., Washington, DC 20585–0121, (202) 586–7140.

FOR FURTHER INFORMATION CONTACT:

William W. Hui, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–9145

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585–0103, (202) 586–9507

SUPPLEMENTARY INFORMATION: The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act, as amended (EPCA), which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including vented home heating equipment. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making informed purchasing decisions. These test procedures appear at Title 10 CFR Part 430, Subpart B.

The Department amended the test procedure rules to provide for a waiver process by adding § 430.27 to Title 10 CFR Part 430. 45 FR 64108, September 26, 1980. Subsequently, DOE amended the waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. Title 10 CFR Part 430, § 430.27(a)(2).

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures, or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

An Interim Waiver will be granted if it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. Title 10 CFR Part 430, § 430.27(g). An Interim Waiver remains in effect for a period of 180 days, or until DOE issues a determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

On August 13, 1996, HEAT–N–GLO filed an Application for Interim Waiver and a Petition for Waiver regarding pilot light energy consumption.

HEAT–N–GLO seeks an Interim Waiver from the DOE test provisions in section 3.5 of Title 10 CFR Part 430, Subpart B, Appendix O, that requires measurement of energy input rate of the pilot light (Q_P), and the use of this data in section 4.2.6 for the calculation of AFUE, where:

$$AFUE = (4400\eta_{SS}\eta_u Q_{in\text{-}max})/(4400\eta_{SS}Q_{in\text{-}max} + 2.5(4600)\eta u\ Q_P)$$

Instead, HEAT–N–GLO requests that it be allowed to delete Q_P and accordingly, the $(2.5(4600)\eta_u\ Q_P)$ term in the calculation of AFUE. HEAT–N–GLO states that instructions to turn off the transient pilot by the user when the heater is not in use are in the User Instruction Manual and on a label adjacent to the gas control valve. Therefore, the additional energy savings that result when the pilot is turned off ($Q_P = 0$) should be credited. Since the current DOE test procedure does not address pilot light energy savings, HEAT–N–GLO asks that the Interim Waiver be granted.

Previous Petitions for Waiver to exclude the pilot light energy input term in the calculation of AFUE for home heating equipment with a manual transient pilot control have been granted by DOE to Appalachian Stove and Fabricators, Inc., 56 FR 51711, October 15, 1991; Valor Incorporated, 56 FR 51714, October 15, 1991; CFM International Inc., 61 FR 17287, April 19, 1996; Vermont Castings, Inc., 61 FR 17290, April 19, 1996; and Superior Fireplace Company, 61 FR 17885, April 23, 1996.

Thus, it appears likely that HEAT–N–GLO's Petition for Waiver for pilot light for home heating equipment will be granted. In those instances where the likely success of the Petition for Waiver has been demonstrated based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, based on the above, DOE is granting HEAT-N-GLO an Interim

Waiver for its model AT-SUPREME, BAY-GDV, BAY-STOVE, DVT-INSERT, DVT-STOVE, R5500RH, SL–3000, SL–32S, TOWNSEND I, TOWNSEND II, and 6000XLS vented heaters. HEAT-N-GLO shall be permitted to test its model AT-SUPREME, BAY-GDV, BAY-STOVE, DVT-INSERT, DVT-STOVE, R5500RH, SL–3000, SL–32S, TOWNSEND I, TOWNSEND II, and 6000XLS vented heaters on the basis of the test procedures specified in Title 10 CFR Part 430, Subpart B, Appendix O, with the modifications set forth below:

(i) Delete paragraph 3.5 of Appendix O.

(ii) Delete paragraph 4.2.6 of Appendix O and replace with the following paragraph:

4.2.6 Annual Fuel Utilization Efficiency. For manually controlled vented heaters, calculate the Annual Fuel Utilization Efficiency (AFUE) as a percent and defined as:

AFUE = Nu

where:

Nu = as defined in section 4.2.5 of this appendix.

(iii) With the exception of the modification set forth above, HEAT-N-GLO shall comply in all respects with the procedures specified in Appendix O of Title 10 CFR Part 430, Subpart B.

This Interim Waiver is based upon the presumed validity of statements and all allegations submitted by the company. This Interim Waiver may be removed or modified at any time upon a determination that the factual basis underlying the Application is incorrect.

This Interim Waiver is effective on the date of issuance by the Assistant Secretary for the Office of Energy Efficiency and Renewable Energy. The Interim Waiver shall remain in effect for a period of 180 days or until DOE acts on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180-day period, if necessary.

HEAT-N-GLO's Petition for Waiver requests DOE to grant relief from the DOE vented home heating equipment relating to the pilot light. Specifically, HEAT-N-GLO seeks to exclude the pilot light energy consumption in the calculation of AFUE.

Pursuant to paragraph (b) of Title 10 CFR Part 430.27, the Department is hereby publishing the ''Petition for Waiver.'' in its entirety. The petition contains no confidential information. The Department solicits comments, data, and information respecting the Petition.

Issued in Washington, DC October 7, 1996.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Heat-N-Glo Quality Fireplace Products Since 1975

August 13, 1996.

The Honorable Christine Ervin,

Assistant Secretary of Energy Efficiency & Renewable Energy, United States Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585

Subject: Petition for Waiver to Title 10 Code of Federal Regulations 430.27

Dear Secretary Ervin: This is a Petition for Waiver from test procedures appearing in 10 CFR, part 430, subpart B, Appendix O—Uniform Test Method for Measuring the Energy Consumption of Vented Home Heating Equipment. The sections for which this waiver is requested are detailed in section 3.5—Pilot Light Measurement; and section 4.2.6—Annual Fuel Utilization Efficiency (AFUE). These sections require the measurement of energy input to the pilot light and the inclusion of this data in the calculation of AFUE for the appliance even when the pilot light is turned off and not consuming any energy.

We are requesting this Waiver for our appliance models: AT-SUPREME, BAY-GDV, BAY-STOVE, DVT-INSERT, DVT-STOVE, R5500RH, SL–3000, SL–32S, TOWNSEND I, TOWNSEND II, AND 6000XLS.

The combination gas control valves used on these appliances can be manually turned off when the heater is not in use. In the ''OFF'' position, both the main burner and the pilot light are extinguished. When the gas control is set to the ''ON'' position, the main burner and the pilot light are operating. The appliance Instruction Manual and a label adjacent to the gas control valve will require the user to turn the gas control valve to the ''OFF'' position when the heater is not in use.

Requiring the inclusion of pilot energy input in the AFUE calculations does not allow for the additional energy savings realized when the pilot light is turned off. We request that the requirement of including the term involving the pilot energy consumption be waived from the AFUE calculation for our heaters noted above. These models meet the conditions described in the previous paragraph.

Waivers for deleting pilot energy consumption in AFUE calculations have previously been granted by U.S.D.o.E. to other manufacturers. We are requesting U.S.D.o.E. grant Heat-N-Glo Fireplace Products, Inc. this same waiver.

Please contact us with any questions, comments, and requirements for additional information we can provide. Thank you for your help in this matter.

Sincerely,

Chuck Hansen,

Tech. Services—Engineering.

Gregg Achman,

Manager, Design Engineering.

[FR Doc. 96–26162 Filed 10–10–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. CP97–9–000]

CNG Transmission Corporation; Notice of Request Under Blanket Authorization

October 7, 1996.

Take notice that on October 2, 1996, CNG Transmission Corporation (CNG), P.O. Box 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP97–9–000 a request pursuant Sections 157.205(b) and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205(b) and 157.212) for authorization to construct and operate three new delivery points in Gilmer County, West Virginia, to serve Hope Gas, Inc. (Hope), a local distribution company, under CNG's blanket certificate issued in Docket No. CP82–537–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

CNG states that Hope would be providing natural gas services to Hope's existing customers. CNG further states that it would transport quantities of natural gas to Hope under existing, certificated transportation arrangements with Hope.

CNG also states that Hope needs to construct only minimal facilities. In order to make deliveries to Hope, CNG states that it must construct two four-inch connnections and valves on the TL–297 pipeline and one two-inch connection and valve on the TL–264 pipeline.

It is also stated that Hope would install meter and regulation facilities adjacent to CNG's facilities at the site. The maximum design capacity of the connections and the meter and regulation facilities is 5,000 Mcf per day.

CNG states that the total cost of CNG's construction would be reimbursed by Hope.

Additionally, CNG states that it has sufficient system delivery capability to deliver these quantities without disadvantaging its existing customers. CNG states that its existing tariff does not prohibit the addition of the new delivery point.

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. 96–26123 Filed 10–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2035–005, Colorado]

City and County of Denver; Notice of Scoping Pursuant to the National Environmental Policy Act of 1969

October 7, 1996.

The Energy Policy Act of 1992, allows applicants to prepare their own environmental assessment (EA) for hydropower projects and file it with the Federal Energy Regulatory Commission (Commission) along with their license applications as part of the ''applicant-prepared EA'' process. The City and County of Denver, Colorado, acting by and through its Board of Water Commissioners (Denver Water), intends to prepare an EA to file with the Commission for the relicensing of the Gross Reservoir Project No. 2035. Denver Water will hold two public scoping meetings, pursuant to the National Environmental Policy Act of 1969 (NEPA), to identify the scope of environmental issues that should be analyzed in the EA.

Scoping Meetings

The times and locations of the two scoping meetings are:

Agency Meeting

Date: November 7, 1996
Place: Jeffco Airport Terminal Meeting Room, Broomfield, Colorado
Time: 1:00 p.m.

Public Meeting

Date: November 7, 1996
Place: Jeffco Airport Terminal Meeting Room, Broomfield, Colorado
Time: 6:00 p.m.

The Jeffco Airport is located off Colorado Highway 128 west of the Broomfield exit on U.S. 36. Turn south on West 120th Avenue to the airport.

At the scoping meetings, Denver Water will (1) summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information; and (3) encourage statements from experts and the public on information that should be gathered and issues that should be analyzed in the EA.

Although Denver Water's intent is to prepare an EA, there is the possibility that an environmental impact statement (EIS) may be required. Nevertheless, these meetings will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

All interested individuals, organizations, and agencies are invited and encouraged to attend either or both meetings to assist Denver Water in identifying and clarifying the scope of environmental issues that should be analyzed in the EA.

To help focus discussion at the meetings, Denver Water prepared and distributed Scoping Document 1 for this project. Copies of this scoping document can be obtained by calling Denver Water at (303) 628–6501, or can be obtained directly at either meeting.

Site Visit

Denver Water will also conduct a site visit to Gross reservoir for Commission staff on Wednesday, November 6, 1996. All interested individuals, organizations, and agencies are invited and encouraged to attend the site visit. Those attending the site visit should notify Denver Water at (303) 628–6336 or 628–6553. The site visit will start at Denver Water's office at 1600 West 12th Avenue, Denver, Colorado. Participants can arrange to meet at Gross reservoir or the South Boulder Creek diversion dam, however.

Meeting Procedures

The meetings will be conducted according to the procedures used at Commission scoping meetings. Because this meeting will be a NEPA scoping meeting, the Commission won't conduct another NEPA scoping meeting after Denver Water files its application and EA.

A stenographer will record both meetings, and the meeting transcripts will become parts of the formal record of the relicensing proceeding.

Those who choose not to speak may instead submit written comments on the relicensing and any studies Denver Water needs to conduct to evaluate the effects of relicensing. These comments should be mailed to Dave Little at Denver Water, 1600 West 12th Avenue, Denver, Colorado 80254, for receipt no later than December 9, 1996. All correspondence should clearly show the following caption on the first page: Scoping comments, Gross Reservoir Project, FERC No. 2035, Colorado.

For further information, please contact Dave Little at (303) 628–6533, or Dianne Rodman of the Commission at (202) 219–2830.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26124 Filed 10–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–817–000]

Southern Natural Gas Company; Notice of Request Under Blanket Authorization

October 7, 1996.

Take notice that on September 27, 1996, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP96–817–000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a delivery point, including measurement and appurtenant facilities for service to Alabama Gas Corporation (Alagasco) in Elmore County, Alabama, under Southern's blanket certificate issued in Docket No. CP82–406–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southern states that it proposes the facilities in order to provide transportation service to Alagasco who will in turn provide natural gas service to Russell Mills at its manufacturing plant in Elmore County, Alabama.

Southern states further that Alagasco does not propose to add any transportation demand to its firm service as a result of the delivery point and that the proposed facilities would have no adverse effect on Southern's ability to provide Southern's firm deliveries. It is said that the estimated cost of construction is approximately $356,000.

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. 96–26120 Filed 10–10–96; 8:45 am]

BILLING CODE 6717–01–M

[CP97–6–000]

Tennessee Gas Pipeline Company; Notice of Request Under Blanket Authorization

October 7, 1996.

Take notice that on October 2, 1996, Tennessee Gas Pipeline Company (Applicant), P.O. Box 2511, Houston, Texas 77252, Nebraska 68103 filed in Docket No. CP97–6–000 for approval under Section 157.205 and 157.212 to install a new delivery point for Vista Resources, Inc. (Vista), all as more fully described in the application which is on file with the Commission and open to public inspection.

The proposed location of the new delivery point is at Applicant's inactive receipt meter No. 1–1651–1, approximate M.P. 220–1+2.53, in Mercer County, Pennsylvania. Applicant proposes to reverse the existing 4-inch check valve; reverse, inspect and reactivate the 4-inch orifice meter, and install electronic gas measurement equipment (EGM). Applicant will continue to own and operate the side valve assembly, interconnect piping and meter. In addition, applicant proposes to install, own, operate and maintain the EGM. Applicant will operate the flow control equipment.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursaunt 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. 96–26121 Filed 10–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–7–000]

Williams Natural Gas Company; Notice of Application

October 7, 1996.

Take notice that on October 2, 1996, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, OK 74101, filed in Docket No. CP97–7–000 an application pursuant to Section 7(c) of the Natural Gas Act for authorization to construct and operate two new compressor stations, one located in Logan County, Colorado and the other located in Carbon County, Wyoming, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Williams states that the proposed compressor stations would be 3,950 horsepower each and would increase the capacity of the Rawlins-Hesston line by 30,000 Dth/d.

Williams states further that the estimated cost of construction would be approximately $9.3 million and that Williams proposes a rolled-in rate treatment for the facilities.

Any person desiring to be heard or any person desiring to make any protest with reference to said application should on or before October 28, 1996, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is 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 Williams to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–26122 Filed 10–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EF96–3041–000, et al.]

Southwestern Power Administration, et al.; Electric Rate and Corporate Regulation Filings

October 4, 1996.

Take notice that the following filings have been made with the Commission:

1. Southeastern Power Administration

[Docket No. EF96–3041–000]

Take notice that on September 23, 1996, the Deputy Secretary of the Department of Energy confirmed and approved, on an interim basis effective October 1, 1996, an extension of Rate Schedules KP–1–D, JHK–2–B, JHK–3–B, and PH–1–B for power from Southeastern Power Administration's (Southeastern) Kerr-Philpott System. The approval extends through September 30, 2001. The Deputy Secretary states that the Commission, by order issued December 5, 1991, in Docket No. EF91–3041–000, confirmed and approved Rate Schedules KP–1–D, JHK–2–B, JHK–3–B, and PH–1–B.

Southeastern proposes in the instant filing to extend these Rate Schedules.

Comment date: October 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Southwestern Power Administration

[Docket No. EF96–4081–000]

Take notice that the Deputy Secretary, U.S. Department of Energy, on September 23, 1996, submitted to the Federal Energy Regulatory Commission (Commission) for confirmation and approval on a final basis, pursuant to the authority vested in the Commission by Delegation Order No. 0204–108, as amended November 10, 1993, 58 FR 5917, an annual power rate of $266,928 for the sale of power and energy by the Southwestern Power Administration (Southwestern) from the Robert Douglas

Willis Hydropower Project (Willis) to the Sam Rayburn Municipal Power Agency (SRMA). The rate was confirmed and approved on an interim basis by the Deputy Secretary in Rate Order No. SWPA–33 for the period October 1, 1996, through September 30, 2000.

Comment date: October 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Illinois Municipal Electric Agency v. Illinois Power Company

[Docket No. EL96–77–000]

Take notice that on September 27, 1996, Illinois Municipal Electric Agency tendered for filing a complaint against Illinois Power Company for automatic revocation of market rate authority, enforcement of transmission obligation under contract, investigation and hearing, and request for expedited consideration.

Comment date: November 4, 1996, in accordance with Standard Paragraph E at the end of this notice. Answers to the complaint shall be due on or before November 4, 1996.

4. PowerTec International L.L.C., Kibler Energy Ltd., SDS Petroleum Products, Inc.

[Docket Nos. ER96–1–003, ER96–1119–001, ER96–1–003, ER96–1724–001]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On September 3, 1996, PowerTec International L.L.C. filed certain information as required by the Commission's December 1, 1995, order in Docket No. ER96–1–000.

On August 26, 1996, Kibler Energy Ltd. filed certain information as required by the Commission's April 24, 1996, order in Docket No. ER96–1119–000.

On August 30, 1996, SDS Petroleum Products, Inc. filed certain information as required by the Commission's June 6, 1996, order in Docket No. ER96–1724–000.

5. Commonwealth Edison Company

[Docket No. ER96–2200–001]

Take notice that on September 24, 1996, Commonwealth Edison Company amended its compliance filing made on September 3, 1996 in this proceeding.

Comment date: October 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. CMS Electric Marketing Company

[Docket No. ER96–2350–001]

Take notice that on September 23, 1996, CMS Electric Marketing Company tendered for filing copies of a State of Corporate Policy and Code of Conduct.

Comment date: October 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Enova Energy, Inc.

[Docket No. ER96–2372–001]

Take notice that on September 24, 1996, Enova Energy, Inc. tendered for filing its compliance filing in the above-referenced docket.

Comment date: October 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Citizens Utilities Company

[Docket No. ER96–2703–000]

Take notice that on September 27, 1996, Citizens Utilities Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Northrop Grumman Corporation, Grumman Aerospace Corporation

[Docket Nos. ER96–2957–000, ER96–2958–000]

Take notice that on September 26, 1996, Northrop Grumman Corporation and Grumman Aerospace Corporation tendered for filing an amendment in the above-referenced dockets.

Comment date: October 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Wisconsin Power & Light Company

[Docket No. ER96–3069–000]

Take notice that on September 23, 1996, Wisconsin Power & Light Company tendered for filing an Agreement dated September 18, 1996, establishing Coral Power as a point-to-point transmission customer under the terms of WP&L's Transmission Tariff.

WP&L requests an effective date of September 18, 1996, and accordingly seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: October 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Central Power and Light Company, West Texas Utilities Company

[Docket No. ER96–3114–000]

Take notice that on September 27, 1996, Central Power and Light Company and West Texas Utilities Company, (jointly, the Companies), tendered for filing two executed service agreements under which the Companies will provide non-firm point-to-point transmission service to Aquila Power Corporation (Aquila) and Questar Energy Trading Company (Questar) under their point-to-point transmission service tariff.

The Companies state that copies of the filing have been served on Aquila and Questar.

Comment date: October 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Cleveland Electric Illuminating Company

[Docket No. ER96–3115–000]

Take notice that on September 27, 1996, Cleveland Electric Illuminating Company (CEI), tendered for filing a Notice of Cancellation of a Lease Agreement dated December 23, 1994 between CEI and Jersey Central Power & Light Company (JCP&L). CEI has proposed to cancel the Lease Agreement effective as of 12:01 AM on October 1, 1996. CEI states that JCP&L has agreed to the termination of the Lease Agreement as of that date.

Comment date: October 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Portland General Electric Company

[Docket No. ER96–3116–000]

Take notice that on September 27, 1996, Portland General Electric Company (PGE), tendered for filing under FERC Electric Tariff, 1st Revised Volume No. 2, (PGE Rate Schedule designation No. 88), an executed Power Sale Agreement with the Public Utility District #1 of Snohomish County.

Pursuant to 18 CFR 35.11 and the Commission's order issued July 30, 1993 (Docket No. PL93–2–002), PGE respectfully requests the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the Power Sale Agreement to become effective October 1, 1996.

A copy of this filing was caused to be served upon the Public Utility District #1 of Snohomish County.

Comment date: October 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Public Service Company of New Mexico

[Docket No. ER96–3117–000]

Take notice that on September 27, 1996, Public Service Company of New Mexico (PNM), tendered for filing the Wholesale Power Purchase Agreement (Agreement) between PNM and the

Navajo Tribal Utility Authority (NTUA) and the Operation, Maintenance and Capital Improvement Agreement for the Bisti Switching Station (Facilities Agreement) between PNM and NTUA, dated September 6, 1996. PM has requested that delivery of energy by PNM to NTUA under the Agreement commence once the construction and interconnection of a three breaker ring bus (Bisti Switching Station) to PNM's AF–B1 230 Kv transmission line facility has been completed and PNM has declared the Bisti Switching Station operational.

In conjunction with the execution of the Agreement, PNM and Enron have entered into the Construction Agreement for Certain Transmission Facilities that establishes the terms and conditions under which PM shall oversee the design and construction of the Bisti Switching Station by Enron (or Enron's agent). The Construction Agreement also provides PNM the mechanism to declare the Bisti Switching Station operational and ready for integration into PNM's overall transmission facilities. NTUA under separate agreement with Enron will take ownership of the Bisti Switching Station once the Bisti Switching Station has been constructed, interconnected and declared operational by PNM. The Bisti Switching Station shall then be operated and maintained by PNM under the Operation, Maintenance and Capital Improvement Agreement between PNM and NTUA which ensures the long term integrity and integration of the Bisti Switching Station to PNM's other transmission facilities.

PNM requests waiver of the Commission's notice requirements to permit the Purchase Agreement to become effective upon installation of the Bisti Switching Station. The current expectation of the parties is to complete the construction and installation of the Bisti Switching Station by later September 1996.

Copies of this notice have been mailed to NTUA, representatives of Enron and the New Mexico Public Utility Commission.

Comment date: October 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Public Service Company of New Mexico

[Docket No. ER96–3118–000]

Take notice that on September 27, 1996, Public Service Company of New Mexico Transmission Development and Contracts (PNM Transmission), tendered for filing the Service Agreement for Non-Firm Point-to-Point Transmission Service and Ancillary Service (Service Agreement) between PNM Transmission and the PNM Marketing and Power Contracts (PNM Marketing) dated September 25, 1996.

PNM Transmission requests waiver of the Commission's notice requirements to permit the PNM Marketing to begin receiving services under the Service Agreement as of the date executed by the parties.

Copies of this notice have been mailed to PNM Marketing and the New Mexico Public Utility Commission.

Comment date: October 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Public Service Company of Oklahoma, Southwestern Electric Power Company

[Docket No. ER96–3119–000]

Take notice that on September 27, 1996, Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively, the Companies) tendered for filing two executed service agreements under which the Companies will provide non-firm point-to-point transmission service to Aquila Power Corporation (Aquila) and Questar Energy Trading Company (Questar) under their point-to-point transmission service tariff.

The Companies state that a copy of the filing has been served on Aquila and Questar.

Comment date: October 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Washington Water Power Company

[Docket No. ER96–3125–000]

Take notice that on September 30, 1996, Washington Water Power Company tendered for filing executed service agreements under FERC Electric Tariff Volume No. 4 with Edison Energy Source, City of Cheney, and Franklin County PUD.

Comment date: October 17, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Michigan Power Limited Partnership

[Docket No. QF88–441–002]

On October 1, 1996, Michigan Power Limited Partnership tendered for filing an amendment to its August 28, 1996, filing in this docket.

The amendment pertains to the technical aspects of the cogeneration facility. No determination has been made that the submittal constitutes a complete filing.

Comment date: October 18, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Michael R. Whitley

[Docket No. ID–2921–001]

Take notice that on September 9, 1996, Michael R. Whitley (Applicant) tendered for filing an application under Section 305(b) to hold the following positions: Chairman, President, Chief Executive Officer—Kentucky Utilities Company; Director—Electric Energy, Inc.; Director—Ohio Valley Electric Company; Director—PNC Bank Kentucky.

Comment date: October 18, 1996, 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, 888 First 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. 96–26176 Filed 10–10–96; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5634–7]

California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption; Decision

AGENCY: Environmental Protection Agency.

ACTION: Notice regarding waiver of Federal preemption.

SUMMARY: EPA is granting California a waiver of Federal preemption pursuant to section 209(b) of the Clean Air Act to enforce amendments to its motor vehicle emission standards and test procedures to phase-in more stringent monitoring requirements and tampering deterence features for its on-board diagnostic (OBD) systems commencing in model year 1994 and later model year passenger cars, light-duty trucks, and

medium-duty vehicles. California also amended its corresponding regulations.

ADDRESSES: A copy of the above standards and test procedures, the decision document containing an explanation of the Administrator's determination, and the record of those documents used in arriving at this decision, are available for public inspection during normal working hours of 8 a.m. to 5:30 p.m., Monday through Friday, at: U.S. Environmental Protection Agency, Air Docket (Docket #A–90–28), room M1500, Waterside Mall, 401 M Street, S.W., Washington, DC 20460. The telephone number is (202) 260–7548 and the facsimile number is (202) 260–4400. A reasonable fee may be charged by EPA for copying docket material.

FOR FURTHER INFORMATION CONTACT: David J. Dickinson, Attorney/Advisor, Vehicle Programs and Compliance Division (6405J), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460. Telephone: (202) 233–9256 or Internet e-mail at ''dickinson.david@epamail.epa.gov.''

SUPPLEMENTARY INFORMATION: I have decided to grant California a waiver of Federal preemption pursuant to section 209(b) of the Clean Air Act, as amended (Act), 42 U.S.C. 7543(b), for amendments to its exhaust emission standards and test procedures which establish new and/or more stringent monitoring requirements of OBD systems on 1994 and later model year passenger cars, light-duty trucks, and medium-duty vehicles and also requires certain tampering protections on such OBD systems. A comprehensive description of California's OBD II program can be found in the decision document for this waiver and in materials submitted to the Docket by the California Air Resources Board (CARB).

Section 209(b) of the Act provides that, if certain criteria are met, the Administrator shall waiver Federal preemption for California to enforce new motor vehicle emission standards and accompanying enforcement procedures. As explained more fully in the decision document, EPA finds CARB's OBD II regulations to be a standard under section 202 and thus to require full waiver review. The criteria of such a waiver include consideration of whether California arbitrarily and capriciously determined that its standards are, in the aggregate, at least as protective of public health and welfare as the applicable Federal standards; whether California needs State standards to meet compelling and extraordinary conditions; and whether California's amendments are consistent with section 202(a) of the Act.

CARB determined that these standards and accompanying enforcement procedures do not cause California's standards, in the aggregate, to be less protective to public health and welfare than the applicable Federal standards. Information presented to me by parties opposing California's waiver did not demonstrate that California arbitrarily or capriciously reached this protectiveness determination. Therefore, I cannot find California's determination to be arbitrary and capricious.

CARB has continually demonstrated the existence of compelling and extraordinary conditions justifying the need for its own motor vehicle emission control program, which includes the subject standards and procedures. Information presented to me by parties opposing California's waiver request did not demonstrate that California no longer has a compelling and extraordinary need for its own program. Therefore, I agree that California continues to have compelling and extraordinary conditions which require its own program, and, thus, I cannot deny the waiver on the basis of the lack of compelling and extraordinary conditions.

CARB has submitted information that its emission standards and test procedures are technologically feasible and present no inconsistency with Federal requirements and are, therefore, consistent with section 202(a) of the Act. Additionally, EPA agrees with CARB's statement that any vehicle that satisfies California's requirements can be presumed to meet the Federal requirements (assuming the manufacturer monitors, at minimum, the catalytic converter, the oxygen sensor, and engine misfire, and complies with requirements for standardizing certain aspects of the OBD system such as diagnostic connectors and computer communication protocols) through the 1998 model year. Thereafter CARB's regulations state that CARB will accept EPA certification data. Information presented to me by parties opposing California's waiver request did not satisfy the burden of persuading EPA that the standards are not technologically feasible within the available lead time, considering costs. Accordingly, I hereby grant the waiver requested by California.

My decision will affect not only persons in California but also the manufacturers outside the State who must comply with California's requirements in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this a final action of national applicability.

Under section 307(b)(1) of the Act, judicial review of this final action may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petitions for review must be filed by December 10, 1996. Under section 307(b)(2) of the Act, judicial review of this final action may not be obtained in subsequent enforcement proceedings.

As with past waiver decisions, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2). Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

Dated: October 2, 1996.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 96–26192 Filed 10–10–96; 8:45 am]

BILLING CODE 6560–50–P

[ER–FRL–5473–8]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153. Weekly receipt of Environmental Impact Statements Filed September 30, 1996 Through October 04, 1996 Pursuant to 40 CFR 1506.9.

EIS No. 960460, Final EIS, FRC, ME, Penobscot River Basin Hydroelectric Project, Ripogenus (FERC No. 2572) and Penobscot Mills (FERC No. 2458) Operation Changes and Minor Construction, Licenses Renewal, Piscataquis and Penobscot Counties, ME, Due: November 12, 1996, Contact: Edward R. Meyer (202) 208–7998.

EIS No. 960461, Draft Supplement, FHW, HI, Makai Boulevard Concept/ Nimitz Highway Improvements, Updated Information, Construction from Keehi Interchange to Pier 16 (Awa Street) in the Kalihi-Palama District, Funding, US Coast Guard and COE Section 404 Permits, City of Honolula and Honolula County, HI, Due: December 13, 1996, Contact: Abraham Wong (808) 541–2700.

EIS No. 960462, Final EIS, COE, CA, Norco Bluffs Bank Stabilization Measures, Implementation, Riverside County Flood Control and Water Conservation District, National Economic Development, Santa Ana River, City of Norco, Riverside County, CA, Due: November 12, 1996, Contact: Alex Watt (213) 452–3860.

EIS No. 960463, Draft EIS, NPS, ME, Saint Croix Island International Historic Site, General Management Plan, Implementation, Calais, Washington County, ME, Due: November 25, 1996, Contact: David Clark (617) 223–5141.

EIS No. 960464, Draft EIS, USA, MO, US Army Chemical School and US Army Military Police School Relocation to Fort Leonard Wood (FWL) from Fort McClellan, Alabama, Implementation, Cities of St. Robert, Waynesville, Richland, Dixon, Crocker, Rolla, Houston and Lebanon; Pulaski, Texas, Phelps and Laclede Counties, MO, Due: November 25, 1996, Contact: Alan Gehrt (816) 426–3358.

EIS No. 960465, Final EIS, COE, LA, Programmatic EIS–Marsh Management Project, Hydrologic Manipulation, COE Section 10 and 404 Permit Issuance, Coastal Wetland of Louisiana a part of the Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA) River Basins, LA, Due: November 12, 1996, Contact: Robert Bosenberg (504) 862–2522.

EIS No. 960466, Final EIS, COE, IN, Indianapolis North Flood Damage Reduction Feasibility Study, Construction of Floodwalls and Levees, White River, Marion County, IN, Due: November 12, 1996, Contact: William Ray Haynes (502) 582–6475.

EIS No. 960467, Final EIS, BLM, AZ, Morenci Land Exchange, Implementation, Exchange of Federal Lands for Private Lands, Safford District, Greenlee, Graham, Cochise and Pima Counties, AZ, Due: November 12, 1996, Contact: Scott Evans (520) 428–4040.

EIS No. 960468, Final EIS, COE, CA, Kaweah River Basin Investigation Feasibility Study, Flood Protection of Terminus Dam, Increase Storage Space in Lake Kaweah for Irrigation of Water Supply, Construction, Modification and Operation, San Joaquin Valley, Tulare and King Counties, CA, Due: November 12, 1996, Contact: Jane Rinck (916) 557–6715.

EIS No. 960469, Final EIS, FHW, CA, Alternatives to Replacement of the Embarcadero Freeway and the Terminal Separator Structure, (Formerly CA–480) Implementation, Permit Approvals and Funding, San Francisco County, CA, Due: November 12, 1996, Contact: John R. Schultz (916) 498–5011.

EIS No. 960470, Draft EIS, COE, IL, Chicagoland Underflow Plan, McCook Reservoir Construction and Operation for Temporary Retention of Floodwaters in Metropolitan Chicago, Implementation, Cook County, IL, Due: December 9, 1996, Contact: Keith Ryder (312) 353–6400 ext. 2020.

EIS No. 960471, Draft EIS, NPS, WA, OR, ID, MT, Nez Perce National Historical Park and Big Hole National Battefield General Management Plan, Implementation, Asotin and Okanogan Counties, WA; Wallowa County, OR; Idaho, Lewis, Nez Perce, Clearwater and Clank Counties, ID; and Blaine, Yellowstone and Beaverhead Counties, MT, Due: December 9, 1996, Contact: Clifford Hawkes (303) 969–2262.

EIS No. 960472, Draft EIS, AFS, AZ, Eastern Roosevelt Lake Watershed Analysis Area Grazing Strategy and Associated Range Improvements Management Plan, Development and Implementation, Tonto National Forest, Tonto Basin Ranger District, Gila County, AZ, Due: November 30, 1996, Contact: Linny Warren (520) 467–3200.

EIS No. 960473, Draft EIS, COE, LA, Westwego to Harvey Canal Hurricane Protection Project, Implementation, Lake Cataouatche Area, Jefferson Parish, LA, Due: November 25, 1996, Contact: Bill Wilson (504) 862–2527.

EIS No. 960474, Draft EIS, BLM, MT, SD, ND, Standards for Rangeland Health and Guidelines for Livestock Grazing Management on Bureau of Land Management Administered Lands, Implementation, MT, ND and SD, Due: January 13, 1997, Contact: Dan Lechefsky (406) 255–2919.

EIS No. 960475, Draft Supplement, USN, PA, Former Naval Hospital Philadelphia, Pennsylvania Disposal and Reuse, New Information concerning Additional Alternatives, Implementation, City of Philadelphia, PA, Due: November 25, 1996, Contact: Tina A. Deininger (610) 565–0761.

EIS No. 960476, Final EIS, FRC, MI, WI, Menominee River Basin Multiple Project, Application for New Licenses and (Relicense) for Four Existings Projects, FERC Nos. 2536, 2357, 2394 and 2433, Menominee and Dickerson Cos., MI and Michigan and Marinette Cos., WI , Due: November 13, 1996, Contact: Jim Haimes (202) 219–2780.

EIS No. 960477, Draft EIS, USN, CA, Oakland Naval Medical Center, Disposal and Reuse, Implementation, in the City of Oakland, Alameda County, CA, Due: November 25, 1996, Contact: Gary Munekawa (415) 244–3022.

EIS No. 960478, Final EIS, FRC, NY, Felts Mills Hydroelectric Project (FERC No. 4715–006), Issuance of Original License, Construction, Operation and Maintenance, Site Specific, Black River, Jefferson County, NY, Due: November 12, 1996, Contact: Edward R. Meyer (202) 208–7998.

Dated: October 8, 1996.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 96–26210 Filed 10–10–96; 8:45 am]

BILLING CODE 6560–50–U

[FRL–5635–8]

Regulatory Reinvention (XL) Pilot Projects

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of Weyerhaeuser Project XL Final Project Agreement.

SUMMARY: EPA is today requesting comment on a proposed Project XL Final Project Agreement (FPA) for Weyerhaeuser Company's Flint River Kraft pulp mill in Ogelthorpe, Georgia. The FPA is a voluntary agreement developed collaboratively by Weyerhaeuser Flint River, local community members, and state, local, and federal regulators. Project XL, announced in the Federal Register on May 23, 1995 at 60 FR 27282 (FRL–5197–9), gives regulated sources the flexibility to develop alternative strategies that will replace or modify specific regulatory requirements on the condition that they produce greater environmental benefits. EPA has set a goal of implementing a total of fifty projects undertaken in full partnership with the states.

DATES: The period for submission of comments ends on November 7, 1996.

ADDRESSES: All comments on the draft Final Project Agreement should be sent to: Michelle Glenn, US EPA, Weyerhaeuser Project XL Lead, 100 Alabama Street (Waste Division, 10th Floor) Atlanta, Georgia 30303. Comments may also be faxed to Ms. Glenn at (404) 562–8628.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the proposed Final Project Agreement contact: Michelle Glenn; US EPA; Weyerhaeuser Project XL Lead; 100 Alabama Street (Waste Division, 10th Floor); Atlanta, Georgia 30303. The document is also available via the internet at the following location: ''http://www.epa.gov/ProjectXL''. Questions to EPA regarding the document can be directed to Michelle Glenn at (404) 562–8674. To be included on the Weyerhaeuser Project XL mailing list to receive information about future public meetings, XL progress reports and other mailings from Weyerhaeuser on the XL Project, contact: Janet McElmurray; Weyerhaeuser Company; c/o Project XL;

PO Box 238; Ogelthorpe, GA 31068. Ms. McElmurray can also be reached by telephone at (404) 472–5230. For information on all other aspects of the XL Program contact Christopher Knopes at the following address: Emerging Sectors and Strategies Division; United States Environmental Protection Agency; 3202 Mall; 401 M Street, S.W.; Mail Code 2129; Washington, DC 20460. The telephone number for the Division is (202) 260–5754. The facsimile number is (202) 401–6637. Additional information on Project XL, including documents referenced in this notice, other EPA policy documents related to Project XL, regional XL contacts, application information, and descriptions of existing XL projects and proposals, is available via the internet at ''http://www.epa.gov/ProjectXL'' and via an automated fax-on-demand menu at (202) 260-8590.

Dated: October 8, 1996.

Jon Kessler,

Director, Emerging Sectors and Strategies Division.

[FR Doc. 96–26329 Filed 10–10–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5635–5]

Ozone, Particulate Matter and Regional Haze Implementation Programs Subcommittee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: On September 11, 1995 (60 FR 47172), the EPA announced the establishment of the Ozone, Particulate Matter and Regional Haze Implementation Programs Subcommittee under the Clean Air Act Advisory Committee (CAAAC). The CAAAC was established on November 8, 1990 (55 FR 46993) pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. app I). The purpose of the Subcommittee is to provide advice and recommendations on integrated approaches for implementing potentially new national ambient air quality standards (NAAQS) for ozone and particulate matter, as well as a regional haze program.

OPEN MEETING: Notice is hereby given that the Subcommittee for Development of Ozone, Particulate Matter and Regional Haze Implementation Programs will hold its next public meeting on Tuesday, October 29, 1996 (from 12:00 p.m. to 6:00 p.m.) and Wednesday, October 30, 1996 (from 8:00 a.m. to 4:00 p.m.).

ADDRESSES: The public meeting will be held at the Dallas Grand Hotel, 1914 Commerce Street, Dallas, Texas 75201.

FOR FURTHER INFORMATION CONTACT: For further information on the Subcommittee for Development of Ozone, Particulate Matter and Regional Haze Implementation Programs, please contact Mr. William F. Hamilton, Designated Federal Officer, at 919–541-5498, or by mail at U.S. EPA, Office of Air Quality Planning and Standards, MD–12, Research Triangle Park, NC 27711. When a draft agenda is developed, a copy can be downloaded from the Ozone/Particulate Matter/ Regional Haze FACA Bulletin Board, which is located on the Office of Air Quality Planning and Standards Technology Transfer Network (OAQPS TTN) or by contacting Ms. Denise M. Gerth at 919–541-5550.

Dated: October 7, 1996.

John S. Seitz,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 96–26327 Filed 10–10–96; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY (EPA)

[FRL–5635–3]

Gulf of Mexico Program Management Committee Workshop

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting of the Management Committee of the Gulf of Mexico Program.

SUMMARY: The Gulf of Mexico Program's Management Committee will hold a workshop at the River House Conference Center, Stennis Space Center, Mississippi.

FOR FURTHER INFORMATION CONTACT: James D. Giattina, Director, Gulf of Mexico Program Office, Building 1103, Room 202, John C. Stennis Space Center, Stennis Space Center, MS 39529–6000, at (601) 688–3726.

SUPPLEMENTARY INFORMATION: A workshop of the Management Committee of the Gulf of Mexico Program will be held at the River House Conference Center, Stennis Space Center, MS. The committee will meet from 1:00 p.m. to 5:00 p.m. on November 7 and from 8:00 a.m. to 12:00 p.m. on November 8. Agenda items will include: Discussion of the Organizational Options Paper; Discussion of Current Status and FY97 Plans of: Education and Outreach; Hypoxia; Exotic Species; Habitat; and Shellfish. The meeting is open to the public.

Bryon O. Griffith,

Acting Director, Gulf of Mexico Program.

[FR Doc. 96–26191 Filed 10–10–96; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Network Reliability and Interoperability Council Meeting

October 4, 1996.

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of a meeting of the Network Reliability and Interoperability Council (''Council'') to be held at the Federal Communications Commission in Washington, D.C.

DATES: Thursday, October 31, 1996 at 1:30 p.m.

ADDRESSES: Federal Communications Commission, Room 856, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jim Keegan, Federal Officer, at (202) 418–2323.

SUPPLEMENTARY INFORMATION: The Council was established by the Federal Communications Commission to bring together leaders of the telecommunications industry and telecommunications experts from consumer and other organizations to explore and recommend measures that will assure optimal reliability and interoperability of, and accessibility and interconnectivity to, the public telecommunications networks.

The agenda for the meeting is as follows: the Council will hear reports of focus groups 1 and 2 on their progress to date in addressing the issues assigned to them by the Council at the Council's last meeting. The Council also will hear a report on network reliability from the Network Reliability Steering Committee, and will be updated on the status of implementation of the Network Reliability Council's recommendations for interoperability testing. The Council may discuss other matters brought to its attention.

Members of the general public may attend the meeting. The Federal Communications Commission will attempt to accommodate as many people as possible. However, admittance will be limited to the seating

available. Members of the public may submit written comments to the Council's designated Federal Officer before the meeting.

Federal Communications Commission

William F. Caton,

Acting Secretary.

[FR Doc. 96–26109 Filed 10–10–96; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 11:05 a.m. on Tuesday, October 8, 1996, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider (1) reports of the Office of Inspector General, and (2) matters relating to the Corporation's corporate and supervisory activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Joseph H. Neely (Appointive), concurred in by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), Ms. Julie Williams, acting in the place and stead of Director Eugene A. Ludwig (Comptroller of the Currency), and Chairman Ricki Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: October 8, 1996.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 96–26386 Filed 10–9–96; 3:13 pm]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the Federal Register.

Agreement No.: 202–011456–015

Title: South Europe American Conference

Parties:

DSR-Senator Lines GmbH

Evergreen Marine Corporation (Taiwan) Ltd.

Italia di Navigazione, S.p.A.

Lykes Bros. Steamship Co., Inc.

A.P. Moller-Maersk Line

Nedlloyd Lijnen B.V.

P&O Containers Limited

Sea-Land Service, Inc.

Zim Israel Navigation Company, Ltd.

Synopsis: The subject amendment modifies the geographic boundry between Atlantic Coast ports and Gulf Coast ports to make them identical for both the Eastbound Section and the Westbound Section of the Conference Agreement. The modification also permits a member to join only one of the two Discharge Zones of the Westbound Section and clarifies the operation of the agreement for such parties.

Agreement No.: 224–200999

Title: Port of Houston/Lykes Bros. Steamship Co. Marine Terminal Services Agreement

Parties:

Port of Houston Authority (''Port'')

Lykes Bros. Steamship Co., Inc. (''Lykes'')

Synopsis: The proposed agreement authorizes the Port to provide terminal facilities and services and for Lykes to continue service at the Port's Barbours Cut Terminal through March 31, 2000.

Dated: October 8, 1996.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 96–26158 Filed 10–10–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 4, 1996.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. NationsBank Corporation and NB Holdings Corporation, both of Charlotte, North Carolina; to merge with Boatmen's Bancshares, Inc., St. Louis, Missouri, and thereby indirectly acquire Bank IV, National Association, Wichita, Kansas; Boatmen's National Bank of Oklahoma, Tulsa, Oklahoma; Boatmen's Bank of Northeast Arkansas, Jonesboro, Arkansas; Boatmen's National Bank of Arkansas, Little Rock, Arkansas; Boatmen's National Bank of Batesville, Batesville, Arkansas; Boatmen's National Bank of Conway, Conway, Arkansas; Boatmen's National Bank of Hot Springs, Hot Springs, Arkansas; Boatmen's National Bank of Newark, Newark, Arkansas; Boatmen's National Bank of North Central Arkansas, Bull Shoals, Arkansas; Boatmen's National Bank of Northwest Arkansas, Fayetteville, Arkansas; Boatmen's National Bank of Pine Bluff, Pine Bluff, Arkansas; Boatmen's National Bank of Russellville, Russellville, Arkansas; Boatmen's National Bank of South Arkansas, Camden, Arkansas; Boatmen's National Bank of Austin, Austin, Texas; Boatmen's Bank Iowa, National Association, Des Moines, Iowa; Boatmen's Bank of Fort Dodge, Fort Dodge, Iowa; Boatmen's Bank of North Iowa, Mason City, Iowa; Boatmen's National Bank of Northwest Iowa, Spencer, Iowa; Boatmen's Bank of Franklin County, Benton, Illinois; Boatmen's Bank of Marshall, Marshall, Missouri; Boatmen's Bank of Mid Missouri, Columbia, Missouri; Boatmen's Bank of Pulaski County, Richland, Missouri; Boatmen's Bank of Quincy, Quincy, Illinois; Boatmen's Bank of Southern Missouri, Springfield, Missouri; Boatmen's Bank of Southwest Missouri, Carthage, Missouri; Boatmen's Bank of Tennessee, Memphis, Tennessee; Boatmen's Bank of Troy, Troy, Missouri; Boatmen's Bank of Vandalia, Vandalia, Missouri; Boatmen's Credit Card Bank, Albuquerque, New Mexico; Boatmen's First National Bank of Kansas City, Kansas City, Missouri; Boatmen's First National Bank of West Plains, West Plains, Missouri; Boatmen's Bank of South Central Illinois, Mount Vernon, Illinois; Boatmen's National Bank of Boonville, Boonville, Missouri; Boatmen's National Bank of Cape Girardeau, Cape Girardeau, Missouri; Boatmen's National Bank of Central Illinois, Hillsboro, Illinois; Boatmen's National Bank of Coles County, Charleston, Illinois; Boatmen's National Bank of Lebanon, Lebanon, Missouri; The Boatmen's National Bank of St. Louis, St. Louis, Missouri; Boatmen's Osage Bank, Butler, Missouri; Boatmen's River Valley Bank, Lexington, Missouri; Sunwest Bank of Albuquerque, National Association, Albuquerque, New Mexico; Sunwest Bank of Clovis, National Association, Clovis, New Mexico; Sunwest Bank of Farmington, Farmington, New Mexico; Sunwest Bank of Gallup, Gallup, New Mexico; Sunwest Bank of Grant County, Silver City, New Mexico; Sunwest Bank of Hobbs, National Association, Hobbs, New Mexico; Sunwest Bank of Las Cruces, National Association, Las Cruces, New Mexico; Sunwest Bank of Raton, National Association, Raton, New Mexico; Sunwest Bank of Rio Arriba, National Association, Espanola, New Mexico; Sunwest Bank of Roswell, National Association, Roswell, New Mexico; Sunwest Bank of Santa Fe, Santa Fe, New Mexico; Sunwest Bank of El Paso, El Paso, Texas; Boatmen's First National Bank of Amarillo, Amarillo, Texas; Boatmen's Bank of Kennett, Kennett, Missouri; and Boatmen's Bank Rolla, Rolla, Missouri.

In connection with this application, Applicants also have applied to acquire Boatmen's Trust Company, St. Louis, Missouri, Boatmen's Trust Company of Arkansas, Little Rock, Arkansas, Boatmen's Trust Company of Illinois, Belleville, Illinois, Boatmen's Trust Company of Oklahoma, Oklahoma City, Oklahoma, Boatmen's Trust Company of Texas, Amarillo, Texas, and thereby engage in corporate trust, pension, and personal trust administration, pursuant to § 225.25(b)(3) of the Board's Regulation Y; Boatmen's Trust Company of Kansas, Overland Park, Kansas, and thereby engage in pension administration activities, pursuant to § 225.25(b)(3) of the Board's Regulation Y; Union Realty and Securities Company, St. Louis, Missouri, and thereby engage in holding certain real estate in a fiduciary capacity for the customers of its parent, Boatmen's Trust Company, in connection with the parent's trust activities, pursuant to § 225.25(b)(3) of the Board's Regulation Y; River City Capital Management, Inc., St. Louis, Missouri, and thereby engage in acting as a general partner of certain limited partnerships that would be exempt from registration as investment companies under the Investment Company Act of 1940 (15 U.S.C. § 80a-1) (*see Meridan Bancorp, Inc.,* 80 Fed. Res. Bull. 736 (1994); Superior Federal Bank, F.S.B., Fort Smith, Arkansas, and thereby engage in the traditional thrift activities, pursuant to § 225.25(b)(9) of the Board's Regulation Y; Fourth Investment Advisors, Inc., Tulsa, Oklahoma, and thereby engage in providing portfolio investment advice to third parties, pursuant to § 225.25(b)(4) of the Board's Regulation Y; Boatmen's Life Insurance Company, St. Louis, Missouri, and thereby engage in underwriting credit insurance sold in connection with loans made by certain affiliated banks, and in addition, reinsures credit life and credit accident and health insurance underwritten by third party insurance companies in connection with loans made by certain affiliated banks, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y; Fourth Financial Insurance Company, Wichita, Kansas, and thereby engage in reinsuring credit life and credit accident and health insurance underwritten by third party insurers in connection with loans made by certain affiliated banks, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y; Arch Reinsurance Company, LTD, Georgetown, Grand Cayman, and thereby engage in reinsuring various operating insurance underwritten by third party insurers for the benefit of the applicant and its affiliates, and reinsures credit insurance products underwritten by third party insurers and sold by an affiliate, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y; Consumers Protective Life Insurance Company, Little Rock, Arkansas, and thereby engage in underwriting credit insurance sold in connection with loans made by its Arkansas banking affiliates, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y; Southwest Protective Life Insurance Company, Fort Smith, Arkansas, and thereby engage in reinsuring credit life insurance underwritten by third party insurers in connection with loans made by its affiliated thrift, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y; Boatmen's Insurance Agency, Inc., St. Louis, Missouri, and thereby engage in the sale of credit insurance directly related to extensions of credit by its affiliated banks, and engages in direct mail solicitation of accidental death and dismemberment insurance to the applicant's deposit and loan customers, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y; Boatmen's Community Development Corporation, St. Louis, Missouri, and thereby engage in providing community development lending and equity investment in all states in which the applicant has subsidiary banks, pursuant to § 225.25(b)(6) of the Board's Regulation Y; Bank IV Community Development, Corporation, Wichita, Kansas, and thereby engage in providing loans to and makes equity investments in corporations or projects designed primarily to promote community

welfare, pursuant to § 225.25(b)(6) of the Board's Regulation Y; and Bank IV Affordable Housing Corporation, Wichita, Kansas, and thereby engage in acting as a special limited partner in an investment designed primarily to promote community welfare, pursuant to § 225.25(b)(6) of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Metrocorp, Inc.; East Moline, Illinois; to acquire 100 percent of the voting shares of Metrobank-Illinois, N.A., East Moline, Illinois.

Board of Governors of the Federal Reserve System, October 7, 1996.

Jennifer J. Johnson

Deputy Secretary of the Board

[FR Doc. 96–26141 Filed 10-10-96; 8:45 am]

BILLING CODE 6210-01-F

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 25, 1996.

A. Federal Reserve Bank of New York (Christopher J. McCurdy, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. Bank Austria AG, Vienna, Austria; to engage *de novo*, through its subsidiary, Bank Austria Mortgage Corp., New York, New York, in mortgage banking activities, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. CCB Financial Corporation, Durham, North Carolina; to engage *de novo* through its subsidiary, CCB Services, Inc., Durham, North Carolina, in data processing, pursuant to § 225.25(b)(7) of the Board's Regulation Y; and in management consulting to depository institutions, pursuant to § 225.25(b)(11) of the Board's Regulation Y.

C. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. BankAmerica Corporation, San Francisco, California; to acquire through its wholly-owned subsidiary, BankAmerica Investment Corporation, Chicago, Illinois, and thereby indirectly acquire Arrowhead LLC, San Jose, California; First Franklin Financial Group, Inc., San Jose, California; Coastal Capital Funding Corporation, San Jose, California; First Financial Corporation, San Jose, California; and Franklin Mortgage Capital Corporation, San Jose, California, and thereby engage in mortgage banking activities, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

In connection with this application, CIVC Partners II, San Francisco, California, which is a BankAmerica Corporation coinvestment vehicle, will acquire 8.71 percent of Arrowhead LLC; and William Dallas, the CEO of Coastal Capital Funding Corporation, will acquire 12.86 percent of Arrowhead LLC.

Board of Governors of the Federal Reserve System, October 7, 1996.

Jennifer J. Johnson

Deputy Secretary of the Board

[FR Doc. 96–26140 Filed 10–10–96; 8:45 am]

BILLING CODE 6210–01–F

Government in the Sunshine Meeting Notice

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, October 16, 1996.

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. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 9, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–26316 Filed 10–9–96; 10:52 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Employee Thrift Advisory Council; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), a notice is hereby given of the following committee meeting:

Name: Employee Thrift Advisory Council.
Time: 10:00 a.m.
Date: October 29, 1996.
Place: 4th Floor, Conference Room, Federal Retirement Thrift Investment Board, 1250 H Street, N.W., Washington, D.C.
Status: Open.
Matters to be Considered:

1. Approve minutes of the July 11, 1995, meeting.

2. Report of the Executive Director on Thrift Savings Plan status.

3. May 15–July 31, 1996, Thrift Savings Plan Open Season activities.
4. Legislation.
5. New Business.

Any interested person may attend, appear before, or file statements with the Council. For further information contact John J. O'Meara, Committee Management Officer, on (202) 942–1660.

Dated: October 7, 1996.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 96–26154 Filed 10–10–96; 8:45 am]

BILLING CODE 6760–01–M

FEDERAL TRADE COMMISSION

[File No. 962–3247]

Budget Marketing, Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, the Des Moines, Iowa-based telemarketer of magazine subscriptions and 11 of its dealers from misrepresenting that they are selling magazines and the cost and conditions of the subscriptions they are selling. The settlement also prohibits the companies from threatening and harassing consumers to collect bills, failing to honor offers to allow cancellation, and violating the Electronic Funds Transfer Act. A related federal court decree would require the firms to pay a $395,000 civil penalty and $25,000 in court costs. A draft complaint accompanying the consent agreement alleges that the respondents misrepresented the costs and conditions of subscription agreements and illegally deducted charges electronically from consumers' bank accounts without consumer authorization.

DATES: Comments must be received on or before December 10, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Justin Dingfelder, Federal Trade Commission, S–4302, 6th and Pennsylvania Ave, NW, Washington, DC 20580. (202) 326–3017.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home page, on the World Wide Web, at ''http://www.ftc.gov/os/actions/htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Budget Marketing, Inc. (BMI), one of its officers, and some of its major dealers.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This proposed consent order is part of a proposed settlement of a civil penalty action that was filed against BMI and its dealers in Federal District Court in Des Moines, Iowa in December 1988 (Civil No. 88–1698–E). The District Court consent decree that will be filed to settle that matter provides for the payment of a total of $395,000 in civil penalties (plus $25,000 in court costs) by BMI and some of its dealers. The decree also contains an injunction ordering the defendants in that action to obey this proposed consent order. The consent decree will dissolve the Consent Decree and Permanent Injunction entered in *United States* v. *Budget Marketing,* Civil No. 80–419–E (S.D. Iowa) on October 10, 1980, and replace it with the proposed decree.

BMI and its dealers are engaged in the sale by subscription, of magazines and other publications throughout the United States. This matter concerns various sales and collection practices engaged in by BMI and the named dealers to sell, by telephone, magazine subscription contracts and to collect payments for its services. The Commission's proposed complaint alleges that BMI and its dealers, among other things, have misrepresented the terms and conditions of contracts; misrepresented the identity of solicitors or firms they are representing; misrepresented the savings which will be accorded or made available to purchasers; misrepresented the action or results of any action which may be taken to effect payment of alleged indebtedness. The proposed complaint also charges respondents with violating the Electronic Fund Transfer Act (EFTA) (15 U.S.C. 1693 *et seq.*) by not obtaining the requisite authorization in writing as proscribed by Section 205.10(b) of Regulation E, 12 C.F.R. § 205.

The proposed consent order contains provisions designed to prevent respondents from engaging in similar acts and practices in the future. Part I of the proposed consent order contains a number of prohibitions. Paragraph (a) prohibits respondents from failing to comply with Regulation E requiring authorization by the consumer in writing only for preauthorized electronic fund transfers from a consumer's account and from failing to comply with the Official Commentary to 12 C.F.R. § 205.10, Question 10–18.6. Paragraph (b) prohibits respondents from making representations, directly or indirectly, that its representatives who are, in fact, calling to secure subscriptions are conducting or participating in any survey or contest; performing services for educational, charitable or social organizations; or giving products or services for free or as a gift. Paragraph (c) prohibits the respondents from failing to identify that the purpose of their contacts is to sell products or services. Paragraph (d) prohibits respondents from representing that the price covers only the cost of mailing or misrepresenting the savings to be accorded to the purchaser. Paragraph (e) prohibits respondents from representing that a subscription contract can be cancelled at the purchaser's option, unless it can be cancelled, while paragraph (f) requires respondents to cancel upon request if such a misrepresentation has been made to the purchaser. Paragraph (g) prohibits respondents from misrepresenting the

terms of payments to prospective purchasers. Paragraph (h) prohibits respondents from failing to reveal orally, prior to the customer's entering into a contract, and in writing on the subscription form, the names, number of issues, total cost, installment payments, method of payments and the right to rescind the sale within three business days of receipt of the sales agreement. Paragraph (i) prohibits respondents from representing that a purchase agreement is any other kind of document other than a contract or agreement. Paragraph (j) prohibits respondents from failing to identify the nature and legal import of any document that the consumer is required to execute. Paragraph (k) prohibits respondents from engaging in any unfair or deceptive practice in order to effect payment. Paragraph (l) prohibits respondents from cancelling any subscription contract for any reason other than a breach by the subscriber or a request by the subscriber; Paragraph (m) prohibits respondents from failing to provide to each consumer a copy of the subscription contract showing either the date it was mailed to the consumer or the date the consumer signed the contract and the name, address and telephone number of the seller or the service company used by the seller, Paragraph (n) prohibits respondents from failing to provide a sheet separable from the written sales agreement which can be used as a notice of cancellation. Paragraph (o) prohibits respondents from failing to cancel a sales agreement where the request is received fourteen (14) calendar days from the date the agreement was mailed or delivered to the purchaser and from refunding any payment received within thirty (30) days after cancellation. Paragraph (p) prohibits respondents from failing to furnish those PDS customers who use payment coupons, with specific information on the coupon payment book including the total coupons in the book, the total dollar amount of all such coupons, and the seller's address and telephone number. Paragraph (q) prohibits the respondents from failing to offer the right to substitute magazines on a pro rata dollar-for-dollar basis or extending subscription periods on magazines already selected, in the event of the discontinuance of publication or availability of magazines already subscribed for by the customer. Paragraph (r) prohibits respondents from failing to cancel, at the subscriber's sole option, any portion of a contract whenever any misrepresentation prohibited by the order has been made. Finally, Paragraph (s) prohibits respondents from furnishing the means and instrumentalities to others by which the public may be misled in the manner or as to the things prohibited by this order.

Part II of the proposed consent order required BMI and its dealers to distribute copies of the order to each of the present and future dealers, employees and other representatives; to secure from such persons a statement indicating their intention to be bound by the order; to institute a program of continuing surveillance to reveal whether such persons are conforming to the order and to discontinue dealing with any such persons who are revealed to be engaging in practices prohibited by the order.

Part III of the proposed consent order requires BMI to notify the Commission at least thirty (30) days prior to the effective date of any proposed change in the corporate respondent.

Part IV of the proposed consent order requires the individually named respondents to notify the Commission at least thirty (30) days prior to the sale or discontinuance of the entities through which they have been engaging in the sale of subscription contracts or of the creation of any additional businesses or entry into any new business engaged in the telemarketing of products or services.

Part V of the proposed consent order vacates the Decision and Order in Docket No. 8831, issued on August 3, 1972, insofar as it applies to the respondents in this matter.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 96–26106 Filed 10–10–96; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 95F–0177]

Ciba-Geigy Corp.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 5B4474), filed by Ciba-Geigy Corp. proposing that the food additive regulations be amended to provide the safe use of *N*, *N‴*-[1,2-ethanediylbis[[[4,6-bis[butyl(1,2,2,6,6-pentamethyl-4-piperidinyl)amino]-1,3,5-triazin-2-yl]imino]-3,1-propanediyl]]bis[*N′*, *N″*-dibutyl-*N′*, *N″*-bis(1,2,2,6,6-pentamethyl-4-piperidinyl)-1,3,5-triazine-2,4,6-triamine] as a light/thermal stabilizer in polypropylene and high-density polyethylene polymers intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of July 12, 1995 (60 FR 35913), FDA announced that a food additive petition (FAP 5B4474) had been filed by Ciba-Geigy Corp., Seven Skyline Dr., Hawthorne, NY 10532–2188. The petition proposed to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of *N*, *N‴*-[1,2-ethanediylbis[[[4,6-bis[butyl(1,2,2,6,6-pentamethyl-4-piperidinyl)amino]-1,3,5-triazin-2-yl]imino]-3,1-propanediyl]]bis[*N′*, *N″*-dibutyl-*N′*, *N″*-bis(1,2,2,6,6-pentamethyl-4-piperidinyl)-1,3,5-triazine-2,4,6-triamine] as a light/thermal stabilizer in polypropylene and high-density polyethylene polymers intended for use in contact with food. Ciba-Geigy Corp. has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: September 25, 1996.

George H. Pauli,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–26157 Filed 10–10–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96F–0369]

General Electric Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that General Electric Co. has filed a petition proposing that the food additive regulations be amended to provide for the expanded safe use of triisopropanolamine as a component of

phosphorous acid, cyclic butylethyl propanediol, 2,4,6-tri-*tert*-butylphenyl ester, a stabilizer for olefin polymers intended for use in contact with food.

DATES: Written comments on the petitioner's environmental assessment by November 12, 1996.

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

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216),Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 6B4522) has been filed by General Electric Co., One Lexan Lane, Mt. Vernon, IN 47620–9364. The petition proposes to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the expanded safe use of triisopropanolamine as a component of phosphorous acid, cyclic butylethyl propanediol, 2,4,6-tri-*tert*-butylphenyl ester, a stabilizer for olefin polymers intended for use in contact with food.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before November 12, 1996, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the Federal Register. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Dated: September 27, 1996.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–26213 Filed 10–10–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3322–N–03]

Office of the Assistant Secretary for Fair Housing and Equal Opportunity; State and Local Fair Housing Laws: Public Notices of Substantial Equivalency of the Fair Housing Laws of Various States and Localities

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice and request for comments.

SUMMARY: In accordance with 24 CFR 115.102, HUD is publishing this notice which: (1) Lists all the State and local fair housing enforcement agencies to which HUD has granted substantially equivalent certification or interim certification; (2) lists those enforcement agencies to which HUD has issued a notice of denial of interim certification; and (3) lists the enforcement agencies to which HUD is considering granting substantially equivalent certification and solicits public comment on these proposed certifications.

DATES: *Comment Due Date:* November 12, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying on weekdays between 7:30 a.m. and 5:30 p.m. at the above address.

FOR FURTHER INFORMATION CONTACT: Marcella O. Brown, Director, Fair Housing Assistance Programs Division, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 5234, Washington, DC 20410, telephone (202) 708–0455. (This telephone number is not toll-free.) Hearing- or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Fair Housing Act (42 U.S.C. 3601–3619) (the Act) provides that whenever a complaint alleges a discriminatory housing practice, arising in the jurisdiction of a State or local agency which has been certified by the Secretary under section 810(f) of the Act, HUD shall refer the complaint to the State or local agency. HUD has implemented section 810(f) at 24 CFR part 115, which establishes the criteria the Secretary of HUD utilizes to certify State and local fair housing enforcement agencies. On February 28, 1996 (61 FR 7674), HUD published an interim rule which revised and streamlined part 115. The interim rule, which became effective on March 29, 1996, established several Federal Register publication requirements. The policies and procedures described in the February 28, 1996 interim rule were finalized in a rule published on August 7, 1996 (61 FR 41282).

Paragraph (a) of 24 CFR 115.102 requires that HUD periodically publish in the Federal Register: (1) A list of all agencies which have received interim certification or certification; and (2) a list of agencies to which HUD has issued a notice of denial of interim certification or for which withdrawal of certification is being proposed. This notice implements § 115.102(a) by listing the appropriate State and local fair housing enforcement agencies. Paragraph (b) of § 115.102 requires that HUD ''publish in the Federal Register a notice soliciting public comment before granting certification to a State or local agency.'' This notice identifies the agencies to which HUD proposes to grant substantially equivalent certification and solicits comment on these proposed certifications. HUD invites the public to comment on the State and local fair housing laws, as well as on the performance of the relevant agencies in enforcing these laws. All comments will be considered before a final decision on certification is made.

II. Agencies With Interim Certification

HUD's Assistant Secretary for Fair Housing and Equal Opportunity (the Assistant Secretary) has determined, after application of the criteria set forth in 24 CFR 115.202, that the fair housing

laws for the following States and localities provide, on their face, substantive rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided by the Fair Housing Act. The following is the list of State and local agencies which enforce these fair housing laws, organized by geographic location:

New England: Rhode Island Commission for Human Rights
Mid-Atlantic: Delaware Human Relations Division, Maryland Commission on Human Relations, City of Reading, PA, Huntington, WVA Human Relations Commission
Southeast/Caribbean: Hillsborough County (FL) Equal Opportunity Office, St. Petersburg (FL) Human Relations Department, Tampa (FL) Office of Community Relations Services, Durham (NC) Human Relations Commission, Mecklenburg County (NC)—Charlotte-Mecklenburg County Community Relations Committee, Winston-Salem (NC) Human Relations Commission
Midwest: Fort Wayne (IN) Metropolitan Human Relations Commission, Hammond (IN) Human Relations Commission, Parma (OH) Department of Law
Great Plains: Iowa Civil Rights Commission, Cedar Rapids (IA) Civil Rights Commission, Des Moines (IA) Human Rights Commission, Lawrence (KS) Human Relations Commission,[1] Omaha (NE) Human Relations Department
Rocky Mountain: Utah Anti-Discrimination Division
Pacific/Hawaii: California Department of Fair Employment and Housing
Northwest/Alaska: Washington State Human Rights Commission, Seattle (WA) Human Rights Department, Tacoma (WA) Human Rights Department

III. Agencies With Certification

The Assistant Secretary has determined, after application of the criteria described in §§ 115.202 and 115.203, that the fair housing laws for the following States and localities, and the administrative enforcement of these laws by the relevant State and local enforcement agencies, provide, in operation, substantive rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided by the Fair Housing Act. The following is the list of these enforcement agencies, organized by geographic location:

New England: Connecticut Commission on Human Rights and Compliance, Massachusetts Commission Against Discrimination, Cambridge Human Rights Commission
Mid-Atlantic: Pennsylvania Human Relations Commission, Virginia Department of Professional and Occupational Regulation, West Virginia Human Rights Commission, Charleston (WVA) Human Rights Commission
Southeast/Caribbean: Florida Human Relations Division, Clearwater (FL) Office of Community Relations, Orlando (FL) Human Relations Department, Pinellas County (FL) Office of Human Rights, Georgia Commission on Equal Opportunity, Kentucky Commission on Human Rights, Lexington-Fayette (KY) Urban County Human Rights Commission, Louisville and Jefferson County (KY) Human Relations Commission, North Carolina Human Relations Commission, Asheville-Buncombe County (NC) Community Relations Council, Charlotte (NC) and Mecklenburg County (NC) Community Relations Committee, Greensboro (NC) Human Relations Department, New Hanover County (NC) Human Relations Commission, South Carolina Human Affairs Commission
Midwest: Springfield (IL) Human Relations Commission and Fair Housing, Indiana Civil Rights Commission, Gary (IN) Human Relations Commission, South Bend (IN) Human Relations Commission, Ohio Civil Rights Commission, Dayton (OH) Human Relations Council, Shaker Heights (OH) Fair Housing Review Board
Southwest: Louisiana Attorney General's Office, Public Protection Division, Oklahoma Human Rights Commission, Texas Commission on Human Rights, Dallas (TX) Office of Compliance, Fair Housing Administrator
Great Plains: Dubuque (IA) Human Rights Department, Olathe (KS) Human Relations Commission, Salina (KS) Human Relations Department, Missouri Commission on Human Rights, Kansas City (MO) Human Relations, Nebraska Equal Opportunity Commission, Omaha Human Relations Department
Rocky Mountains: Colorado Civil Rights Division, Montana Human Rights Commission
Pacific/Hawaii: Arizona Office of Attorney General, Human Services Division, Phoenix (AZ) Equal Opportunity Department, Hawaii Civil Rights Commission
Northwest/Alaska: King County (WA) Office of Civil Rights and Compliance

IV. Agencies To Which a Notice of Denial of Interim Certification Has Been Issued.

The Assistant Secretary has determined, after application of the criteria described in § 115.202, that the fair housing laws of the following States and localities are substantially equivalent ''on their face'' to the Fair Housing Act. However, after application of the criteria set forth in 24 CFR 115.203, the Assistant Secretary has determined that the fair housing enforcement agencies charged with the administrative enforcement of these laws do not provide substantive rights and remedies for alleged discriminatory housing practices. The following is the list of agencies to which HUD has denied, or proposes to deny, certification, organized by geographic location:

Southeast/Caribbean: Tennessee Human Rights Commission, Knoxville Department of Community Development
Midwest: Illinois Department of Human Rights, Elgin Human Relations Commission, Evanston Human Relations Commission

V. Agencies for Which Comments Are Requested Before the Granting of Certification.

Following a review of the performance standards and other materials pertaining to the fair housing laws of the following States and localities, HUD expects to make final determinations that the law of each State and locality, in operation, provides rights and remedies that are substantially equivalent to those available under the Fair Housing Act. HUD intends to execute a Memorandum of Understanding with the agency charged with enforcement of the fair housing law of each State and locality in accordance with 24 CFR 115.210.

In accordance with 24 CFR 115.102, the public is invited to submit written comments on the agencies listed below. Specifically, HUD requests written comments on the proposed determinations that the current practices and past performance of the following State and local agencies demonstrate that, in operation, their fair housing laws provide substantive rights and remedies that are substantially equivalent to the Fair Housing Act. This

[1] The State of Kansas has voluntarily withdrawn its association with HUD in the enforcement of its fair housing laws and ordinances. This notice, however, identifies the enforcement agencies within the State of Kansas that HUD has determined meet the requirements for certification or interim certification described in 24 CFR part 115.

notice also invites comments from the public on HUD's determination that the fair housing laws of the following States and localities are, on their face, substantially equivalent to the Fair Housing Act.

In submitting comments, HUD requests that commenters clearly identify the State or locality for which comments are being submitted. The following is a list of these enforcement agencies by geographic location:

New England: Rhode Island Commission for Human Rights

Mid-Atlantic: Delaware Human Relations Division, Maryland Commission on Human Relations, City of Reading (PA), Huntington (WVA) Human Relations Commission

Southeast/Caribbean: Hillsborough County (FL) Equal Opportunity Office, St. Petersbury (FL) Human Relations Department, Tampa (FL) Office of Community Relations Services, Durham (NC) Human Relations Commission, Mecklenburg County (NC)—Charlotte-Mecklenburg County Community Relations Committee, Winston-Salem (NC) Human Relations Commission

Midwest: Fort Wayne (IN) Metropolitan Human Relations Commission, Hammond (IN) Human Relations Commission, South Bend (IN) Human Relations Commission, Dayton (OH) Human Relations Council, Parma (OH) Department of Law

Southwest: Fort Worth (TX) Human Relations Commission

Great Plains: Iowa Civil Rights Commission, Cedar Rapids (IA) Civil Rights Commission, Des Moines (IA) Human Rights Commission, Dubuque (IA) Human Rights Department, Lawrence (KS) Human Relations Commission, Omaha (NE) Human Relations Department

Rocky Mountain: Utah Anti-Discrimination Division

Pacific/Hawaii: California Department of Fair Employment and Housing, Phoenix (AZ) Equal Opportunity Department

Northwest/Alaska: Washington State Human Rights Commission, Seattle (WA) Human Rights Department, Tacoma (WA) Human Rights Department

Dated: September 17, 1996.

Elizabeth K. Julian,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 96–26118 Filed 10–10–96; 8:45 am]

BILLING CODE 4210–28–P

[Docket No. FR–4124–N–07]

Office of the Assistant Secretary for Community Planning and Development; 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.

EFFECTIVE DATE: October 11, 1996.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7256, 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 the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* NO. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: October 2, 1996.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 96–25754 Filed 10–10–96; 8:45 am]

BILLING CODE 4210–29–M

[Docket No. FR–4147–D–01]

Office of the Secretary; Office of the General Counsel; Delegation and Redelegation of Authority Under the Privacy Act of 1974

AGENCY: Office of the Secretary and Office of the General Counsel, HUD.

ACTION: Notice of delegation and redelegation of authority.

SUMMARY: Under this notice, the Secretary of Housing and Urban Development delegates to the General Counsel for the Department of Housing and Urban Development the authority under the Privacy Act of 1974 to make written requests, for purposes of law enforcement activities, to other agencies for the transfer of records or copies of records maintained by such other agencies, as the General Counsel deems necessary. Under this notice, the General Counsel also redelegates such authority to make written requests to other agencies to the Associate General Counsel for Program Enforcement, the Associate General Counsel for Finance and Regulatory Enforcement, and the Associate General Counsel for Litigation and Fair Housing Enforcement.

EFFECTIVE DATE: October 1, 1996.

FOR FURTHER INFORMATION CONTACT: Emmett N. Roden, Assistant General Counsel for Administrative Proceedings, Office of the General Counsel, Department of Housing and Urban Development, 451 7th Street, S.W., Room 10251, Washington, DC 20410, (202) 708–2350. (This is not a toll-free number). Individuals with hearing impairments may access this number via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: This notice delegates and redelegates authority, as specified, under the Privacy Act, to the General Counsel and to certain Associate General Counsels. This delegation and redelegation is necessary to assist in enforcement activities carried out by the Office of General Counsel on behalf of the Department.

Accordingly, the Secretary of Housing and Urban Development delegates, and the General Counsel redelegates, authority, as follows:

Section A. Authority Delegated

The Secretary of Housing and Urban Development delegates to the General Counsel for the Department of Housing and Urban Development: The authority under subsection (b)(7) of the Privacy Act of 1974, as amended (5 U.S.C. 552a(b)(7)) (''Privacy Act'') to make written requests, for purposes of civil or criminal law enforcement activities, to other agencies for the transfer of records or copies of records maintained by such agencies.

Section B. Authority Redelegated

The General Counsel of the Department of Housing and Urban Development hereby redelegates all of the power and authority delegated in Section A., above, to the following Associate General Counsels:

The Associate General Counsel for Program Enforcement;

The Associate General Counsel for Finance and Regulatory Enforcement; and

The Associate General Counsel for Litigation and Fair Housing Enforcement.

Section C. Authority To Redelegate

The General Counsel may further redelegate the authority delegated under Section A, above. The Associate General Counsels may not further redelegate the authority they have each, individually, been redelegated under Section B., above.

Authority: Section 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: October 1, 1996.

Henry G. Cisneros,

Secretary of Housing and Urban Development.

Nelson A. Diaz,

General Counsel of the Department of Housing and Urban Development.

[FR Doc. 96–26117 Filed 10–10–96; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF THE INTERIOR

Minerals Management Advisory Board; Notice of Renewal/Revision

This notice is published in accordance with section 9(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix). Notice is hereby given that the Secretary of the Interior is renewing the Minerals Management Advisory Board Charter and revising it to reflect minor membership changes in the Outer Continental Shelf (OCS) Policy Committee. The charter also disestablishes the Gulf of Mexico Offshore Advisory Committee and establishes the Alaska OCS Region Offshore Advisory Committee.

The purpose of the Minerals Management Advisory Board is to provide advice to the Secretary of the Interior and other officers of the Department in the performance of discretionary functions of the OCS Lands Act, as amended, including all aspects of leasing, exploration, development, and protection of the resources of the OCS. The Board also advises the Department on discretionary functions under the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996, and the mineral leasing laws for coal and other solid mineral leases.

Further information regarding the Committee may be obtained from the Chief, Office of Advisory Board Support, Minerals Management Service, Department of the Interior, 381 Elden Street, Herndon, Virginia 20170.

Certification

I hereby certify that the renewal and revision of the Minerals Management Advisory Board Charter is in the public interest in connection with the performance of duties imposed on the Department of the Interior by 43 U.S.C. 1331 *et seq.*, 30 U.S.C. 1701 *et seq.* and 30 U.S.C. 1001 *et seq.*

Dated: September 26, 1996.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 96–25680 Filed 10–10–96; 8:45 am]

BILLING CODE 4310–MR–M

Bureau of Land Management

[NV–050–1020–001]

Mojave-Southern Great Basin Resource Advisory Council—Notice of Meeting Locations and Times

AGENCY: Bureau of Land Management, Interior.

ACTION: Resource Advisory Council meeting locations and times.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C., the Department of the Interior, Bureau of Land Management (BLM), council meeting of the Mojave-Southern Great Basin Resource Advisory Council will be held as indicated below. The agenda includes a public comment period, discussion of laws and regulations that pertain to grazing, and an update of standards and guidelines.

All meetings are open to the public. The public may present written comments to the council. Each formal council meeting will have a time allocated for hearing public comments. The public comment period for the council meeting is listed below. Depending on the number of persons wishing to comment, and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need further information about the meetings, or need special assistance such as sign language interpretation or other reasonable accommodations, should contact Michael Dwyer at the Las Vegas District Office, 4765 Vegas Dr., Las Vegas, NV 89108, telephone, (702) 647–5000.

DATES, TIMES: Date is November 6, 1996, from 8:30 a.m. to approximately 4:30 p.m. The council will meet at the BLM Las Vegas District Office, located at 4765 Vegas Dr., Las Vegas, NV 89108. The public comment period will begin at 3 p.m.

SUPPLEMENTARY INFORMATION : The purpose of the council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of the public lands.

FOR FURTHER INFORMATION CONTACT: Lorraine Buck, Public Affairs Specialist, Las Vegas District, telephone: (702) 647–5000.

Dated: October 1, 1996.

Ted S. Milesnick,

Acting Associate District Manager.

[FR Doc. 96–26112 Filed 10–10–96; 8:45 am]

BILLING CODE 4310–HC–M

[UT–940–1910–00–4677]

Idaho: Filing of Protraction Diagrams in Idaho

The protraction diagrams of the following described unsurveyed townships, all in Boise Meridian, Idaho, were officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m. October 4, 1996:

T. 31 N., R. 11 E.; T. 32 N., R. 11 E.; T. 31 N., R. 12 E.; T. 32 N., R. 12 E.; T. 31 N., R. 13 E.; T. 32 N., R. 13 E.; T. 31 N., R. 14 E.; T. 32 N., R. 14 E.; T. 31 N., R. 15 E.; T. 32 N., R. 15 E.; T. 31 N., R. 16 E.; T. 32 N., R. 16 E.

The preparation of these diagrams was requested by the USDA Forest Service, Geometronics Service Center, to support its mapping program.

All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: October 4, 1996.

Harry K. Smith,

Acting Chief, Cadastral Surveyor for Idaho.

[FR Doc. 96–26111 Filed 10–10–96; 8:45 am]

BILLING CODE 4310–GG–M

[MT–960–1990–00]

Notice of Availability for the Montana/Dakotas Standards for Rangeland Health and Guidelines for Livestock Grazing Management Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: The draft environmental impact statement (EIS) documents the effects of adopting regional standards for rangeland health and guidelines for

livestock grazing management on BLM-administered lands east of the Continental Divide in Montana, North Dakota, and South Dakota. The proposed standards and guidelines would be incorporated into nine BLM land use plans that cover about 8.3 million acres of BLM-administered land. This action is proposed in accordance with revised regulations for livestock grazing on BLM-administered lands (43 CFR 4100). The proposed standards and guidelines were developed in partnership with four Resource Advisory Councils, and with other public input.

FOR FURTHER INFORMATION CONTACT: Dan Lechefsky, Project Manager, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107–6800, or 406–255–2919.

SUPPLEMENTARY INFORMATION: Three alternatives are considered in detail in the draft EIS for standards and guidelines. The no action alternative (continuation of current management direction) provides a baseline for comparison with other alternatives. The proposed action is to incorporate regional standards and guidelines into affected land use plans. The third alternative is to implement the fallback standards and guidelines defined in BLM's grazing regulations.

Public informational meetings (open houses) will be held to exchange information with the public about the standards and guidelines draft EIS. The following information provides the times, dates and locations of the open houses, by BLM district, to be held in the Montana/Dakotas organization.

Butte District—All times for open houses held by the Butte District will be from 4 p.m. to 7 p.m., December 9, 1996: Helena National Forest Supervisor's Office, Conference Room, 2880 Skyway Drive, Helena, Montana; December 10, 1996: Bozeman Ranger District, Gallatin National Forest, Conference Room, 3710 Fallon Street, Bozeman, Montana; December 11, 1996: Ennis Town Hall; Ennis, Montana; December 12, 1996: Bureau of Land Management, Butte District and Headwaters Resource Area Office, 106 North Parkmont, Butte Montana; December 16, 1996: Dillon Resource Area Office, Conference Room, 1005 Selway Drive, Dillon, Montana.

Dakotas District—The Dakotas District will hold one open house on December 4, 1996, from 1 p.m. to 7 p.m., at the First Western Bank, Community Room, 41 5th Avenue, Belle Fourche, South Dakota.

Miles City District—The Miles City District will hold public meetings in the following Montana communities: Billings, Miles City, Ridgeway, Jordan, Roundup and Terry. Times, dates and meeting locations will be announced through local media.

Lewistown District—The Lewistown District will hold public meetings in the following Montana communities: Lewistown, Great Falls, Malta, Glasgow and Havre. Times, dates and meeting locations will be announced through local media.

Dated: October 3, 1996.

[FR Doc. 96–25873 Filed 10–10–96; 8:45 am]

BILLING CODE 4310–DN–P

[CO–050 1430–01: COC–59793]

Notice of realty action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, recreation and public purpose classification and application (COC–59793) for lease or conveyance, acquisition of public lands by Jefferson County, Colorado for recreational purposes.

SUMMARY: The following public lands are classified as suitable for lease or conveyance under the Recreation and Public Purpose Act (R&PP) of July 14, 1926, as amended, 43 U.S.C. 869 et. seq., and the regulations thereunder 43 CFR 2740 and 2912. The public lands involved are segregated from the public land laws including the general mining laws, except for the R&PP Act.

6th Principal Meridian, Colorado

T. 7 S., R. 70 W.,
Section 19: Lots 5, 6,
Section 20: W½E½, SE¼NW¼, NE¼SW¼ (324.14 acres)

DATES: Interested parties may submit comments on this action on or before November 15, 1996. Objections will be reviewed and this realty action may be sustained, vacated, or modified. Unless vacated or modified, this realty action will become final.

ADDRESSES: District Manager, Bureau of Land Management, Canon City District, 3170 East Main Street, Canon City, Colorado 81212.

FOR FURTHER INFORMATION CONTACT: Lindell Greer, Realty Specialist at (719) 269–8532.

SUPPLEMENTARY INFORMATION: The purpose of the classification for conveyance under R&PP is to make available lands identified in the Northeast Resource Management Plan not needed for federal purposes and having potential for disposal to Jefferson County, Colorado for Recreational purposes. Lease or conveyance of the lands for recreational purposes would be in the public interest. If issued, the lease will be issued subject to valid existing rights.

Donnie R. Sparks,

District Manager.

[FR Doc. 96–26114 Filed 10–10–96; 8:45 am]

BILLING CODE 4310–JB–P

[ID–933–06–5410–DO16; IDI 31943; ID–933–06–5410–DO17; IDI–31964]

Conveyance of Federally-Owned Mineral Interests; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719), Harry S. Rinker, Trustee of the Roderick Rinker and Kenneth Rinker Trust has applied to purchase the mineral estate on the following lands:

Boise Meridian

T. 1 N., R. 17 E.,
Sec. 1, lot 1, S½NE¼, NW¼SE¼;
Sec. 2, SE¼;
Sec. 11, NE¼;
Sec. 12, NE¼NE¼, NW¼NW¼, S½N½;
Sec. 14, SW¼SW¼;
Sec. 15, SW¼SW¼, E½SE¼;
Sec. 21, lot 1, N½NE¼, SW¼NE¼, NE¼NW¼, S½NW¼, S½;
Sec. 22, NE¼NE¼, NW¼NW¼, NW¼SW¼, S½SW¼, SE¼;
Sec. 23, SW¼NE¼, NW¼, N½SW¼, SW¼SW¼, NW¼SE¼;
Sec. 25, S½SW¼, SE¼;
Sec. 26, W½W½;
Sec. 27, NE¼NE¼.
T. 1 N., R. 18 E.,
Sec. 6, lots 3, 4, 5, 6, SE¼NW¼, E½SW¼;
Sec. 7, lot 1, NE¼NW¼;
Sec. 30, lots 2, 3, 4, SE¼NW¼, E½SW¼.
T. 2 N., R. 18 E.,
Sec. 31, lots 3, 4, E½SW¼.

The area described contains 3,430.37 acres in Blaine County.

EFFECTIVE DATE: October 11, 1996.

The mineral interests described above will be segregated from the mining and the mineral leasing laws. The segregative effect of the application shall terminate upon issuance of a patent, upon final rejection of the application, or 2 years from the publication date, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Lynn McClure, Land Law Examiner, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 85706–2500, (208) 384–3043.

Buneta M. Wilson,

Supervisory Land Law Examiner.

[FR Doc. 96–26115 Filed 10–10–96; 8:45 am]

BILLING CODE 4310–GG–P

National Park Service

Notice of Approval of Record of Decision; Final Environmental Impact Statement for the Comprehensive Management and Use Plan, Juan Bautista De Anza National Historic Trail, Arizona and California

SUMMARY: Pursuant to § 102(2)(C) of the National Environmental Policy Act of 1969, as amended, and regulations promulgated by the Council on Environmental Quality (40 CFR 1505.2), the Department of the Interior, National Park Service has approved a Record of Decision (ROD) on the Final Environmental Impact Statement/ Comprehensive Management and Use Plan (FEIS/CMP) for the Juan Bautista de Anza National Historic Trail, Arizona and California. The National Park Service will implement the Proposal (Alternative D) as described in the FEIS/ CMP (Notice of Availability published on August 9, 1996 in the Federal Register).

COPIES: Copies of the approved Record of Decision may be obtained from the Superintendent, Pacific Great Basin System Support Office, 600 Harrison Street, Suite 600, San Francisco, CA 94107–1372 (Attention: Meredith Kaplan, 415/744–3968).

Dated: October 3, 1996.

Patricia L. Neubacher,

Acting Field Director, Pacific West Area.

[FR Doc. 96–26105 Filed 10–10–96; 8:45 am]

BILLING CODE 4310–70–P

Bureau of Reclamation

[FES 9649]

Proposed American River Bridge Crossing Project, Folsom, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of final environmental impact statement.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 (as amended), the Bureau of Reclamation (Reclamation) has prepared a final environmental impact statement (FEIS) for the American River Bridge Crossing Project in Folsom, California. The Corps of Engineers and the U.S. Fish and Wildlife Service are cooperating agencies under NEPA.

The purpose of the FEIS is to address the environmental impacts of constructing a bridge across the American River in the City of Folsom in eastern Sacramento County. The FEIS describes the environmental effects of five alternatives, including no action. The purpose of the American River Bridge crossing project alternatives are:

- To relieve traffic on Rainbow Bridge, currently operating at design capacity;
- To relieve traffic congestion on the bridge approach roadways and intersections in the immediate vicinity of the bridge;
- To improve traffic circulation throughout Folsom;
- To provide additional cross-river transportation facilities to accommodate present and future commute traffic in area communities; and
- To improve automobile, bicycle, and pedestrian safety in the vicinity of Rainbow Bridge.

The FEIS also includes all comments received on the Draft Environmental Impact Statement/Environmental Impact Report and responses to those comments.

DATES: No decision will be made on the proposed action until 30 days after release of the FEIS. After the 30-day waiting period, Reclamation will complete a Record of Decision which states the action that will be implemented and will discuss all factors leading to the decision.

ADDRESSES: Copies of the FEIS may be requested from Reclamation at the following address: Regional Director, Bureau of Reclamation, Mid-Pacific Regional Office, 2800 Cottage Way, Attention: MP–152, Sacramento, CA 95825–1898; Telephone: (916) 979–2482.

Copies of the FEIS are also available for inspection at the above address and at the following libraries

- City of Folsom Planning Department, 50 Natoma Street, Folsom CA 95630.
- Natural Resources Library, U.S. Department of the Interior, 1849 C Street, NW, Main Interior Building, Washington DC 20240–0001.
- Library, Bureau of Reclamation, 6th Avenue and Kipling, Room 167, Building 67, Denver Federal Center, Denver, CO 80225–0007.
- California State University Library, Government Publications Section, 2000 Jed Smith Drive, Sacramento CA 95819.
- City of Folsom Public Library, 300 Persifer Street, Folsom CA 95630.
- Fair Oaks-Orangevale Community Library, 11601 Fair Oaks Boulevard, Fair Oaks CA 95628.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas Kleinsmith, U.S. Bureau of Reclamation. Mid-Pacific Region, 2800 Cottage Way, MP–152, Sacramento California 95825–1898, telephone (916) 979–2482.

SUPPLEMENTARY INFORMATION: Reclamation and the City of Folsom prepared a joint draft environmental impact report/environmental impact statement (DEIR/DEIS) for the American River Bridge Crossing Project in March 1992. It was decided that a separate final environmental impact report (FEIR) and a separate FEIS would be prepared, rather than a joint FEIS/FEIR, because the NEPA process was delayed by meeting the requirements of related Federal environmental laws. Pursuant to the California Environmental Quality Act, the City of Folsom released and certified the FEIR in July 1994. A supplement to the FEIR was released November 1994. This FEIS incorporates the information contained in those two documents and new information received since the release of the Supplement to the FEIR.

The proposed action (preferred alternative) consists of a 2,300-foot span bridge connecting Folsom Boulevard with Folsom-Auburn Road. The bridge would be constructed to accommodate four vehicular lanes, bicycle and pedestrian facilities, and right-of-way for a future high-occupancy vehicle facility (such as light rail line or carpool lane). The project would require roadway and intersection improvements in Folsom's downtown historic district, widening Folsom Boulevard, modifying the Greenback Lane/ Folsom-Auburn Road intersection for the northern bridge approach, and raising an electrical transmission line to meet clearance requirements over the northern bridge approach.

Because the bridge facility crosses federal land, the City of Folsom must apply for an easement from Reclamation for construction. Accordingly, Reclamation is the lead federal agency responsible for NEPA compliance on the proposed action.

Other alternatives evaluated in detail in the FEIS are three other bridge crossing sites in the City of Folsom and the no action alternative. The other sites considered in detail are the Oak Avenue Parkway extension and bridge upstream of Rainbow Bridge, a bridge parallel to Rainbow Bridge with a connector to the Oak Avenue Parkway extension, and a bridge below Folsom Dam.

Dated: September 18, 1996.

Kirk C. Rodgers,

Deputy Regional Director.

[FR Doc. 96–26196 Filed 10–10–96; 8:45 am]

BILLING CODE 4310–94–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–96–21]

Emergency Notice; Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: Thursday, October 10, 1996 at 10:30 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTER TO BE CONSIDERED: 1. The Chairman's proposal for Fiscal Year 1997 Expenditure Plan and Fiscal Year 1998 Budget Request.

CONTACT PERSON FOR MORE INFORMATION: Donna R. Koehnke, Secretary, (202) 205–2000.

Issued: October 7, 1996.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–26252 Filed 10–8–96; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Public Comments and Plaintiff's Response; United States of America v. The Thomson Corporation and West Publishing Company

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), that Public Comments and Plaintiff's Response have been filed with the United States District Court for the District of Columbia in *United States* v. *The Thomson Corporation and West Publishing Company,* Civ. Action No. 96–1415.

On June 19, 1996, the United States filed a Compliant seeking to enjoin a transaction in which The Thomson Corporation (''Thomson'') agreed to acquire West Publishing Company (''West''). Thomson and West are two of the country's largest publishers of law books and legal research materials. Thomson and West publish numerous competing legal publications, including the only two annotated United States Codes and the only two enhanced U.S. Supreme Court reporters. The Complaint alleged that the proposed acquisition would substantially lessen competition in the market for legal publications in violation of Section 7 of the Clayton Act, 15 U.S.C. 18, and Section 1 of the Sherman Antitrust Act, 15 U.S.C. 1.

Public comment was invited within the statutory 60-day comment period. Such comments, and the responses thereto, are hereby published in the Federal Register and filed with the Court. Charts appended to the Public Comments have not been reprinted here, however they may be inspected with copies of the Complaint, Stipulation, proposed Final Judgment, Competitive Impact Statement, Public Comments and Plaintiff's Response in Room 3233 of the Antitrust Division, Department of Justice, Tenth Street and Pennsylvania Avenue, N.W., Washington. D.C. 20530 (telephone: 202–633–2481) and at the office of the Clerk of the United States District Court for the District of Columbia, Third Street and Constitution Avenue, N.W., Washington, D.C. 20001.

Copies of any of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations, Antitrust Division.

In the United States District Court for the District of Columbia

United States of America, 1401 H Street, NW, Suite 4000, Washington, DC 20530 (202) 307–5779, State of California, State of Connecticut, State of Illinois, Commonwealth of Massachusetts, State of New York, State of Washington, and State of Wisconsin Plaintiffs, v. The Thomson Corporation, and West Publishing Company Defendants. Civil No. 96–1415 (PLF)

PLAINTIFFS' RESPONSE TO PUBLIC COMMENTS

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Pursuant to the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) (''Tunney Act''), the United States and the attorneys general of the states of California, Illinois, Massachusetts, New York, Washington, and Wisconsin hereby respond to the public comments received regarding the proposed Final Judgment in this case.[1]

I

Background

On June 19, 1996, the United States Department of Justice (''the Department'') and the seven plaintiff state attorneys general's offices filed the Complaint in this matter. The Complaint alleges that defendants Thomson Corporation (''Thomson'') and West Publishing Company (''West''), in violation of Section 7 of the Sherman Act, 15 U.S.C. 18, proposed a merger that was likely substantially to lessen competition.

[1] The State of Connecticut does not join in this Response to Comments. Therefore, subsequent references to ''the governments'' or ''the plaintiffs'' refer only to the plaintiffs who have signed the response.

Simultaneously with the filing of the Complaint, the plaintiffs filed the proposed Final Judgment and a Stipulation signed by all the parties that allows for entry of the Final Judgment following compliance with the Tunney Act. A Competitive Impact Statement (''CIS'') was filed and published in the Federal Register on July 5, 1996. The CIS explains in detail the provisions of the proposed Final Judgment, the nature and purposes of these proceedings, and the practices giving rise to the alleged violation.

As the Complaint and CIS explain, the merger as originally proposed was likely to reduce or eliminate competition between Thomson and West in several specific markets in three categories: enhanced primary law, secondary law, and comprehensive online legal research services. Complaint §§ 24 and 25. The proposed Final Judgment is intended to prevent the expected lessening of competition caused by the merger in those specific markets.

As a remedy to particular competitive concerns in enhanced primary and secondary law product markets, the Department, seven states, Thomson, and West agreed to certain product divestitures, the mandatory licensing of the internal pagination from West's National Reporter System (''star pagination''), and, in the case of official reporter contract states, an option to those states to obtain a new official publisher and to require divestiture of Thomson's official reporter assets.

These divestitures of enhanced primary and secondary law products are also intended to protect consumers by ensuring continued vigorous competition between Lexis-Nexis and WESTLAW in the ''comprehensive online legal research services'' market after the merger, but the plaintiffs agreed also to the extension of certain licenses to Lexis-Nexis, a division of Reed Elsevier, Inc., and the divestiture of Auto-Cite to address this concern.

The 60-day period for public comments expired on September 3, 1996. As of September 23, 1996, plaintiffs had received comments from 26 persons.[2]

The comments come from a variety of sources. The most extensive comments are submitted by Lexis/Reed Elsevier; Alan Sugarman, President of HyperLaw, Inc. (''HyperLaw''); and Matthew Bender & Company, Inc. (''Matthew Bender''). Lexis/Reed Elsevier is the owner of the only existing competitor to West in the comprehensive online legal research services product market. Alan Sugarman and Matthew Bender are currently engaged in copyright litigation with West in the District Court for the Southern District of New York. Other comments are from private attorneys, librarians, individuals, non-profit organizations, government organizations, and one anonymous commenter.

II

Response to Public Comments

In the legal publishing industry, there are a number of contentious legal, business, and public policy issues being debated. Many of these issues involve the merging parties or the Department of Justice. This fact has generated a large number of comments that do not relate to the specific law violations charged in the Complaint or even to the merger in any way.

The Court's responsibility under the Tunney Act is to determine whether entry of the proposed Final Judgment is ''within the *reaches* of the public interest.'' *United States* v. *Western Elec. Co.,* 993 F.2d 1572, 1576 (D.C. Cir.), *cert. denied,* 114 S. Ct. 487 (1993) (emphasis added, internal quotation and citation omitted). The Court may not look beyond the Complaint ''to evaluate claims that the government did *not* make and to inquire as to why they were not made.'' *United States* v. *Microsoft,* 56 F.3d 1448, 1459 (D.C. Cir. 1995) (emphasis in original). Thus, comments that relate to conduct plaintiffs did not pursue are beyond the scope of Tunney Act review for the reasons set forth fully in section III, below.

Many of the comments raise issues not relevant to this merger or in this Tunney Act proceeding. Rather, they are statements about:

—*Other* public policy issues in the legal publishing industry;
—Issues in litigation in *other* non-merger cases;
—Conditions in the legal publishing industry—*unrelated* to the merger—that make it less competitive than the commenter believes it could be;
—Arguments that plaintiffs should have brought a *different* case; and
—*Individual complaints* about behavior of one of the merging parties, unrelated to the merger.

In general, this Response mentions these comments and explains why they are not the proper subject of this proceeding. Where appropriate, the comments are placed in context.

Each of the comments that is relevant to this Tunney Act proceeding is addressed below. In general, they fall in three categories:

—Some comments raised relevant issues that the decree has already resolved. Plaintiffs explain the proper interpretation of the decree and demonstrate why this is the case.
—In three instances, comments raise issues of ambiguity in the decree. To resolve the matter, plaintiffs have agreed with defendants on new, clarifying language for the decree.
—Other comments make criticisms that simply are not warranted. For example, they are premature, or go to matters that will happen after the Final Judgment is entered, or are otherwise unfounded.

Because a number of the commenters adopted or replicated the comments of other commenters, plaintiffs have organized this Response by subject to avoid redundancy. An appendix list the comments submitted and cross-references to the places where they are discussed in this Response. Many of the arguments made by Lexis/Reed Elsevier in its Motion to Intervene and accompanying papers were essentially comments on the decree, or they repeated or elaborated their previous comments; accordingly, such Lexis/Reed Elsevier arguments are addressed in this Response.

A. Divestiture of the Publications Enumerated in the Decree Adequately Protects Competition

Several commenters expressed concern that the divested publications will not be viable without divestiture of additional products and rights.[3] Viability of divestiture assets is an important concern in virtually every merger case, and plaintiffs in this case carefully reviewed these issues and took steps in the proposed Final Judgment to ensure viability of the divested publications. We believe that when the terms of the proposed Final Judgment are carefully examined, it will be clear that these concerns have been adequately addressed.

1. Divestiture of Competing Products, not Companies, and Supporting Infrastructure

Professor Robert Oakley of the Georgetown Law Center comments as Washington Affairs Representative of the American Association of Law Libraries (''AALL''). The AALL stated, at

[2] The comments received as of September 23, 1996, are attached, preceded by a list of the 26 commenters. The United States plans promptly to publish the comments and this response in the Federal Register.

[3] Professor Robert Oakley, American Association of Law Libraries; Cyndi A. Trembley, Association of Law Libraries of Upstate New York; Alois V. Gross, Esq.; Gary L. Reback, Esq., Lexis/Reed Elsevier; Kendall F. Svengalis, Rhode Island State Law Library; James P. Love, Consumer Project on Technology.

the beginning of the governments' investigation, that it was neutral on the Thomson/West merger, and in its comment it reiterates that it remains neutral. At the same time, the AALL questions certain aspects of the proposed Final Judgment.

AALL states that some of its members are concerned that individual titles are required to be divested rather than subsidiary companies.[4] They think this may mean some individual titles will not continue to be viable entities in the market after divestiture. They are concerned that the divestiture products share a ''supporting infrastructure'' with other, non-divested products, and that at least some of the divestiture publications are an essential component of a ''larger system of legal research.'' Divestiture of such non-divested products would mean ordering defendants to divest products where there were no product overlaps.

Plaintiffs agree that the future viability of divestiture products is a legitimate concern and assert that this concern is fully addressed in the decree. The government's investigation examined the supporting infrastructure of the parties very carefully. Except in the case of the California Reports and Deering's California Code,[5] production costs are not formally allocated between or among Thomson products to an extent sufficient to question the viability of individual products, and plaintiffs discovered relatively little evidence of joint production of Thomson products. This means such products can be viable on a stand alone basis, provided the acquirer has the necessary editorial staff and production infrastructure. For this reason, plaintiffs have ensured that acquirers of divestiture products will have access to these resources. The proposed Final Judgment provides that acquirers receive all production assets of the divestiture products, including intellectual property, work in progress, plates, films, master tapes, machine-readable codes for CD–ROM production, existing inventory, pertinent correspondence and files, a copy of the current subscriber list, all related subscriber information, advertising materials, contracts with authors, software, and, at the acquirer's option, computers and other physical assets. Proposed Final Judgment at ¶ II.B. Also at the acquirer's option, Thomson must agree to provide transition production of the product on behalf of the acquirer (essentially as a contract publisher) for a reasonable period of time and a reasonable price.[6] In order to facilitate divestiture, provisions in the Proposed Final Judgment specifically say prospective purchasers can have access to personnel, physical facilities, and financial documents. *Id*. at ¶ II.E. And, the proposed Final Judgment states that Thomson/West shall not interfere with any negotiations by acquirers to make offers of employment to Thomson/West employees whose primary responsibility is the production, sale or marketing of divestiture products. *Id*. at ¶ II.F. Thomson/West must preserve the divestiture products until divestiture is made, must not reassign employees to avoid their being hired by acquirers, except for transfer bids initiated by employees which must be reported to plaintiffs. *Id*. at ¶ VIII.A–C. Finally, all divestitures are subject to the approval of the United States with the consultation of the state plaintiffs, and divestitures of state-specific products are subject to the approval of the United States and the appropriate state plaintiff. Approval of the divestitures will only be made if, to the sole satisfaction of the appropriate plaintiffs, the divestiture product(s) can and will be operated by the acquirer as viable, ongoing product lines. Thus, the decree has properly addressed the issue of viability of divested assets and contains adequate provisions to protect viability.

2. Availability of Legal Editors

Gary L. Reback at the law firm of Wilson Sonsini Goodrich & Rosati submitted comments on behalf of Lexis/Reed Elsevier. Reed Elsevier, the Anglo-Dutch corporation that owns Lexis-Nexis, had 1995 revenues of $5.8 billion. Lexis-Nexis is the sole competitor to West's WESTLAW service. The comments of Lexis/Reed Elsevier express concern that there is an inadequate supply of qualified legal editors to maintain the divestiture products. In its Motion to Intervene and accompanying papers, Lexis/Reed Elsevier claims that Thomson/West has a ''monopoly in editorial staff.'' Memorandum in Support of Motion to Intervene at 22.

Plaintiffs agree that a capable editorial staff is needed to continue these divested products. But a qualified purchaser of the divestiture products can hire editorial staff pursuant to the divestiture terms or secure them elsewhere in the market.

On the basis of our investigation, plaintiffs believe that the divestiture products will attract a strong, capable buyer, which has the capability to ensure their viability. Plaintiffs understand, from the reports submitted pursuant to the proposed Final Judgment, that several significant publishing firms, including Lexis/Reed Elsevier itself, indicated interest in purchasing the divestiture assets. These potential buyers already possess editorial staffs and publishing infrastructure. Other possible buyers include firms that could hire staff and create infrastructure to accompany the divestiture product.

Furthermore, the decree provides, as noted above, that the acquirer of the divestiture products will have access to relevant Thomson employees for purposes of making offers of employment. Of course, such employees are free to decide whether or not to accept such an offer of employment. But they may be expected to carefully consider whether future prospects are better at the acquiring firm, if the product on which they have worked is being divested.

In addition, there is market evidence of the ability of prospective acquirers to obtain qualified legal editors. A number of legal publishers and some states employ trained editorial staffs who editorially enhance their respective law products. For example, Michie, which is also owned by Reed Elsevier, employs an editorial staff which enhances over 20 state code products. Another commenter, CD Law (a company which has been very successful with its own Washington state product) prepares headnotes for the official Washington state reports. Another such example is the editorial staff at the Bureau of National Affairs (''BNA''), which editorially enhances United States Law Week. Similarly, the States of New York, Illinois, and Massachusetts write their own headnotes for their official case reporters. Thomson uses contract employees for some of its editing. The preceding is not intended to be an exhaustive list, but is included only to provide representative examples of the fact that qualified editorial staffs are now widely employed, and there is no ''monopoly'' of legal editors, as Lexis/Elsevier claims. A suitable publisher which uses the provisions of the decree and other sources could assemble a capable editorial staff.[7]

[4] Similar comments were submitted by E. Scott Wetzel, CD Law, Inc.

[5] As explained below, both these products are to be divested pursuant to the proposed Final Judgment.

[6] Proposed Final Judgment at ¶ II.C. The acquirer will control all pricing, promotion, sales, and order fulfillment. *Id*.

[7] The preceding discussion also addresses the argument of Garth Saloner in his Declaration in Support of Lexis-Nexis' Opposition to the Entry of the Proposed Final Judgment that defendants will have a unique incentive to pay editors who work with divestiture products more than the potential

3. Divestiture Products Independent of a Cross-Referencing ''System''

Other comments suggested that the divestiture products are integrated in a ''research system.'' Lexis/Reed Elsevier's Motion to Intervene also raises this issue. See Declaration of Kendall F. Svengalis in Support of Lexis-Nexis' Opposition to the Entry of the Proposed Final Judgment ¶¶ 7–9.

Some of these comments relate to the viability of the divested products, an appropriate Tunney Act comment. This was an issue the plaintiffs considered carefully and concluded that divestiture of independent products was sufficient. Other comments, however, essentially suggest that the plaintiffs should have brought a different case—one based on loss of competition between research systems. For reasons stated in Section III, the latter sort of comment is not appropriate in a Tunney Act proceeding.

The proposed Final Judgment is the culmination of an extensive investigation by Plaintiffs. In the course of the investigation, plaintiffs subpoenaed documents from defendants, deposed employees and officers of defendants, and interviewed numerous law librarians, legal publishers that compete against defendants, and other legal publishing industry participants. Plaintiffs carefully examined whether significant numbers of users of legal research tools consider Thomson's ''Total Client Service Library'' or ''TCSL''[8] to be a substitute for West's ''Key Number'' system. See section II.C.1 below.

In fact, most law schools do not teach that the TCSL and West Key Number system are substitutes. This is true, for example at the Georgetown University Law Center, at which Professor Oakley, who commented on behalf of AALL, teaches.

Nor did our investigation reveal that competition between the parties' individual products is based on competition between TCSL and Key Numbers. Rather, the competition between individual products is based primarily on substantive content in the publications. For example, in new York, both firms have annotated statutes. They are substitutes primarily because they both offer statutory text and annotations to relevant case law. For case law reporters, both firms offer case law publications that are substitutes primarily on the basis of containing case law and editorial enhancements such as headnotes and summaries. The parties' divestiture publications do compete in part because they are enhanced with cross-references.

At the conclusion of the investigation of these issues the Department carefully considered, under the prevailing legal standard, the evidence supporting the theory that the merger harmed competition between competing research systems, and determined that no further action was warranted on the evidence before it.

After careful investigation, the governments decided that it would not be necessary to divest all the publications to which divestiture products are cross-referenced in order to keep the divestiture products competitive. Lexis/Reed Elsevier complains that ''the Consent Decree exacerbates the proposed acquisition's anticompetitive effects in its failure to require Thomson to provide continued access to, and use of, the portions of the Thomson system that the Department is not proposing for divestiture.''

Divestiture products that contain cross-references to Thomson products will *still* be able to include those cross-references. Thomson has never objected to, and has in fact encouraged, cross-references (of the kind contained in the TCSL) to their products by other publishers. The governments' investigation revealed many instances of other publishers cross-referencing to Thomson, West, and other firms' publications. For example, Matthew Bender includes American Law Reports (''ALR'') references in several of its publications. Thomson has confirmed to the Department that it will continue this practice of open citation to Total Client Service Library products.[9] See attachment A. Plaintiffs expect that the acquirer(s) of the divestiture products will continue to be able to cross-reference Thomson publications, which will help the divestiture products remain competitive.

Lexis/Reed Elsevier's comments express concern that Thomson will charge monopoly prices for cross-referencing to ALR and other Thomson publications that are part of the TCSL. This concern is unfounded as Thomson has never claimed a proprietary interest in such cross-references and has never charged a royalty for them. Lexis/Reed Elsevier is also concerned that Thomson may ''save itself the cost of maintaining ALR.'' The implication is that Thomson would stop publishing this popular publication because ALR is a substitute for a West product or products. This fear is not supported by substantial evidence. See II.C.1.

Similarly, Lexis/Reed Elsevier comments that the acquirer of United States Reports, Lawyers Edition will not have access to the annotations at the back of each reporter. Plaintiffs disagree. The proposed Final Judgment provides that defendants will divest to the acquirer the annotations in existing volumes. Proposed Final Judgment at ¶ II.B. The acquirer will be responsible for continuing to provide such annotations in future volumes.

4. California

Mr. L. David Cole, an attorney in Beverly Hills, California, a subscriber to Thomson's CD–ROM titles in California, is concerned that the divestiture of Deering's California Code Annotated will separate it from other titles such as California Reports, the Witkin Library, and Miller & Starr, and that such separation will result in ''unintegrated sets, thereby frustrating the reason for my choice of products * * *.'' He states, ''my * * * investment in Deering's and California Reports will be rendered substantially less valuable when the related treaties are no longer under common ownership and integrated.''

The precise issue identified by Mr. Cole's comment was considered seriously during the investigation of potential competitive effects caused by the Thomson/West merger—that is, whether any of the parties' competing products involve such integration with other, non-competing products that they could not after divestiture, compete in the marketplace. Specifically, the issue of integration of Thomson's California products was investigated and reviewed. It was determined by the plaintiffs that Deering's Code and the California Reporter are integrated sufficiently to indicate that they should both be divested.[10] On the other hand,

acquirer would in order to interfere with an offer by the divestiture buyer. (¶¶ 13–16). Furthermore, the decree forbids the defendants to interfere with the acquirer's attempt to hire personnel whose primary responsibility encompasses a divested product.

[8] The Total Client Service Library includes cross-references that Thomson includes in many of its legal publications.

[9] Professor Saloner maintains that ''new entrants'' are unlikely to come into the markets for enhanced primary law products even if postmerger prices increase, because the cost of developing and introducing a cross-reference methodology for a small set of products would be prohibitive. Declaration of Garth Saloner in Support of Lexis-Nexis' Opposition to the Entry of the Proposed Final Judgment ¶¶ 17 and 18. However, as explained above, a ''new entrant'' would be able to cite to the TCSL products and would therefore not have to develop its own cross-reference methodology.

[10] The proposed Final Judgment requires immediate divestiture of Deering's Code. The proposed Final Judgment also contemplates the divestiture of California Reports; however, the concurrence of the State Reporter of Decisions is an

Continued

there was insufficient evidence that one or both of those two products are sufficiently integrated, in the minds of consumers, with Witkin or any other Thomson product, to warrant a challenge involving more titles.

5. Brand Names

Mr. Alois V. Gross, an attorney in Minneapolis, Minnesota, comments that trade names must be divested, including Lawyer's Cooperative, Bancroft-Whitney, LawDesk, TCSL, and American Jurisprudence. He believes these names carry valuable goodwill and brand recognition and are essential to the divestiture products' viability. Where brand names appeared important to the divestiture product, their divestiture has been included. For example, Deering's Annotated California Code, Corbin on Contracts, and United States Reports, Lawyers Edition, all will be divested. The brand names Mr. Gross mentions cover a broad range of products and are not those primarily associated with the specific divestiture products.

B. The Option to Official Reporter Contracts States Provision is Appropriate and Adequate Relief for the Violation Alleged in the Complaint

Several commenters expressed concerns about the scope and terms of the decree provision which requires Thomson to grant the Official Reporter Contract States the option to terminate their Thomson contracts for publishing official reporters.[11]

1. California

On August 7, 1996, Mr. Edward Jessen submitted comments as Official Reporter of Decisions and Secretary of the Advisory Committee for Publication of the Official Reports of the State of California. He questioned whether the proposed Final Judgment adequately addressed the fact that California Reports and Deering's California Codes share costs and text and should be together to stay competitive. Lexis/Reed Elsevier' Motion to Intervene and accompanying papers also expressed this concern.

Deering's and its assets are required to be divested. California Reports, and all its related assets, also must be divested if the governing entity in California awards the official publisher contract to another firm. Mr. Jessen is the head of that governing body. This provision was inserted into the Final Judgment (Washington and Wisconsin are treated similarly) for the sole purpose of allowing the state governing bodies to concur in the need for divestiture of official reported assets and to decide who should buy the official reporter assets.

Plaintiffs believed this would be a superior approach to attempting directly to require the abrogation and assignment of the contracts with the state judicial branch entities.[12] Therefore, the affected states were effectively given the option to obtain full divestiture. Mr. Jessen and his committee are given control over whether to require divestiture of California's official reporter assets or continue with Thomson. The committee can re-open bidding for the state contract, and give significant weight to ownership of Deering's Code. This places California in a similar position to its pre-merger position. This action should satisfy Mr. Jessen's concerns completely.

Mr. Jessen has now indicated he no longer has the concerns he initially addressed. On September 17, 1996, Mr. Jessen sent a letter to Thomas Greene, Senior Assistant Attorney General at the State of California Department of Justice, in which he stated that, ''I now fully support the proposed consent decree for the Thomson/West transaction as sufficient to protect California's interests as far as my office is concerned.'' (The entire correspondence is contained in attachment B). This letter appended Mr. Jessen's September 16, 1996 letter to Brian Hall, President of the West Information Publishing Group.

In his letter to Mr. Hall, Mr. Jessen stated,

> I now understand that this issue was thoroughly investigated by the California Attorney General's Office and by the United States Department of Justice. I also understand that any sale of Deering's and the other California products to be divested must be approved under the consent decree by the California Attorney General's Office and the United States Department of Justice, and that Thomson is not free to select any purchaser of its choosing regardless of its qualifications. I am confident that the California Attorney General's Office and the United States Department of Justice will exercise their powers of approval as provided in the proposed consent decree to ensure that the purchaser of any divested product will have the managerial, operational and financial capability to compete effectively in the publication and sale of that product.

The plaintiffs agree that there is a nexus between California Reports and Deering's California Code.

2. Washington

E. Scott Wetzel comments on behalf of CD Law, Inc. of Seattle, Washington. CD Law publishes case law, administrative law, and other Washington state legal materials on CD–ROM and the Internet. CD Law comments that ''Thomson and West competed vigorously for the contract to publish the official Washington state reports.'' Plaintiffs agree. However, as CD Law concedes, Thomson and West were not the only competitors for the contract—Darby, Michie, and CD Law also submitted bids.

CD Law comments that ''there are virtually no publishers capable of competing with West/Thomson'' and summarily dismisses companies such as Darby and Michie. Darby currently holds the official reporter contracts for Georgia and the Virginia Supreme Court, and recently was named the successful bidder in Michigan, beating out Thomson among others. Darby has in the past had the official reporter contract for Massachusetts and Arkansas. Michie publishes numerous print and CD–ROM codes and case reporters. Further, Michie is owned by Reed Elsevier, the second largest legal publisher in the United States. In addition to these two serious bidders, the governments' investigation revealed that there are a number of other companies which have bid on and/or published official reporters in other states and which possibly could bid in Washington.

CD Law is also concerned that defendants will not renew its contract to write the headnotes for the official state reports. This concern does not necessarily flow from the merger, as Thomson could have decided not to renew the contract and instead to write its own headnotes in the absence of the merger. In addition, CD Law is not precluded from contracting with the successful bidder for a contract to write headnotes in the event that the state of

additional requirement before its divestiture can occur.

[11] L. David Cole, Esq.; Edward D. Jessen, California Advisory Committee on Publication of Official Reports; Kathleen Jo Gibson, New Mexico Compilation Commission; Karen Ehmer, Esq., Darby Printing Company; E. Scott Wetzel, CD Law, Inc.; John H. Lederer, Esq.

[12] Darby believes that the official reporter assets of official reporter contract states should also be immediately divested. The part of proposed Final Judgment relating to the re-opening of bidding of official state reporter contracts involves a true option to the state governing bodies. These bodies are not required to re-open bidding. The plaintiffs have no information on the requirements that will be placed on bidders by the state governing bodies. There is nothing in the proposed Final Judgment insuring that Thomson will participate in bidding, or requiring states to allow Thomson to participate. Even if Thomson were to participate in a re-opened bidding process, there are no restrictions in the proposed Final Judgment on the state governing bodies' criteria or decision on what firm to pick as a new official reporter or a state's decision to choose Thomson if the state wishes.

Washington decides to exercise its option to terminate its contract with Thomson and awards the contract to another bidder.

CD Law complains that it will not be able to compete with defendants because its product will lack headnotes and case summaries; however, even if Thomson does not contract with CD Law to perform these editorial enhancements, CD Law has not explained why it cannot continue to create the enhancements for its own CD–ROM products. The governments' investigation revealed that CD Law has been a vigorous competitor in Washington for a number of years, and CD Law has not advanced any reasons why that should not continue to be the case.

3. Wisconsin

John H. Lederer, Esq., a retired attorney in Oregon, Wisconsin, expresses concern that defendants will be the only bidders for the Wisconsin official reporter contract. As noted above, the governments' investigation revealed that a number of companies bid for various official reporter contracts in a number of states. Any of these companies potentially could bid for the Wisconsin contract.

4. Other States

Ms. Karen Ehmer comments on behalf of Darby Printing Company, a printer of court opinions in a number of states. Darby asks that Illinois, Massachusetts, and New York (where Thomson publishes other official reporters) also be given the opportunity to re-open bidding for official reporter contracts.

With respect to the official reporters for Illinois, Massachusetts, and New York, competition for these was considered carefully by the plaintiffs in the course of the investigation. This comment relates to markets not included in the Complaint, and thus it is not an appropriate Tunney Act comment. Plaintiffs note, however, that as Darby knows (it was the official printer of Massachusetts opinions until 1995 when it lost the contract to Thomson), in these three states the states themselves write the headnotes and summaries and make other editorial judgments about content. Thomson acts as a printer, rather than an editorial writer in these states. In these states, then, existing editorial competition is only between the state and West. More important, however, is that a court-ordered divestiture of assets is not required for the state to choose a new printer that is capable and adequate to replace Thomson. Printers do not also need to be law publishers in order to compete. There are many printers that can do the job, including Darby (e.g., in Massachusetts, or in Michigan where Darby won the printing contract in 1995). Finally, plaintiffs note that the state attorneys general's offices from Illinois, Massachusetts and New York joined the Complaint and settlement.

Ms. Kathleen Jo Gibson comments on behalf of the New Mexico Compilation Commission. The Commission wants the proposed Final Judgment to include language giving New Mexico, and other states that have official reporters, an option to re-open bidding similar to that now in the proposed Final Judgment for California, Washington, and Wisconsin. The Commission would also like a permanent, royalty-free license to New Mexico court opinions reported by West.

The merger does not affect competition for the sale of official reporters in New Mexico. Thus, it would be inappropriate to require the relief requested by the New Mexico Compilation Commission. West has been the official reporter of New Mexico opinions since 1933. Thomson simply does not compete in New Mexico with an official reporter. In fact, Thomson has not represented even potential competition with West; according to the Commission, ''For a number of reasons, it is not economical for small states such as New Mexico to contract with any other publisher * * *'' New Mexico's dispute with West over the copyrightability of West-reported New Mexico opinions likewise is not related to any actual or potential competition likely to be lost as a result of the Thomson/West merger.

C. Divestiture of Auto-Cite and Lexis/Reed Elsevier's Option To Extend Critical Thomson Content Licenses Adequately Protects Competition in the Comprehensive Online Legal Research Services Market

The complaint alleged that the merger could harm consumers by adversely affecting competition in the comprehensive online legal research services market. Specifically, there was a risk that Thomson, a supplier of content to Lexis-Nexis, could use this position to harm Lexis-Nexis and benefit WESTLAW (which Thomson would now own) in a way that would harm consumers.[13] In reviewing the situation created by this merger, thus, the question is whether the Lexis-Nexis service could be so degraded by Thomson's postmerger actions that consumers (not Lexis/Reed Elsevier) would be hurt.

In reviewing how competition in this market functions, plaintiffs observed that Lexis/Nexis and WESTLAW compete not only by offering virtually identical data bases of court decisions, but also by offering various, different secondary legal materials and a wide variety of non-legal materials; their products are differentiated. Competition in the market to date has resulted in two services that are partly similar, partly differentiated and constantly changing. The merger does not affect the similar part of the services—the text of court decisions. Thus plaintiffs considered the effect on the differentiated portion of the services. Plaintiffs noted that Lexis/Reed Elsevier itself, of course, is a large multinational publishing corporation. Plaintiffs are also aware that shortly after the Thomson/West merger announcement, Lexis/Reed Elsevier entered a new arrangement with Matthew Bender (another significant legal publisher) in which Matthew Bender's content will be included in the Lexis/Nexis service. Plaintiffs also noted that this market is evolving extremely rapidly—indeed, it virtually did not exist before the Lexis-Nexis service was created in the 1970s.

In this context, plaintiffs evaluated a possible case and potential relief. Prior to the governments' review of this merger, Thomson and Lexis negotiated extensions of the most important licenses for Thomson content, both legal and non-legal.[14] Virtually all of the licenses were extended for five additional years and generally at the existing price, *i.e.*, prices that had been negotiated when Thomson did not own WESTLAW and thus could have no anticompetitive incentives with regard to Lexis/Nexis. With the extensions, the average length of the licenses was about seven years.

The plaintiffs thus evaluated whether additional relief was necessary to ensure vigorous competition in this market. Two additional protections were determined to be necessary. First, for certain key non-legal data bases,

[13] This ''vertical foreclosure'' risk is likely to lead to anticompetitive effects on consumers, however, only to the extent that Lexis/Reed Elsevier cannot take market actions to maintain content adequate to allow it to be a vigorous competitor. If the downstream firm (here, Lexis/Reed Elsevier) in a possible vertical foreclosure situation can readily obtain its inputs (here, content) from other sources, or develop the inputs itself, then there is no antitrust violation (even though the downstream firm might prefer simply to continue its existing source of inputs).

[14] These licenses included the following materials: (1) Legal publications (including Auto-Cite, ALR U.S.C.S., and AmJur2d); (2) non-legal databases (including ASAP, Predicasts, and Investext); and tax materials from Research Institute of America.

Thomson was required to offer to extend Lexis/Reed Elsevier's licenses for an additional five years. These data bases (ASAP, Predicasts and Investext) had been identified by Lexis/Reed Elsevier as particularly significant. Second, Auto-Cite was required to be divested, so that Lexis/Reed Elsevier could obtain it from a source independent of Thomson (or buy it itself). These two provisions, together with the previously negotiated license extensions, and the normal market incentives and capabilities of Lexis/Reed Elsevier (such as those that led it to a new partnership with Matthew Bender), should be sufficient to maintain vigorous competition that would protect consumers in the comprehensive online legal research services market.

Lexis/Reed Elsevier comments that these actions are not enough. These arguments are not new. Plaintiffs heard them from Lexis/Reed Elsevier during the investigation and investigated them extensively and intensively.

Specifically, Lexis/Reed Elsevier makes two complaints. First, they seek divestiture of TCSL. Second, they criticize the divestiture of Auto-Cite. These points are essentially reiterated in their Motion to Intervene.

1. TCSL

Lexis/Reed Elsevier complains that plaintiffs should have obtained an additional divestiture—the TCSL—in order to enable Lexis/Reed Elsevier to use the components of the TCSL to compete with WESTLAW's Key Numbers and headnotes. Plaintiffs disagree. Plaintiffs carefully considered this argument and all the evidence relevant to it—and found it wanting. The information filed by Lexis/Reed Elsevier with its Motion to Intervene itself demonstrates why this argument is without merit.

Lexis/Reed Elsevier asserts that there are four ''portions of the TCSL'' that are ''the most important * * * enhancements'' and that Lexis/Nexis must license ''(i)n order to compete with Westlaw'': ''the annotations found in ALR and Lawyer's Edition, the AmJur encyclopedia, and Auto-Cite.'' Emrick Declaration ¶7. In fact, the enhancements that are important to Lexis/Reed Elsevier will continue to be available. First, Lawyer's Edition is, of course, a divestiture product. The new buyer, if other than Lexis/Reed Elsevier, certainly will have every incentive that Thomson had to earn revenue by licensing Lawyer's Edition to Lexis/Nexis. Second, Auto-Cite, too, is a divestiture product. If Lexis is not the buyer of this product, it will have access to Auto-Cite, as explained more fully in the next section. Third, the claim that AmJur is essential to Lexis/Nexis is undercut by Lexis/Nexis' own behavior. AmJur was only added to the Lexis/Nexis service in February 1996 after Lexis/Nexis fitfully negotiated for it over a course of several years.

Fourth, ALR is touted by Lexis/Reed Elsevier as a substitute for West's Key Number system in finding cases. Emrick Declaration ¶8. But a document attached to the Emrick Declaration directly undercuts this claim. This Thomson document reports on research with focus groups of lawyers and librarians, addressing the issue of whether ALR is a substitute for West Key Numbers. The results were that ''ALR was not well received as being a place to start research'' even among groups ''where familiarity with ALR was skewed in ALR's favor.'' Emrick Declaration Exhibit B at 11, 12.[15] In focus groups of Lexis/Nexis sales people, ''No one understood the analogy of ALR as a competitive alternative to headnotes.'' *Id.* at 9.[16]

There is simply insufficient evidence that ALR must be divested to preserve competition with the West key number system. Under the Tunney Act the Department has the duty to review the evidence and determine the litigative prospects. Lexis/Reed Elsevier asks the court to adopt this prosecutorial function.

2. Product Differentiation

Similarly, Lexis/Reed Elsevier argues that divestiture of TCSL is necessary to allow Lexis/Reed Elsevier to offer a product that is differentiated from that offered by defendants. Plaintiffs disagree. The governments' investigation revealed that the Lexis-Nexis and Westlaw services are today quite different and that Lexis-Nexis continues to add new, non-Thomson publications and databases to its service. In addition, we note that Lexis/Reed Elsevier, on its own, was able to negotiate and extend its licenses for these components into the next decade. For example, Lexis/Reed Elsevier negotiated a license for ALR through 2002 and a license for AmJur2d through 2006. This may provide an additional cushion for further differentiation of Lexis-Nexis and addition of additional secondary sources. Furthermore, Lexis/Reed Elsevier's joint venture with Matthew Bender, a leading legal publisher with numerous primary and secondary law products, will bolster its ability to continue to offer a good quality, differentiated product. Finally, the proposed Final Judgment requires Thomson to grant Lexis/Reed Elsevier the option to extend its License Agreements for three non-legal databases—Investext, ASAP, and Predicasts[17]—which are offered on Nexis, for an additional five years. Thus Lexis/Reed Elsevier may, at its option, extend these contracts until 2010. Proposed Final Judgment at ¶ X. (As with the legal publications above, Lexis/Reed Elsevier and Thomson have already negotiated extended contracts for these databases into the next decade.) In the judgment of plaintiffs, this is sufficient time for Lexis/Reed Elsevier to seek other sources, differentiate its product in other ways, or create competing databases.

3. Auto-Cite Divestiture

Lexis/Reed Elsevier also comments that the proposed Final Judgment ''impairs Lexis-Nexis' contract rights to Auto-Cite, thus affirmatively damaging its ability to compete.'' The plaintiffs disagree. As explained above, Thomson has never discouraged citations to its publications and the acquirer of Auto-Cite will be able to continue to cite to defendants' publications, including ALR. In addition, the acquirer of Auto-Cite will be bound by the terms of the existing license between Thomson and Lexis/Reed Elsevier. Further, the acquirer—if it is a firm other than Lexis/Reed Elsevier—has every incentive to continue to offer Lexis/Reed Elsevier a competitive citator rather than risk losing that revenue stream.

Lexis/Reed Elsevier further comments that defendants should have been required to divest ''all rights and interests'' in Auto-Cite and complains that

Thomson is thus not divesting itself of Auto-Cite at all: it is retaining the database itself, the staff trained in its use; the

[15] Among other points, it was also noted that ''[b]oth attorneys and librarians view ALR as one of many available secondary sources, often cited in the same category as law reviews and treatises.'' *Id.* at 11. ''ALRs were not highly regarded as definitive legal research.'' *Id.* at 12. Lexis sales people said that ''Attorneys mostly use ALR as a last resort * * *.'' *Id.* at 10.

[16] Because the evidence does not support the proposition that ALR is a substitute for West Key Numbers, there is no basis for the claim in the Saloner Declaration (¶ 11) that the price of ALR will rise. Saloner assumed such substitutability.

[17] Investext is a collection of approximately 200 brokerage house reports regarding individual equities and industries. ASAP is an indexed consolidation of approximately 450 specialized industry publications. Predicasts includes the following three databases: (1) PROMT, an indexed database of over 1,100 trade and business publications; (2) MARS, an indexed database that includes information relating to advertising and marketing of consumer products and services; and (3) Newsletter, an indexed international database including 650 different newsletters from 165 publishers.

(apparently exclusive) right to use important elements of the system, *i.e.*, the cross-references and integration with the ALRs and other Thomson products; and other important incidents of ownership, such as the ability to sublicense.[18]

The governments' investigation revealed that Lexis/Reed Elsevier needed to be able to license Auto-Cite and provide it on its system in order to effectively compete in the comprehensive online legal research service market. The proposed Final Judgment addresses this concern and ensures that the acquirer of Auto-Cite will be able to continue to provide Auto-Cite to Lexis/Reed Elsevier.

The proposed Final Judgment provides that the divestiture of Auto-Cite:

> Shall include the sale of all Auto-Cite trademarks and service markets, the assignment of the Auto-Cite License Agreement, and delivery of a transferrable royalty-free perpetual license of the Auto-Cite case database as of the time of the divestiture and all software, trade secrets, and know-how used in producing and updating the Auto-Cite case database.

¶II.B. Thus, Thomson must divest to the acquirer everything it needs to be able to continue to offer Auto-Cite to Lexis/Reed Elsevier, other than new cases, which the acquirer can get from a number of sources, including Lexis/Reed Elsevier.

Furthermore, the plaintiffs will ensure that Auto-Cite will be acquired by a qualified bidder. The proposed Final Judgment provides that the United States after consultation with the state plaintiffs must be satisfied that: (1) The acquirer can and will operate Auto-Cite as a viable, ongoing product; (2) the purchase is for the purpose of competing effectively in the sale of Auto-Cite; and (3) the acquirer has the managerial, operational, and financial capability to compete effectively in the sale of Auto-Cite.[19]

Professor Saloner's concern that (1) ''the acquirer will merely be given a license to the product, without the personnel that currently produce Auto-Cite,'' and that (2) ''Lexis-Nexis has lost effective access to Auto-Cite because of the failure to include critical components of the service (*e.g.*, prospective access to ALR) in the divestiture'' are addressed above and also in Sections II.A.2 and II.A.3 Declaration of Saloner ¶¶19–23.

Lexis/Reed Elsevier also complains that Thomson has not provided it with basic information about Auto-Cite, including cost information, so that it could ''evaluate and make a meaningful bid.'' Plaintiffs investigated this complaint and requested additional information from Thomson about the bidding process. The governments' inquiry revealed that the bidding process is at an early stage. At this point, only non-binding expressions of interest, not actual bids, have been requested by defendants. A number of interested companies, including Lexis/Reed Elsevier, have expressed interest in bidding.

During the next stage of the bidding process, prospective bidders will receive a presentation by Thomson personnel and access to a due diligence room containing proprietary documents. Ironically, because of its confidential license agreements with Thomson, Lexis has access to key data that no other bidder can obtain and therefore has more information than any other bidder. Thus, prospective bidders will have adequate information before formulating their bids.[20]

4. Overall Competition in the Comprehensive Online Legal Research Service market

Matthew Lee, Executive Director of Inner City Press/Community on the Move (''ICP'') also expressed concerns about competition in the comprehensive online legal research services product market. ICP comments that the comprehensive online legal research service product market was already an ''over-concentrated and anticompetitive'' duopoly and faults plaintiffs for taking no action to change this situation. ICP's complaint is unrelated to the merger. ICP's complaint essentially seeks a Sherman Act section 2 monopolization case in the comprehensive online legal research services market. Whatever the merits of such an action, it is far beyond the scope of this Tunney Act proceeding on a Clayton Act section 7 matter.

O.R. Armstrong submitted comments on behalf of Geronimo Development Corporation, St. Cloud, Minnesota. Geronimo Development publishes a CD–ROM format, Virginia case law, statutes and administrative materials, along with U.S. Fourth Circuit and Supreme Court case law. Geronimo claims that because Lexis will be weakened by the merger, West's enhanced lower federal court case law monopoly therefore will be strengthened. Plaintiffs disagree. Our response to Lexis' comments relating to the merger's effect on it are above in II.C. However, even if Geronimo's claim about weakening Lexis were true, the merger cannot accurately be described as strengthening West's position in any enhanced federal case reporters, because there is insufficient evidence to support a successful allegation that Lexis is an actual or potential competitor in that market.

D. The Star Pagination License Eases a Significant Barrier to Entry and is Procompetitive

A number of commenters raised concerns about the decree provision which requires defendants to grant licenses to star paginate to West's National Reporter System publications.[21] This license provision was included in the proposed final judgment because West's prior refusal to grant such licenses was a barrier to entry into some markets affected by the merger, particularly emerging electronic forms (particularly CD–ROM) of enhanced primary law and secondary law.

West's claim of copyright infringement by ''star pagination'' is controversial. It has been the subject of litigation. In current litigation the United States has stated its position that use of star pagination does not constitute copyright infringement.[22] If

[18] James P. Love of the Consumer Project on Technology submitted a similar comment.

[19] Before Thomson offered Auto-Cite as a commercial product on the Lexis online service, it used it internally for editorial purposes. (The same is true of West's Insta-Cite service). The governments' investigation revealed that entirely foreclosing Thomson editors from internally using Auto-Cite for essential, editorial purposes would harm its retained products, which would clearly harm competition. Thus Thomson retains a copy of Auto-Cite and can use that copy (though not, for example, the Auto-Cite trademark).

[20] Lexis/Reed Elsevier's real concern appears to be that Thomson could use its copy of the Auto-Cite database to improve WESTLAW, West's comprehensive online legal research service. WESTLAW's counterpart to Lexis-Nexis' Auto-Cite is called Insta-Cite. Insta-Cite only offers a portion of what Auto-Cite offers—it does not offer negative, indirect history before 1972 nor does it offer cross-references to ALR. If Thomson does ''upgrade'' Insta-Cite, it would be a procompetitive result. The governments' investigation did not reveal—and even Lexis/Reed Elsevier has not argued—that Auto-Cite has to be ''better than'' Insta-Cite for the Lexis-Nexis service to compete with WESTLAW. Continued access to Auto-Cite is sufficient. Further, West could have, absent the merger, to fill in the Insta-Cite database.

[21] Lynn Warmath, Hirschler, Fliescher, Weinberg, Cox & Allen; Alan D. Sugarman, HyperLaw, Inc.; Professor Robert L. Oakley, American Association of Law Libraries; Alois V. Gross, Esq.; Gary L. Reback, Esq., Lexis/Reed Elsevier; O.R. Armstrong, Geronimo Development; Morgan Chu, Esq., Matthew Bender & Company; E. Scott Wetzel, CD Law; Jose is. Rojas, Esq., Oasis Publishing Company, Inc.; Eleanor J. Lewis, American Association of Legal Publishers; Professor J.C. Smith, Artificial Intelligence Research Project; John H. Lederer, Esq.; Kendall F. Svengalis, Rhode Island State Library; James P. Love, Consumer Project on Technology; Norman S. Wolfe, International Compu Research, Inc.

[22] The United States recently filed briefs to this effect in *Matthew Bender & Co., Inc.* v. *West*

Continued

that position prevails, then licenses pursuant to the decree will be unnecessary. If that position does not prevail, then the license provisions will reduce existing entry barriers and thus make these markets more competitive.

Because the issue of West's alleged pagination copyright has been so controversial, this provision of the decree attracted a substantial number of comments. Most of them are comments about this general public policy issue and do not relate to harm caused by the merger and to the violation alleged in the complaint. Each is discussed below.

1. Validity of West's Star Pagination Copyright Claim

Many of the commenters questioned the propriety of including the Star Pagination License provision in the proposed Final Judgment.[23] Specifically, these commenters believe that the license provision somehow endorses West's claim that star pagination infringes its copyright. This argument ignores the plain language of the decree.

Language in the Stipulation, proposed Final Judgment, and Competitive Impact Statement clearly states that the license provisions created in settling this case shall not have any bearing, in any forum, on any West intellectual property claim. This provision was added specifically in anticipation that some persons might incorrectly infer that the proposed star pagination license endorses West's star pagination claim. If defendants ever attempt to use the Final Judgment, or any pleading in this case, to support any intellectual property claim in any other forum, any opposing party can simply cite the relevant disclaimer language to rebut Thomson/West.

In addition, the proposed final judgment has been revised with the addition of the following language to the disclaimer:

> Defendants have agreed that they will not use the model license contained in this Final Judgment, or the fact that any such license was included in the Final Judgment, in any litigation or negotiations with third parties to support the validity of their position on star pagination.

2. Abandonment of Star Pagination Copyright Claim

Several of the commenters who made the foregoing point also argued that plaintiffs should have insisted on total abandonment of the claim that star pagination infringes West's copyright. For example, Morgan Chu at the law firm of Irell & Manella submitted comments on behalf of Matthew Bender. Matthew Bender cites two cases for the proposition that this decree should require abandonment of star pagination claims; however, these cases presented entirely different factual situations. *United States* v. *Borland International, Inc.*, 1992–1 Trade Cas. (CCH) ¶ 69,774 (N.D. Cal. 1992), involved a merger of firms that controlled competing database programs and related intellectual property. Had Borland not been barred from pursuing Ashton-Tate's copyright infringement claims against ''clones,'' the resulting increase in concentration from the acquisition would have been anticompetitive. Thus, the abandonment of infringement claims directly addressed competitive harm posed by the transaction. In this case, the deal does not combine two competing sets of intellectual property rights; no one is seeking the right to star-paginate to Thomson products. Therefore, *Borland* does not apply.

The relief in *Hoechst AG*, 60 Fed. Red. 49609 (F.T.C. 1995), was even more narrowly drawn. Hoechst's acquisition of Marion Merrell Dow, Inc. (''MMD''), put it in control of Cardizem CD, the dominant product in the market for once-a-day Dilitiazem, which is used to treat, among other things, high blood pressure and angina. Before the acquisition, Hoechst and another firm had been developing a drug to compete with Cardizem CD, and MMD had sued them for patent infringement. In ensuring that the third company would be able to continue to develop the competitive drug as effectively as it would have absent the merger, the decree required dismissal of the infringement suit. Since Hoechst had left the new drug in the other firm's hands and the infringement suit was dismissed, there was no need for the sweeping relief obtained in *Borland*.

Matthew Bender further comments that defendants should have been forced to abandon West's star pagination claims because they will give Thomson and West an unfair advantage in creating new products which integrate Thomson's secondary law with West's primary law. Matthew Bender argues that other publishers will not be able to compete with these new, integrated products because of the star pagination claim. However, Matthew Bender does not explain how the star pagination license leaves it worse off. If it prevails in its litigation with West, of course, Matthew Bender will not need a license at all to star paginate. If however, it loses, the license ensures that Matthew Bender will be able to obtain a star pagination license at a reasonable rate. The creation of new, integrated products is a procompetitive development, which the antitrust laws encourage. To the extent this acquisition makes that creation possible, the proposed Final Judgment should not prevent it.

3. Text Copyright

Mr. Sugarman claims the proposed Final Judgment unfairly benefits Thomson/West in HyperLaw's private suit with defendants, for infringement of a West (claimed) copyright in the text of cases reported in West reporters. He apparently believes the proposed star pagination license will be falsely characterized by West to sway and mislead courts and the United States Congress, to persuade them to adopt West's view of its copyright claim in the text of West-reported cases. Plaintiffs disagree. The proposed Final Judgment does not support or even address West's claim to a text copyright. The decree's disclaimer language applies equally to any West text copyright claim.

4. Other Antitrust Violations

Mr. Sugarman states that, ''the Antitrust Division has punched a free antitrust waiver ticket to West-Thomson. It will be able to throw its weight around in the legal market without any concern as to enforcement from the Antitrust Division.'' There is no support for this statement. Thomson/West remains subject to full antitrust investigation and enforcement on any conduct other than this specific merger.

Mr. Sugarman states, ''there is nothing in Hart-Scott-Rodino [the premerger notification filing statute, codified at 15 U.S.C. 18a] that prohibits the United States from initiating antitrust enforcement action when it develops evidence of violation of the antitrust laws in the course of a Hart-Scott-Rodino investigation.'' Plaintiffs agree. If an antitrust violation unrelated to this merger were to be uncovered during the course of the investigation, or in any other investigation, the appropriate remedies would necessarily be sought in other fora, for example, by challenging the conduct in a civil complaint, a grand jury proceeding and/or indictment in a potentially criminal matter, by amicus brief in a private suit, or by competition advocacy in legislative or regulatory forums.

Publishing Co., 94 Civ. 0589 (JSM) (S.D.N.Y.) and *Oasis Publishing Co.* v. *West Publishing Co.*, No. 96–2887 (8th Cir.).

[23] Alan D. Sugarman, HyperLaw, Inc.; Alois V. Gross, Esq.; Morgan Chu, Esq., Matthew Bender & Company; Jose is. Rojas, Esq., Oasis Publishing Company, Inc.; Eleanor J. Lewis, American Association for Legal Publishers; Professor J.C. Smith, Artificial Intelligence Research Project; Kendall F. Svengalis, Rhode Island State Library; James P. Love, Consumer Project on Technology.

Mr. Sugarman worries that the Department, West and others mischaracterize the star pagination license as ''resolv[ing] any possible antitrust concern regarding the availability of star-pagination licenses.'' We agree that such a statement, by itself, would be a mischaracterization of the intended effect of the proposed license. The plaintiffs believe only that the proposed license, along with the other relief obtained in this settlement, resolves any possible antitrust concerns arising from this merger. The plaintiffs have no control over the mischaracterization of any part of the proposed Final Judgment by any other person. However, the terms and circumstances of the star pagination license are sufficiently clear to make successful mischaracterizations of the kind that concerns Mr. Sugarman highly unlikely.

5. Citation to First Page of an Opinion

Matthew Bender comments that it believes that West claims to have ''a copyright interest in the initial parallel citations (i.e., the cite to the first page of a case) in the National Reporter System that may be infringed when a competitor uses such citations.'' The governments' investigation revealed that West claims it has a copyright interest in such ''initial parallel citations,'' but concedes that third party use of such citations is a fair use and as such is a defense to infringement and that such citations are ''effectively in the public domain.'' Further, West has never enforced such a copyright interest, and defendants have stated that they have no intention of enforcing such a copyright interest in the future. See Attachment A.

6. Level of License Royalty Fees

There were many comments on the level of the pagination license fees. After carefully reviewing these comments and after obtaining more information about license fees, the parties negotiated a revision to the schedule of pagination license fees contained in the proposed Final Judgment. With this revision, the fees per thousand characters would be as follows:

1st year of a license	4¢
2d year of a license	4¢
3d year of a license	6¢
4th year of a license	6¢
5th year of a license	8¢
6th year of a license	8¢
7th year of a license	9¢
Subsequent years	9¢

This new schedule, compared to that in the initial proposal, reflects the comments on the need for lower fees to more effectively encourage new entrants. The new schedule has overall lower fees for such entrants. Furthermore, the new schedule both begins at a lower rate and allows a longer period in which a new entrant benefits from low rates.

7. Large Publishers

A number of commenters express concerns that the star pagination graduated royalty rate (license fee) structure will benefit only large publishers.[24] The revised fee structure is likely to result in entry by some legal publishers, which should result in competition being preserved and perhaps enhanced by new competition. The ''graduated'' structure is specifically aimed at encouraging entry of publishers who are new or small, by providing a lower license price in the early years. This should assist start-up firms with less capital in the early years. Then, after the entrant has had a few years to establish its new publication the rate levels off.

It also should be remembered that the license fee is a function of the number of cases for which star pagination is licensed. Thus, the size of the total fee payment should be compared to the number of cases and expected sales, not the size of the publisher. Finally, the license provides that the fee is not to *exceed* the stated rates; therefore, the license specifically allows for negotiation and payment of a lower fee.

8. Other Markets

Ms. Lyn Warmath, Library Director at Hirschler, Fliescher, Weinberg, Cox & Allen in Richmond, Virginia expresses concern about the level of the fee anticipated for the star pagination license. Ms. Warmath calculates the license fees for various publications, for example, she calculated the license to duplicate West's Federal Supplement to be $632,000 in the first year. This product, however, is not affected by the merger, so the relevance of this point is dubious.

Essentially, the plaintiffs' approach to this case is to encourage competition in the enhanced primary and secondary law product markets alleged in the Complaint where a star pagination license might be useful. Simply, competition for federal reported case law (other than the enhanced Supreme Court reporters for which divestiture is required) is not affected by the merger of Thomson and West, because Thomson does not publish products that compete with West's Federal Supplement or Federal Reporter series. The proposed Final Judgment therefore addresses the relief deemed necessary to preserve competition.

The Department has said publicly that it hopes the mandatory star pagination license encourages entrants in other markets. These generally pro-competitive results, if they occur, would be ancillary to the remedy sought in the proposed Final Judgment.

9. The Need for a Text License Is Unrelated to This Merger Transaction

Mr. Sugarman insists that the proposed star pagination license should also include a mandatory test license and a waiver of any Thomson/West copyright claims on intermediate copying as long as any published case does not include West head notes and summaries. Similarly, Eleanor J. Lewis of the American Association of Legal Publishers (''AALP''), comments on the unavailability of an archive of federal judicial decisions. Norman Wolfe of International Compu Research, Inc. (''ICRI'') comments that ''[t]here is no provision in either the settlement document or the licensing agreement for obtaining the full text of judicial opinions.'' Plaintiffs disagree with the proposition that a text license should have been included in the decree.

The relevant question is not what license would be the best possible license to address all possible issues involving the legal publishing industry in a vacuum. The proposed license is an attempt, in connection with the other relief, to remedy the effect of this particular merger. The straightforward purpose of the star-pagination license is to open access to the de facto star pagination standard in the markets alleged in the Complaint. A text license or intermediate copying waiver is not necessary to address any competitive harms flowing from this merger. In fact, in the enhanced primary case law markets alleged in the Complaint for which the proposed star pagination license is intended to encourage entry, court opinions are available to potential entrants from the courts, so a text license and an intermediate copying waiver are not necessary.

Mr. Sugarman insists that the Final Judgment include relief on the issue of West's claimed text copyright merely because the text of judicial opinions is difficult to obtain. HyperLaw alleges

[24] Lyn Warmath, Hirschler, Fliescher, Weinberg, Cox & Allen; Alan D. Sugarman, HyperLaw, Inc.; Professor Robert L. Oakley, American Association of Law Libraries; Gary L. Reback, Esq., Lexis/Reed Elsevier; Morgan Chu, Esq., Matthew Bender; Jose is. Rojas, Esq., Oasis Publishing Company; Eleanor J. Lewis, American Association of Legal Publishers; John H. Lederer, Esq.; Kendall F. Svengalis, Rhode Island State Law Library; James P. Love, Consumer Project on Technology; Norman S. Wolfe, International Compu Research, Inc.

that West has made it difficult to obtain opinions in some jurisdictions and that this places firms like HyperLaw at a competitive disadvantage. Plaintiffs agree that judicial opinions may be difficult to obtain in some jurisdictions, and that this is an entry barrier to some enhanced primary law markets. Complaint ¶30. However, there is no evidence that the merger of Thomson and West, or the proposed Final Judgment, will affect in any way HyperLaw's ability to obtain the text of judicial opinions. Mr. Sugarman states, ''Thomson was not only a potential competitor in the creation of archives of opinions, but was well on the way to doing so.'' Plaintiffs are unaware of any basis for this assertion. The most likely broad-scope source of opinions competing with West, in those instances where the difficulty in obtaining opinions may be a barrier to competition, is Lexis/Reed Elsevier. Moreover, in the enhanced primary law markets alleged in the Compliant, the text of opinions is not difficult to obtain.

10. Selection of Cases

Mr. Sugarman complains that Section 1.03 of the proposed star pagination license defines ''Licensee Case Reports'' as reports of decisions ''selected for reporting by Licensees,'' and it therefore will allow Thomson/West to refuse to license if it determines that the potential licensee did not select the decisions, but instead copied the selection of West, a state, or some other party. Ms. Lewis of the AALP expresses concern that ''only licensing original compilations and West's right to determine what is an original compilation'' will undermine the purpose of the license. Matthew Bender comments, ''West apparently can still challenge a licensee's use of star pagination if West contends that the licensee has not made its own selection, coordination, and arrangement of cases.'' Plaintiffs disagree.

The plaintiffs interpret the proposed license to mean that a license must be issued for star pagination any set of cases selected by the licensee, even if West or any other person had previously selected a similar set of cases. Defendants have stated to plaintiffs that they would not consider a CD–ROM product which included exactly the same cases included in a West print reporter to be an infringement. Indeed, Matthew Bender has introduced such a product and we are informed defendants have not challenged it as a ''selection infringement. Defendants would object to a print product which simply replicated a West print reporter; however, there is no reason to expect entry into print products and, in any event, CD–ROM products compete with print products and thus provide competitive constraint.

11. Description of Product or Service

A number of commenters think the proposed star pagination license should not unnecessarily require licensees to disclose competitive product information to defendants in order to obtain a star pagination license.[25] For example, Eleanor Lewis of AALP comments, ''A licensee should be required to disclose to West only the most general ideas about the proposed use of the licensed materials.''

Plaintiffs agree. There is no requirement in the proposed license that detailed information be disclosed. Section 1.03 merely requires licensees to provide a short, general description of the licensee's product or service to defendants, *i.e.*, a title. This limited disclosure is necessary so that it is clear what product is covered by the license. Ultimately, the licensee must disclose what cases are included in their product so that the license fee can be calculated. This simple information is not the type that should or could be considered sensitive competitive information, as the cases selected by the licensee for publication will subsequently be public information.

12. License fee per Format

A number of comments maintain that the provision in the proposed star pagination license that requires the payment of a separate license fee for each format—books, CD–ROM, on-line or the Internet—erects too high a barrier to potential entrants.[26] However, the governments' investigation indicated that many, perhaps most, prospective entrants would only consider one medium—CD–ROM. One of the main objectives of the licensing provision was to facilitate entry specifically into the new technology/new product of CD–ROMs incorporating analytical material and hypertext links to relevant primary law. Because enhanced primary case law on CD–ROM competes with enhanced primary law in print, CD–ROM entry should be sufficient (with the other relief in the decree) to deter anticompetitive behavior by Thomson/West in either print or CD–ROM.[27]

Addtionally, the governments' investigation revealed that for those existing publishers who publish in more than one format, for example CD–ROM and on-line, the latter medium is used primarily to provide updates (new cases) and therefore does not duplicate the cases on the CD–ROM and would not require multiple payment of the license fee.

13. Challenges to West's Copyright

Mr. Sugarman and Matthew Bender, who are currently engaged in copyright litigation with West, contend that the prohibition in the proposed star pagination license that bars licensees from challenging the validity of West star pagination copyright claims ignores *Lear* v. *Adkins,* 395 U.S. 653 (1969), and assures that no West copyright claim will be challenged. Ms. Lewis states that the license ''requires competing publishers to renounce their First Amendment right to express their opinions about the Licensor's alleged copyright during the term of the license.'' Mr. Wolfe of ICRI also comments regarding ''this obvious abandonment of our First Amendment rights.'' Plaintiffs disagree.

First, the prohibition in Exhibit B is limited to challenges only to the star pagination claim, not to any other West copyright claim, and is limited in time—only during the duration of the license. Second, it is questionable as to whether the progeny or policy of *Lear,* a patent case, applies to copyright licenses. See, *e.g., Saturday Evening Post Co.* v. *Rumbleseat Press, Inc.,* 816 F. 2d 1191 (7th Cir. 1987); *Nimmer on Copyright* § 10.15[B] at 10–134–137 (questioning *Rumbleseat*). In addition, this prohibition is much more narrowly tailored than the broad no-challenge clauses courts have struck down in patent-license contexts.

Third, this provision will not prevent challenges to the validity of West's star pagination infringement claims; publishers may still choose the option they have today—publish without a license and litigate the star pagination copyright claim's validity. The proposed Final Judgment simply provides prospective publishers with an entry option they would not otherwise have.

Fourth, a licensee may exercise his First Amendment rights and speak out publicly and lobby for changes relating to this issue.

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[25] Alan D. Sugarman, HyperLaw; Morgan Chu, Esq., Matthew Bender; Eleanor J. Lewis, AALP; Norman Wolfe, ICRI.

[26] Alan D. Sugarman, HyperLaw; Morgan Chu, Esq., Matthew Bender; Eleanor J. Lewis, AALP; James P. Love, Consumer Project on Technology.

[27] As reflected in the Complaint, Thomson and West do not compete in the provision of enhanced primary case law in the online medium. Although the plaintiffs are fully aware that several firms desire to enter the provision of case law online and on the Internet, entry into these mediums is not a remedy intended to be addressed by the proposed star pagination license.

14. The Confidentiality Provision Is Intended to Protect the Licensee and Could Encourage Procompetitive Discounting

Mr. Sugarman, Ms. Lewis, and Mr. Wolfe comment that the confidentiality provision in the proposed star pagination license will permit Thomson/West to engage in preferential licensing and to continue to engage in abusive licensing practices in secret. Plaintiffs disagree. The confidentiality provision in the star pagination license is intended to protect the product development and marketing plans of the licensee, not any secrets of Thomson/West. Thomson/West's minimum license terms are already public in Exhibit B. The company is required to grant a license—in at least this favorable a form—to anyone who wants one. Failure to fulfill this requirement and any licensing obligation would be a violation of the Final Judgment and grounds for contempt.

Concerns about secret, preferential licensing and abusive licensing practices may in fact be concerns that Thomson/West might enter some licenses that are more favorable to the licensee than Exhibit B. But entering into licenses with more favorable terms will generally be desirable and pro-competitive. Moreover, a ''most-favored-nation'' clause (one that states Thomson/West will not grant to any licensee a more favorable license) would discourage pro-competitive discounting that Thomson/West may undertake on its own in response to market forces.

15. Arbitration

Mr. Sugarman states that provisions in the proposed star pagination license requiring arbitration in West's home state will lead to bias in favor of West on any arbitrated matter. Ms. Lewis agrees and comments that arbitration should occur in Washington, D.C. or the home state of the licensee. Mr. Wolfe comments, ''[i]t is not appropriate for the jurisdiction for any dispute to be any place other than Washington, DC.''

Plaintiffs disagree. Such provisions are standard in licenses which are negotiated at arms length in the context of private business transactions, and are usually included only for the convenience of traveling. There is no reason to call into question the honesty, integrity, or ability of any impartially appointed arbitrator based solely on his or her location or citizenship in the State of Minnesota. In addition, the decision of the panel of arbitrators is appealable to the appropriate state or federal court.

16. The Internet

James P. Love of CPT comments that the ''license agreement is written in such a way that the subscribers must agree to the terms of the license, and Thomson must approve the license, making it extremely unlikely that the citations will ever be available for browsing on the Internet.'' We interpret Mr. Love's concern to be that the license provisions to which a licensee's subscribers must agree may be used to restrict some form of Internet publication of licensed material on the Internet.

The possibility that Mr. Love suggests appears unrelated to the acquisition. Provisions of this kind are conventional in intellectual property licenses. Nothing would have prevented West, prior to the acquisition, from insisting on such provisions in licenses. The acquisition should not aggravate Mr. Love's concern, and therefore, there is no need for the remedy to alleviate it. In short, this comment addresses a public policy concern not related to the merger.

17. License Fee for Books

Mr. Sugarman claims that the proposed star pagination license is ambiguous as to the license fee charged for books. Plaintiffs intended that the fee would be paid by the licensee in the year the book is printed. In other words, books first printed, then stored, and sold in later years would not require additional fee payments for the later years. In order to avoid any confusion, the language of the proposed License Agreement will be modified. Defendants have agreed to the following modification, which plaintiffs will include when we later move the Court to enter the decree:

2.01. *Star Pagination License.* During the term of this Agreement, subject to the terms and conditions hereof, including, without limitation, the timely payment by Licensee to Licensor of the licensee fees provided for in Section 2.03 hereof, Licensor hereby grants to Licensee, and Licensee hereby accepts from Licensor, a non-exclusive, non-transferable (except as specifically provided in Section 6.05 hereof), limited License (i) * * * (iii) to license and/or distribute such [Licensee Product(s)/Services(s)] to Licensee Subscribers subject to Licensee Subscriber Limitations; * * *

2.03 *License Fees.* In consideration of the license granted under Section 2.01 hereof, Licensee shall pay Licensor the license fees provided for in this Section 2.03; provided, however, that the licensee fee for [print Licensee Product(s)] needed only be paid for the year in which the [print Licensee Product(s)] are printed.

18. *Other Comments Regarding the Star Pagination License*

Mr. Sugarman believes that third party information providers should be able to sell or license case law data which includes licensed star pagination and text as long as the purchasers or licensees have entered into or are subject to a pagination license agreement with Thomson/West.[28]

Plaintiffs agree. Section 2.02 of the license addresses this point specifically: ''nothing in this Agreement shall prohibit Licensee from selling, leasing, licensing or otherwise transferring Licensee Case Reports that contain Licensed NRS Pagination to third party information providers, but such transfers shall not include or grant any right to reproduce, publish, broadcast, distribute, loan, rent, lease, sell or otherwise transfer, make available or use the Licensed NRS Pagination contained in such Licensee Case Reports.'' Any third party information provider that obtained a star pagination license could, of course, use the transferred star pagination under its own license with Thomson/West. There is nothing in the proposed license to the contrary. Nevertheless, to clarify that the license fee need only be paid by the publisher, and not also by the third party information provider, plaintiffs proposed and defendants reviewed and agreed to the following language:

2.01. *Star Pagination License* * * *. (iv) to have a third party obtain, on behalf of Licensee, NRS Pagination from West Case Reports contained in NRS Reporter publications and include such NRS Pagination (which shall become Licensed NRS Pagination when so included) in corresponding Licensee Case Reports contained in [Licensee Product(s)/Service(s)].

Mr. Sugarman comments that Thomson/West should be required to agree not to assert future database protection legislation and anti-RAM copying claims against licensees, for use of star pagination. This issue is specifically addressed in the proposed license in Exhibit B. The proposed license ensures that Thomson/West will not contend that a licensee's use of star pagination infringes any intellectual property right. Section 2.01 also provides that ''Licensor [Thomson] shall not challenge, under any present *or future legislation*, any use by the Licensee of Licensed NRS Pagination if Licensee's use of same conforms to the terms of this Agreement.'' (emphasis added).

[28] Mr. Wolfe of ICRI offered a similar comment on behalf of ICRI, which describes itself as ''a wholesale customer of legal publishers with the rights to resell, as part of our product and for the use of our product, case law data.''

Mr. Sugarman comments that the proposed Final Judgment should require West-Thomson to negotiate star pagination licenses in good faith. Plaintiffs disagree because the proposed Final Judgment requires Thomson/West to grant the license contained in Exhibit B to the Judgment to anyone who wants one; therefore, good faith is not relevant. Any refusal to license would be punishable as contempt.

Mr. Sugarman states that the proposed star pagination license is not an ''open license,'' ''* * * when it will be negotiated in private and arbitrated in private pursuant to confidentiality provisions agreed to by the Antitrust Division.'' Plaintiffs disagree. The proposed license is in fact ''open'' within the common meaning of that word. The terms are *public* and mandatory, and are attached the proposed Final Judgment as Exhibit B. While it is true that negotiations with potential licensees seeking more favorable terms than the proposed license may be non-public, licenses arranged for under more favorable terms will not cause an anticompetitive effect and in fact should be pro-competitive.

Mr. Sugarman feels that the requirement in the proposed star pagination license that licensees prominently display West internal pagination should be deleted. In fact, Section 2.05 of the license merely requires licensees to present NRS Pagination ''*no less prominently than* any other unofficial pagination or pinpoint locators.'' (emphasis added). Plaintiffs cannot determine what possible anticompetitive effects, if any, could arise from this provision. Mr. Sugarman does not state any.

Mr. Sugarman is concerned that the proposed star pagination license does not include a mandatory license agreement for statutes. Star pagination to West's statutes has not become an issue. We are aware of no jurisdiction where it is conventional to cite to statutes by West pages. A license agreement on the text of statutes themselves is not called for in the context of the competitive issues raised in this merger investigation. Statute text is available in every jurisdiction, for every potential entrant, and in every product market involving statutes affected by the merger.

E. Plaintiffs Used Appropriate Merger Analysis in Examining this Merger

Ms. Trembley comments that ''[i]n the past, Thomson practices have made acquired products both more labor intensive and costly to maintain.'' She is concerned that Thomson-owned products in the past have had their price raised at a higher rate than West products. Similarly, Mr. Marc Ames, an attorney in New York City, comments that he has been involved in a lengthy billing dispute with Lawyers Cooperative Publishing, a part of Thomson. He brings this to our attention to ''point out and underscore a shift in attitude when business becomes too large as the result of mergers and acquisitions.''

Past price increases by Thomson are beyond the scope of this merger challenge. To the extent they indicate that price rises have resulted when Thomson takes over specific competing products, evidence of past price increases is useful as evidence that similar product pairings should be prohibited.

Plaintiffs believe such pairings have been identified and prohibited in this case by the required divestitures. Plaintiffs note that it does not necessarily follow that a large firm always will engage in harmful pricing or service practices to its customers. Competition leads to lower prices and increased service, quality and innovation. However, there is no way to prove a likely decrease in competition due to a merger without first carefully examining the factual details in specific product markets.

Mr. David C. Harrison, an attorney in Philadelphia, Pennsylvania, asks how the Justice Department can approve the merger of ''the second largest legal publisher with the largest legal publisher, giving the new company a virtual monopoly.'' Even if it was true, a merger of the second largest and largest legal publisher would not necessarily lead to an irreplaceable reduction in competition in legal publishing.[29] As stated above, increases in industry concentration is an important indicator of possible anticompetitive effects of any merger, however, courts require more before a merger challenge will be successful. Generally, courts require provable relevant product markets and a lack of likely substitutes or entry. The plaintiffs believe every plausible, legally recognizable, anticompetitive effect of the Thomson/West merger has been addressed in the Complaint and proposed Final Judgment.[30]

[29] According to SIMBA/Cowles Professional Publishing Information Report (1996) and Lexis' own figures, measured by sales Thomson has been the number three legal publisher, behind Reed Elsevier, owner of Lexis. Thomson owns many non-legal assets unrelated to this merger. West is the largest legal publisher.

[30] Lexis states that consumers are already feeling the loss of competition because Thomson has stopped publication of the Illinois Administrative Code, and that Thomson may be on the verge of canceling its New Jersey Administrative Code. Mem. at 6. However, Thomson's codes in Illinois and New Jersey do not compete in any market alleged in the Complaint, nor do they compete with any West product, as they are *unenhanced.* Moreover, the regulatory materials contained in these products are freely available from the states and entry into the publication of unenhanced state administrative codes is unlikely to be difficult.

F. Plaintiffs Should not Require Divestiture of the JURIS Database

1. There is no Conflict of Interest Within the Department on This Matter

Tax Analysts (''TA'') comments that the United States Justice Department (''the Department'') should be forced to disclose the contents of its former JURIS database in order to remove an alleged barrier to entry described in paragraph 30 of the Complaint—that in many jurisdictions case law is difficult to obtain. TA also believes that because the Department's Civil Division, joined by West, is defending a Freedom of Information Act (''FOIA'') (5 U.S.C. 552 *et seq.*) request by TA for the JURIS database in another action, the Department has an irreconcilable conflict of interest that causes the Department to act against the public interest. TA filed a motion to intervene in this Tunney Act proceeding on July 25, 1996, which was denied by an order of Judge Richey of this Court.

TA is a non-profit vendor of publications relating to legal tax issues, that logically wishes to obtain historic reports of legal opinions and statutes cheaply, or for free, in order to offer these to its customers. It applied for but was denied a FOIA request to obtain the JURIS database.[31] TA filed a FOIA action against the Department in the District of Columbia in January, 1994, seeking an order requiring disclosure of the database. West intervened. It sought to protect its interest as the original provider of the case reports to the Department; West continues to sell similar reports to its other customers. The Department has been defended at all times in that matter by attorneys of the Federal Programs Branch of the Civil Division. In January 1996, Judge Kessler granted the partial motion of the Department to dismiss the suit as it related to the status of the West-supplied case reports as an ''agency record'' under FOIA. The order was

[31] JURIS was established and used by the Department for internal use by its many components for legal research. It licensed case reports and statutes from West and made them available along with other legal information and documents online across the Department and other United States Government agencies. In an effort to reduce costs, JURIS was discontinued in 1993, and replaced at the Department with contracts for direct provision of case reports and statutes from Lexis/Reed Elsevier and West.

certified as final on April 1, 1996. *Tax Analysts* v. *Department of Justice and West Publishing Company,* 913 F. Supp. 599 (D.D.C. 1996).

TA was denied the database it sought because Judge Kessler held that the Department did not control the West-supplied case reports, which were provided under a contract with West. The contract restricts the Department's right to use, dispose of, or transfer the database; and it therefore does not qualify as an ''agency record'' for purposes of disclosure under FOIA. *Tax Analysts,* at 604. At no time has the Department asserted any proprietary or copyright interest in the database, nor has it made any assertion on behalf of West's copyright claim. The Department's defense in the FOIA matter is not related to any conduct of Thomson or West relating to the merger. TA has appealed Judge Kessler's ruling.

The Antitrust Division's unrelated investigation of the proposed merger of Thomson and West began on March 12, 1996, pursuant to the Clayton Antitrust Act, 15 U.S.C. 12 *et seq.* At all times, the Department's investigation, challenge and settlement negotiations of the Thomson/West matter have been conducted by attorneys of the Merger Task Force of the Antitrust Division or their direct supervisors within the Antitrust Division, and in direct coordination with several state attorneys general's offices. At no time during the investigation or subsequent challenge has the Department or any plaintiff made any assertion relating to the JURIS database.

In the *Tax Analysts* defense, the Department seeks to protect against unwarranted disclosures under FOIA and to protect against violating its contract with a private entity. The Thomson/West merger challenge and settlement, on the other hand, involves the public interest reflected in the federal antitrust statutes for the preservation of competition in markets affected by mergers. There is simply no conflict or inconsistency between the public interests sought to be protected by the two cases.

TA argues that the Department has an irreconcilable conflict of interest resulting from its litigating relationship with West in the *Tax Analysts* case. At all times the Department has conducted an independent FOIA defense in the *Tax Analysts* case. West intervened on its own initiative and has made its own pleadings and assertions. To the extent West's views in that matter coincide with the Department's, joint pleadings were appropriate for judicial economy.

West is not the Department's client in either this or the *Tax Analysts* matter. TA avers that the Department has adopted the interests of West in the *Tax Analysts* case, and substituted them for the public interest. The Department has a clearly articulated and valuable role in protecting the public interest against unwarranted FOIA disclosure and breach of government contracts with private persons. Department attorneys are strictly prohibited from representing other persons in matters involving the United States. 18 U.S.C. 203. Moreover, West's interest in the *Tax Analysts* case is commercial, while the Department has no commercial interest whatsoever in the JURIS database.

There have been no Department attorneys involved at any time in both matters. The first time any attorney from the Antitrust Division's Merger Task Force (handing the Thomson/West matter) had any contact or even knew the identity of any attorney from the Civil Division handling the *Tax Analysts* matter was after Tax Analysts filed a motion to intervene in this matter.

TA does not seek to protect rights that would be impaired by the entry of the proposed Final Judgment. TA seeks relief directed at the conduct of the Department and which would place requirements on it alone. Essentially, TA seeks to prohibit a merger between two parties unless and until another party not involved in the proposed merger takes some affirmative action to increase competition (they believe) in the legal publishing industry. The paragraphs in the Complaint towards which TA points as examples of the harm not remedied by the proposed settlement are pre-existing industry facts that will not be changed by the merger. (See *e.g.,* paragraph 30 of the Complaint, which states, ''[p]ast and/or current opinions simply are not available from many courts, and in many others, obtaining access is costly and time-consuming.''). In short, this is a public policy issue unrelated to the merger.

2. Familiarity With Legal Publishing Industry

Another allegation made by TA is that the Department is unfamiliar with the workings of the legal publishing industry, particularly with the role of online legal publishing. The Department regularly investigates, challenges, and reaches settlement with participants in many industries in which it is not a participant. In order to develop expertise in an industry for purposes of merger enforcement, the Department uses past experience, examines documents, conducts interviews and depositions, employs industry experts, and reviews publicly available materials. These activities were all done in the investigation of the Thomson/West merger.

In addition, during this merger investigation, an unprecedented level of cooperation was established between the Department and several states, and the expertise of seven state attorneys general's offices was combined. The state attorneys general have joined in the Complaint and proposed Final Judgment after participating in fact-gathering and legal analysis. Two of the states, New York and California, devoted full-time employees to the investigation throughout its duration. All of the state governments provided valuable assistance due to their intimate knowledge of state-related publications.

TA states the Department has mischaracterized existing competition between Lexis and WESTLAW in the ''comprehensive online legal research services'' market and argues that other small legal publishers exist. However, the existence of small, online legal publisher has no impact on the anticompetitive effects alleged to result from the Thomson/West merger in the *comprehensive* online legal research services market in which there are only two participants at this time.

G. Miscellaneous Comments—Unrelated to Merger or Unsupported by the Investigation

A number of comments were received when raised concerns which are either unrelated to the merger or asserted conclusions which were not supported by the governments' investigation.

Ms. Cyndi A. Trembley, President of the Association of Law Libraries of Upstate New York, comments, ''Thomson will have control of a significant portion of the secondary sources that aid in interpreting the law.'' Kendall F. Svengalis of the Rhode Island State Law Library comments that defendants will control a large percentage of legal publications, and that they therefore should have been required to divest Lawyers Cooperative Publishing (''LCP'').

It is true that Thomson has owned and now owns, as a result of its merger with West, a significant number of secondary law titles. However, that fact alone is not grounds on which to base a merger challenge under the antitrust laws. Elements of a legally recognizable merger challenge include proving that the merging firms actually compete with each other in one or more product markets and that the effects of that competition will be lost and not replaced after the merger. The burden is also on the enforcing agency or agencies

to show that there are insufficient substitutes for the products of the merging firms, and that entry into the product market is difficult. Thus, plaintiffs focused on *competing* legal publications. A torts handbook does not compete with a contracts treatise, for example. In the proposed Final Judgment, the plaintiffs require divestiture of one of the parties' products in as many product markets as could plausibly be alleged, or that the plaintiffs believed were likely to be allegeable, in a litigated merger challenge.

Mr. Svengalis complains that some of the titles that defendants must divest are relatively small and that only three states must be given the option to rebid their respective official reporter contracts. The fact that some parts of the divestiture list are small does not mean that the entire settlement is inadequate.

Mr. Gross states that the bids (for divestiture products) should not be limited to the entire list of divestiture products. The proposed Final Judgment permits Thomson/West to package, initially, the divestiture products in any manner it desires. The only requirements on bidding for divestiture products are contained in the proposed Final Judgment and relate to the need that the divestiture products are sold to some person who will keep them viable and competitive. There is no reason to believe (in fact it may be to the contrary) that the divestiture products will be more viable and competitive in the hands of two or more acquirers. In any event, the divestitures remain subject to approval by the appropriate plaintiffs, who must agree that the products will be kept viable.

There is no reason to believe that ''having more legal publishers in the market will result in competitive pricing and higher quality of law products for the consumer,'' as suggested by Mr. Gross. The relief in this merger challenge addresses the expected loss of competition due to Thomson and West no longer competing with each other. If all the Thomson products go to one able firm, as long as there is no reduction in competition resulting from the divestiture, then any competition lost by the Thomson/West merger will be replaced and preserved.

Mr. Gross comments that Thomson should have to pay a license fee for ALR cites on Auto-Cite, after Auto-Cite is divested. Plaintiffs disagree. It is true that Auto-Cite includes ALR cites. However, there is no requirement that the acquirer of Auto-Cite continue to include ALR references. If the acquirer wants to, however, it is free to continue them. Thomson may receive some incidental benefit to continued ALR references at the option of the acquirer, but if Thomson cares about the cites remaining on Auto-Cite, Thomson can negotiate on its own a contract/license to place them there. The investigation of this merger did not reveal sufficient evidence that the competitive value of Auto-Cite derives from ALR references. Rather, Auto-Cite's value comes from an accurate, up-to-the-date display of case citations, and an accurate display of whether or not a case opinion is still good law by showing the case's direct history.

Mr. Gross claims that the competition between West's Corpus Juris Secundum (''CJS'') and Thomson's American Jurisprudence 2d (''AmJur2d'') will be eliminated by the merger and therefore one of them should be divested.[32] Plaintiffs disagree. This comment does not relate to any claim made in the Complaint and thus is not relevant. In fact, while they are both referred to as ''encyclopedias,'' there was insufficient evidence that CJS is a strong competitor for AmJur2d in the minds or actual use of consumers.

Geronimo comments that the Complaint fails to address West's monopoly in reporting enhanced lower federal (U.S.) court opinions. Geronimo suggests four remedies designed to open up the market for enhanced lower federal case law. This comment also relates to a market not included in the Complaint and thus is not relevant. West reports decisions of lower federal courts in its *Federal Supplement* and *Federal Reporter* series. The Complaint does not include a count involving enhanced lower federal case law because Thomson is not even a participant in that market. There also is insufficient evidence to allege that Thomson is an actual potential or perceived potential competitor to West's alleged monopoly in enhanced lower federal case law. That Thomson is a large company with financial resources and editorial expertise does not make it a potential competitor.

Lexis/Reed Elsevier comments that plaintiffs in their press release incorrectly calculated the sales of the divestiture products, in which Lexis/Reed Elsevier claims is only $48 million. Plaintiffs disagree. The $72 million figure was based upon information obtained from Thomson about the sales of the divestiture products, including Auto-Cite, and products related to the Official Reporter Contracts. Lexis/Reed-Elseiver's reference to the lower figure apparently does not include the retail revenues of Auto-Cite or the sales of Official Reporters and related products.

Scott Wetzel of CD Law comments that ''the Washington States legal publishing market is pervaded with anti-competitive practices that include predatory pricing, exclusive contracts for certain legal materials, and tying agreements. The Department consent decree does little or nothing to prevent or ameliorate these practices.'' These comments go beyond the allegations in the Complaint. Hence, they are not relevant to the Tunney Act proceeding.

Matthew Lee for ICP complains that West does not offer ''any program or provision for granting access to Westlaw and other West resources to non-profits, particularly grassroots civil rights and consumers' groups at reduced or waived fees.'' Whether defendants offer such programs falls outside of the process of merger review and analysis.

ICP also questions ''DOJ's long standing inter-relation with West, particularly the selection of West as the DOJ's legal-materials supplier after, largely due to West's anticompetitive behavior, the DOJ abandoned its 'Juris' project.'' Since discontinuing Juris, DOJ attorneys have used both Lexis-Nexis and Westlaw. Further, if merely using a product or service were grounds for concern, government attorneys would be unable to investigate and analyze many of the mergers that come before them.

ICP further maintains that ''DOJ should attempt to better inform the affected public, especially the 'retail' and low and moderate income segment thereof, of pending DOJ merger reviews, such that the DOJ can receive, and consider, comments from those who stand to be most affected.'' First, the plaintiffs, during the investigation, sought to receive very wide input from affected users, and in fact received information from an unusually wide number of sources. Second, as required by the APPA, plaintiffs have filed the requisite documents with this Court and published them in the Federal Register and the *Washington Post.* Furthermore, it would be impossible for plaintiffs to identify all members of ''the affected public'' and then notify each of these individual and entities of the proposed Final Judgment. In this case, plaintiffs also personally notified many of the individuals and companies who had been involved in the investigation of the proposed Final Judgment.

Some commenters were concerned that politics played a role in governments' investigation and

[32] A similar comment was submitted by Bartlett F. Cole, Esq.

settlement of this matter.[3] There is no political context to this merger challenge or the proposed Final Judgment, and any comments making such accusations are wrong. Recommendations of the settlement reached were made by the Department's career professional staff. We note that the Department of Justice is joined by seven state attorneys general's offices in this matter, all of which are dedicated to impartial law enforcement regardless of politics.

An anonymous commenter alleges that West is in collusion with the United States Congress in the production of United States Code Annotated (''U.S.C.A.''). The commenter says whatever company possesses this privileged, insider relationship, whether it be West or Thomson, enjoys an enormous and unwarranted market advantage. Plaintiffs received no other information to support this anonymous allegation. However, any condition of advantage enjoyed by West through its relationships with the Congress or any judicial entity is not affected by the merger of Thomson and West. Thomson may replace West in the position of advantage, but existing competition between Thomson and West is not changed. In any event, Thomson's annotated United States Code product, United States Code Service, is a divestiture product under the proposed Final Judgment.

III

The Legal Standard Governing the Court's Public Interest Determination

Once the United States moves for entry of the proposed Final Judgment, the Tunney Act directs the Court to determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e). In making that determination, ''the court's function is not to determine whether the resulting array of rights and liabilities is one that will *best* serve society, but only to confirm that the resulting settlement is within the *reaches* of the public interest.'' *United States* v. *Western Elec. Co.*, 993 F.2d 1572, 1576 (D.C. Cir.), *cert. denied*, 114 S. Ct. 487 (1993) (emphasis added, internal quotation and citation omitted).[34] The Court should evaluate the relief set forth in the proposed Final Judgment and should enter the Judgment if it falls within the government's ''rather broad discretion to settle with the defendant within the reaches of the public interest.'' *Microsoft*, 56 F.3d at 1461. *Accord*, *Associated Milk Producers*, 534 F.2d at 117–18.

The Court is not ''to make *de novo* determination of facts and issues.'' *Western Elec.*, 993 F.2d at 1577. Rather, ''[t]he balancing of competing social and political interests affected by a proposed antitrust decree must be left, in the first instance, to the discretion of the Attorney General.'' *Id.* (internal quotation and citation omitted throughout). In particular, the Court must defer to the Department's assessment of likely competitive consequences, which it may reject ''only if it has exceptional confidence that adverse antitrust consequences will result—perhaps akin to the confidence that would justify a court in overturning the predictive judgments of an administrative agency.'' *Id.*[35]

The Court may not reject a decree simply ''because a third party claims it could be better treated.'' *Microsoft*, 56 F.3d at 1461 n.9. The Tunney Act does not empower the Court to reject the remedies in the proposed Final Judgment based on the belief that ''other remedies were preferable.'' *Id.* at 1460. As Judge Greene has observed:

> If courts acting under the Tunney Act disapproved proposed consent decrees merely because they did not contain the exact relief which the court would have imposed after a finding of liability, defendants would have no incentive to consent to judgment and this element of compromise would be destroyed. The consent decree would thus as a practical matter be eliminated as an antitrust enforcement tool, despite Congress' directive that it be preserved.

United States v. *American Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D. D.C. 1982), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983) (Mem.).

Moreover, the entry of a governmental antitrust decree forecloses no private party from seeking and obtaining appropriate antitrust remedies. Thus, Defendants will remain liable for any illegal acts, and any private party may challenge such conduct if and when appropriate. If any of the commenting parties has a basis for suing Defendants, they may do so. The legal precedent discussed above holds that the scope of a Tunney Act proceeding is limited to whether entry of this particular proposed Final Judgment, agreed to by the parties as settlement of this case, is in the public interest.

Finally, the Tunney Act does not contemplate judicial reevaluation of the wisdom of the government's determination of which violations to allege in the Complaint. The government's decision not to bring a particular case on the facts and law before it at a particular time, like any other decision not to prosecute, ''involves a complicated balancing of a number of factors which are peculiarly within [the government's] expertise.'' *Heckler* v. *Chaney*, 470 U.S. 821, 831 (1985). Thus, the Court may not look beyond the Complaint ''to evaluate claims that the government did *not* make and to inquire as to why they were not made.'' *Microsoft*, 56 F.3d at 1459 (emphasis in original); See also, *United States* v. *Associated Milk Producers, Inc.*, 534 F.2d 113, 117–18 (8th Cir. 1976), *cert. denied*, 429 U.S. 940 (1976).

Similarly, the government has wide discretion within the reaches of the public interest to resolve potential litigation. *E.g.*, *United States* v. *Western Elec. Co.*, 993 F.2d 1572 (D.C. Cir.), *cert. denied*, 114 S. Ct. 487 (1993); *United States* v. *American Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D. D.C. 1982), *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983) (Mem.). The Supreme Court has recognized that a government antitrust consent decree is a contract between the parties to settle their disputes and differences, *United States* v. *ITT Continental Baking Co.*, 420 U.S. 223, 235–38, (1975), *United States* v. *Armour & Co.*, 402 U.S. 673, 681–82 (1971), and ''normally embodies a compromise; in exchange for the saving of cost and elimination of risk, the parties each give up something they might have won had they proceeded with the litigation.'' *Armour*, 402 U.S. at 681. This Judgment has the virtue of bringing the public certain benefits and protection without the uncertainty and expense of protracted litigation. *Armour*, 402 U.S. at 681; *Microsoft*, 56 F.3d at 1459.

IV

Conclusion

After careful consideration of these comments, the plaintiffs conclude that entry of the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violation alleged in the Complaint and is in the public interest. The Plaintiffs

[3] David C. Harrison, Esq.; John H. Lederer, Esq.

[34] The *Western Electric* decision concerned a consensual modification of an existing antitrust decree. The Court of Appeals assumed that the Tunney Act was applicable.

[35] The Tunney Act does not give a court authority to impose different terms on the parties. See, *e.g.*, *United States* v. *American Tel. & Tel. Co.*, 552 F. Supp. 131, 153 n.95 (D. D.C. 1982), *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983) (Mem.); *accord* H.R. Rep. No. 1463, 93d Cong., 2d Sess. 8 (1974). A court, of course, can condition entry of a decree on the parties' agreement to a different bargain, see, *e.g.*, *AT&T*, 552 F. Supp. at 225, but if the parties do not agree to such terms, the court's only choices are to enter the decree the parties proposed or to leave the parties to litigate.

have moved the Court to enter the proposed Final Judgment after the public comments and this Response have been published in the Federal Register, as 15 U.S.C. 16(d) requires.

Dated: September 23, 1996.

Respectfully submitted,

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The Thomson Corporation

September 18, 1996.

Via Facsimile 202 307 5802

Ms. Minaksi Bhatt,
U.S. Department of Justice, City Center Building, 1401 H Street, NW., Washington, DC 20530.

Dear Ms. Bhatt:

I'm writing in response to your letter to Dale Collins and me of September 13 asking for clarification of Thomson's position regarding the use by competitors of first page citations to West case reports.

As we discussed last Thursday, Thomson's position and belief is that the use of first page citations by competitors or others is a fair use under 17 U.S.C. § 107—i.e., an otherwise infringing use that, when analyzed under the four fair use factors set forth in § 107, is deemed ''fair.'' This is the same position consistently taken by West. *See West Publishing Company* v. *Mead Data Central, Inc.*, 616 F.Supp. 1571, 1580–81 (D.Minn. 1985), *affirmed*, 799 F.2d 1219, 1228 n.3 (8th Cir. 1986), *cert. denied*, 479 U.S. 1070 (1987); *Oasis Publishing Company* v. *West Publishing Company*, 924 F.Supp. 918, 926 (D.Minn. 1996).

The reason Thomson and West believe that the use of first page citations is ''fair'' (while star paging is not) is that, as found by the Court in *Oasis*, ''[a]lthough with either the parallel cites or an internal cite form each case a user could sort West's cases and determine West's arrangement, the former does not utterly supplant the need for West's product while the latter does.'' 924 F.Supp. at 926. As a result of their belief regarding fair use, neither Thomson nor West objects to the use of first page citation by others, including competitors. Therefore, Thomson does not plan to seek to prevent, by legal action, citation to the first page of West case reports.

Additionally, I wish to confirm that Thomson has not in the past, nor will it in the future, take any action to prohibit third parties from cross-referencing any of its publications (including, for example, ALR, Am Jur, or any of its treatises). Additionally, our proposed divestiture agreement will, likewise, recognize the right of the buyer to cross-reference Thomson publications.

I trust this responds to your questions. If not, please feel free to call me.

Sincerely,

Michael S. Harris

MSH/kpf

cc: L Fullerton, Esq., C. Robinson, Esq., C. Conrath, Esq., J. Foster, Esq., B. Hall, D. Collins, Esq., J. Schatz, Esq.

State of California, Department of Justice

September 12, 1996.

Edward W. Jessen,
Reporter of Decisions, Supreme Court of California, 303 Second Street, South Tower, Eighth Floor, San Francisco, CA 94107.

Re: Thomson/West Merger, *Proposed Settlement*

Dear Mr. Jessen: Your letter of September 5, 1996 to Tom Greene of this office expresses concern that the proposed judgment in settlement of the Thomson/West merger might leave the Court without effective competitors for the job of publishing the California Official Reports. In particular, you noted that the integration of the Official Reports with other editorially enhanced titles, especially Deering's California Codes, renders a more competitive product from the standpoint of both consumer appeal and the efficiencies of joint editing. You are concerned that these assets might be lost as a result of awards to separate publishers in the divestiture process.

Historically, Thomson and West have bid competitively for the right to publish the Official Reports. Safeguarding the ability of the Court to rebid the Official Reports contract in a comparable climate of competition following the merger was a primary aim of this office in reaching the proposed settlement. Recognizing the volume and complexity of the materials and the Court's special need for accuracy and speed in publication, we required measures to facilitate the transfer of Bancroft-Whitney's editorial expertise, in addition to other provisions designed to promote the competitive strength of any prospective new publisher.

From a practical financial standpoint, this office believes the successor publishers of Deering's Codes and the other divested California titles will likely be, and should be, strong, active bidders for the right to publish the Official Reports, in the event the court elects to rebid that contract. We expect to apply this perspective in reviewing the competitive suitability of the Acquirer(s) of the California titles under paragraph IV.C. of the proposed judgment. In light of your concerns and consistent with our own past practice, we will examine in some detail what concrete plans, if any, the Acquirer has for taking on the Official Reports publication.

We believe that this approach should produce a bidding climate comparable to that enjoyed by the Court in past years. Moreover, it should do so without disturbing the proposed settlement or jeopardizing the prospective competitive benefits that it contains.

Sincerely,

Daniel E. Lungren,

Attorney General.

Kathleen E. Foote,

Deputy Attorney General.

cc: Craig W. Conrath (U.S. Dept. of Justice), Wayne D. Collins (Shearman & Sterling)

Supreme Court of California, Office of the Reporter of Decisions

September 13, 1996.

Kathleen E. Foote,

Deputy Attorney General, Department of Justice, 50 Fremont St., Suite 300, San Francisco, CA 94105–2239

Dear Ms. Foote: Recently expressed concerns on the proposed settlement for the Thomson/West merger have been substantially mitigated by your September 12 letter, and by a verbal understanding reached this week in a conversation with Wayne D. Collins and a subsequent conference call with Brian Hall and two other Thomson executives responsible for the California Official Reports. On that basis, please consider the suggestions in my September 5 letter to your office as moot.

This assumes, of course, that the verbal understanding reached with Thomson will be reduced to writing over the next few business days, consistent with the discussions.

The verbal understanding with Thomson provides that: (i) The license for use of summaries and headnotes will be expressly prospective in application, both as to material in existence on the finality date for the consent decree and material yet-to-be-written under the present publication contract; (ii) a license similar to the one stated for summaries and headnotes will be provided for use of the digest classification scheme for the California Official Reports, notwithstanding possible divestiture of the digest; and, (iii) a waiver of Thomson's right to withhold consent should California exercise the option for a second one-year extension of the present contract, and an express statement that exercising that option waives no rights under the consent decree. (The above is intended to be descriptive and is not necessarily reflective of the precise language that will be employed.)

In combination with your September 12 letter, this understanding satisfactorily addresses concerns relating to the California Official Reports set forth in the advisory committee's August 7 public comment letter to Craig Conrath, and in my September 5 letter to your office. On behalf of the Official Reports advisory committee, thank you for your assistance.

Cordially,

Edward Jessen,

Reporter of Decisions.

cc: Justice Marvin Baxter, chair of advisory committee, Wayne D. Collins, Shearman & Sterling, Brian Hall, Jim Fegen, Tom Trenkner, members of the advisory committee.

Supreme Court of California, Office of the Reporter of Decisions

September 16, 1996.

Brian Hall,

President, West Information Publishing Group, 610 Opperman Drive, P.O. Box 64526, St. Paul, MN 55164–0526.

Dear Brian: Thank you very much for your attention to my concerns about the proposed consent decree relating to the Thomson/West legal publishing transaction. Since Thomson is presently the publisher of the Official Reports, it is my duty as the Reporter of Decisions to ensure that the interests of the Supreme Court and the people of California are protected by any agreement settling the investigation.

My greatest concern was whether California's ability to select a ''substitute publisher'' would effectively be dictated by Thomson's selection of a buyer for Deering's Codes. In particular, I was concerned that the production synergies between Deering's and the Official Reports are so great that the only substitute publisher that could support the Official Reports was the publisher of Deering's.

I now understand that this issue was thoroughly investigated by the California Attorney General's Office and by the United States Department of Justice. I also understand that any sale of Deering's and the other California products to be divested must be approved under the consent decree by the California Attorney General's Office and the United States Department of Justice, and that Thomson is not free to select any purchaser of its choosing regardless of its qualifications. I am confident that the California Attorney General's Office and the United States Department of Justice will exercise their powers of approval as provided in the proposed consent decree to ensure that the purchaser of any divested product will have the managerial, operational and financial capability to complete effectively in the publication and sale of that product.

Moreover, I was very glad to learn that the proposed decree requires Thomson to reveal to any new purchaser of the divested products information about the personnel whose primary responsibilities are the editorial production of these products. I also understand that the proposed decree prohibits Thomson from interfering with any negotiations between the new purchaser and Thomson employees whose primary responsibility is the production, sale or marketing of the divested products. These requirements should help ensure that a new buyer will be able to continue with the products without any loss of continuity.

Finally, I was not aware that any buyer of Deering's or substitute publisher of the Official Reports would be free to provide the cross-references to ALR, AM Jur, Cal Jur and the other Thomson publications that make up the other half of Thomson's research system of cross-references. You have told me, however, that Thomson has never asserted a copyright interest in these cross-references and does not intend to do so in the future, so that a new publisher of Deering's or the Official Reports would be free to include these cross-references as they saw fit. I understand that you have similar representations to the California Attorney General's Office and the United States Department of Justice.

In light of this, my level of comfort with the transaction has greatly increased. As we discussed, however, I have several more concerns that I do not believe are addressed by the proposed decree and that need to be resolved before I can fully support the proposed settlement. First, I am concerned that there will be a ''gap'' in the Thomson license to the State and the State's potential introduction of any substitute publisher. Second, although Thomson is required by the proposed decree to divest the California digest in the event California finds a substitute publisher, I am concerned that this does not give the State an adequate interest in the Digest's classification scheme. Third, I am concerned that Thomson may not consent to continue, at California option, as the publisher of the Official Reports for a second one-year extension of the existing

contract to begin November 1, 1997, as contemplated by our contract extension agreement of April of this year.

Therefore, to fully satisfy my concerns, I ask that Thomson, subject to whatever approvals are required from the California's Attorney General's Office and the United States Department of Justice, agree to the following:

Condition 1. Extend the license to California provided by Section XI(C) of the proposed consent decree to include the use of any intellectual property rights which Thomson holds pertaining to the headnotes, case notes, and/or case summaries in the Official Reports created through the end of the existing contract, including any extensions pursuant to the April, 1996, agreement.

Condition 2. Include in the license to California provided by Section XI(C) the use of the classification scheme of Thomson's California Digest.

Condition 3. Agree to consent to the additional one-year extension from November 1, 1997, to October 31, 1998, of the existing publication contract of the California Official Reports as provided in the publication contract extension agreement of April, 1996, if California elects to exercise its option to extend under the extension agreement, and acknowledge that during any such extension California retains all rights under Section XI of the proposed consent decree to terminate the publication contract without cause upon ninety days notice to Thomson.

If you agree to these three conditions, I will withdraw my letter to Assistant Attorney Greene by sending him a copy of this letter and your response, and fully support the proposed consent decree as sufficient to protect California's interests as far as my office is concerned.

Cordially,

Edward Jessen,

Reporter of Decisions.

WEST

September 16, 1996.

Edward W. Jessen,

Reporter, Supreme Court of California, Office of the Reporter of Decisions, 303 Second Street, South Tower, Eighth Floor, San Francisco, CA 94107.

Dear Ed: Thank you very much for your letter of September 16, 1996. As you know, we take your concerns very seriously. Your satisfaction as a Reporter of Decisions with our performance on the Official Reports and with the adequacy of the proposed consent decree to protect the interests of your office is very important to us. I am glad that we have had the opportunity to discuss your concerns and resolve them to your satisfaction.

To that end, I am happy to agree on behalf of Thomson to the three conditions set forth in your letter. In particular, subject to whatever approvals are required from the California Attorney General's Office and the United States Department of Justice, Thomson (operating through the West Information Publishing Group) agrees to do the following:

1. Extend the license to California provided by Section XI(C) of the proposed consent decree to include the use of any intellectual property rights which Thomson holds pertaining to the headnotes, case notes and/or case summaries in the Official Reports created through the end of the existing contract, including any extensions pursuant to the April, 1996, agreement.

2. Include in the license to California provided by Section XI(C) the use of the classification scheme of Thomson's California Digest.

3. Agree in consent to the additional one-year extension from November 1, 1997, to October 31, 1998, of the existing publication contract of the California Official Reports as provided in the publication contract extension agreement of April, 1996, if California elects to exercise its option to extend under the extension agreement, and acknowledge that during any such extension California retains all rights under Section XI of the proposed consent decree to terminate the publication contract without cause upon ninety days notice to Thomson.

With these commitments in hand, I am delighted that you will now be able to inform Assistant Attorney General Greene of your support for the proposed consent decree.

We very much look forward to working with you in the future.

Respectfully,

Brian H. Hall.

Supreme Court of California

September 17, 1996.

Thomas Greene,

Senior Assistant Attorney General, Department of Justice, P.O. Box 944255, Sacramento, CA 94244–2550.

Dear Mr. Greene: Please regard my September 5 letter to you as withdrawn. I now fully support the proposed consent decree for the Thomson/West transaction as sufficient to protect California's interests as far as my office is concerned.

This change in view results from discussions initiated by Brian Hall, President of the West Information Publishing Group, to address the concerns expressed in the September 5 letter, and also the August 7 public comment letter to Craig Conrath, United States Department of Justice. These discussions culminated in the attached exchange of correspondence, which set forth provisions that will significantly improve the commercial viability of the Official Reports in the coming years.

Also contributing to my change in view is Kathleen Foote's September 12 letter, which sets forth the perspective the Attorney General will likely apply in reviewing the competitive suitability of the acquirer of California divestiture titles.

In sum, my concerns have been satisfactorily addressed by the discussions and correspondence that followed the September 6 letter.

Cordially,

Edward Jessen,

Reporter of Decisions.

cc: Brian Hall, Kathleen Foote

Certificate of Service

On September 23, 1996, I caused a copy of Plaintiffs' Response to Public Comments to be served by first-class mail upon all parties to this action, and a courtesy copy to be mailed to each commenter.

Minaksi Bhatt

Public Comments

1. Lyn Warmath, Library Director, Hirschler, Fliescher, Weinberg, Cox & Allen, P.O. Box 500, Richmond, VA 23218–0500
2. L. David Cole, Esq., 433 North Camden Drive, Beverly Hills, CA 90210
3. Alan D. Sugarman, President, HyperLaw, Inc, P.O. Box 1176, Ansonia Station, New York, NY 10023–1176
4. Edward D. Jessen, Reporter of Decisions and Secretary to California Advisory Committee on Publication of Official Reports, Office of the Reporter of Decisions, 303 Second Street, South Tower, San Francisco, CA 94107
5. Professor Robert L. Oakley (For American Association of Law Libraries), Georgetown University Law Center, Edward Bennett Williams Law Library, 111 G Street, NW, Washington, DC 20001
6. Cyndi A. Trembley, President, Association of Law Libraries of Upstate New York, 557 Cutler Road, Homer, NY 13077
7. Kathleen Jo Gibson, Secretary and Clerk, New Mexico Compilation Commission, P.O. Box 15549, Santa Fe, NM 87506
8. Karen Ehmer, Esq., Darby Printing Company, 6215 Purdue Drive, Atlanta, GA 30336
9. David C. Harrison, Esq., 2100 Arch Street, Fifth Floor, Philadelphia, PA 19103–1399
10. Alois V. Gross, Esq., 2219 Pillsbury Avenue, Minneapolis, MN 55404–3266
11. Thomas F. Field, Publisher, Tax Analysts, 6830 North Fairfax Drive, Arlington, VA 22213
12. Gary L. Reback, Esq. (For Lexis-Nexis Division of Reed-Elsevier), Wilson Sonsini Goodrich & Rosati, 650 Page Mill Road, Palo Alto, CA 94304–1050
13. Anonymous
14. Marc L. Ames, Esq., 225 Broadway, New York, NY 10007
15. O.R. Armstrong, President, Geronimo Development Corporation, 606 25th Avenue South, Suite 206, St. Cloud, MN 56301
16. Morgan Chu, Esq., (For Matthew-Bender & Company, Inc.), Irell & Manella, 1800 Avenue of the Stars, Suite 900, Los Angeles, CA 90067–4276
17. E. Scott Wetzel, CD Law, Inc., 1000 Second Avenue, Suite 1610, Seattle, WA 98104
18. Jose I. Rojas, Esq. (For Oasis Publishing Company), Broad and Cassel, 201 South Biscayne Boulevard, Miami, FL 33131
19. Eleanor J. Lewis, American Association of Legal Publishers, 282 North Washington Street, Falls Church, VA 22046
20. Professor J.C. Smith, Faculty of Law Artificial Intelligence Research Project, The University of British Columbia, 1822 East Mall, Annex 1, Vancouver, BC, Canada V6T 1Z1

21. John H. Lederer, Esq., 5678 Vineyard Road, Oregon, Wisconsin 53575
22. Kendall F. Svengalis, State Law Librarian, Rhode Island State Law Library, 250 Benefit Street, Providence, RI 02903
23. Matthew Lee, Executive Director, Inner City Press/Community on the Move, 1919 Washington Avenue, Bronx, NY 10457
24. James P. Love, Consumer Project on Technology, P.O. Box 19367, Washington, DC 20036
25. Norman S. Wolfe, Vice President/General Manager, International Compu Research, Inc., 1401 Dove Street, Suite 580, Newport Beach, CA 92660
26. Bartlett F. Cole, Esq., 1201 S.W. 12th Ave. Rm. 305, Portland, OR 97205–1705

Hirschler, Fleischer, Weinberg, Cox & Allen

August 2, 1996.

By telecopier and first class mail

Mr. Craig Conrath,
Chief—Merger Task Force, Antitrust Division, United States Department of Justice, 1401 H Street, Suite 4000, Washington, DC 20530.

Re: United States of America v. The Thomson Corporation and West Publishing Company, No. 96 1415

Dear Mr. Conrath: I am writing to express my opposition to the settlement in the acquisition of West Publishing Company by the Thomson Corporation. I was initially pleased by the general terms of the settlement until I read details of licensing fees for internal pagination to West's National Reporter System. I was further alarmed when a colleague did some arithmetic based on the fee schedule described in the settlement agreement.[1]

Using a random volume of the Federal Supplement reporter, licensing the star pagination from a single volume of this one reporter appears to be a bit less than $541. Multiplied by the 918 bound volumes in the set as of mid-July, star pagination for *this single set of reporters* would start off in the general vicinity of $496,000 *annually.* This does not even take into consideration the addition of approximately 36 new volumes per year as well as the increases built into the settlement agreement for the second and third years. The settlement agreement provides $0.02 per year annual increases per 1,000 characters and at first glance we seem to be discussing mere pennies. The reality, however, is that we are discussing astronomical amounts of money. Licensing this one title for the second year will add approximately $632,000 to a small business's production costs while licensing this one title for the third year will add a further $774,000 to production costs. These increases are nearly 22% and 37% over the first year's estimated costs.

The first year's license fees alone are a staggering amount for a small business to contemplate and few businesses can sustain production increases like those described above. These licensing fees will have a direct and critical impact on prices of potential competing products.

I believe these facts merit repeating: So far, I have described costs for one title. The license agreement, however, covers 19 titles:

Titles	Number of volumes
Supreme Court Reporter	112
Federal Reporter 2d	999
Federal Reporter 3d	79
Federal Supplement	918
Federal Rules Decisions	164
Atlantic Reporter	674
North Eastern Reporter	660
North Western Reporter	546
Pacific Reporter	913
South Eastern Reporter	467
Southern Reporter	671
South Western Reporter	919
California Reporter 2d	286
California Reporter 3d	47
Illinois Decisions	355
New York Supplement	628
Bankruptcy Reporter	193
Military Justice Reporter	42
United States Claims Court Reporter	26
Federal Claims Reporter	8
Veterans Appeals Reporter	8
Total	8,715

West Publishing clearly stands alone as the single authoritative source to provide precise licensing costs that take into account characters of text in its national reporter system minus characters of its secondary, proprietary headnotes. Over the last several weeks I have repeatedly called West Publishing to inquire about exact costs for one, two and three year license fees or even ballpark figures for the same three-year period. Over the course of several phone conversations, West Publishing's agent has replied that she ''has no idea,'' still ''does not know,'' or ''has not found that information yet.'' Perhaps the figures are so unthinkable for a small business to contemplate that public disclosure is not in West's best interests.

While licensing fees in the range of $.09, $0.11 and $0.13 per 1000 characters initially might look like mere pennies, ''doing the math'' actually presents an entirely different and untenable picture to small, medium and even some large publishers.

I predict these licensing fees will lock out competitors and virtually guarantee a monopoly for Thomson/West. Some of the settlement clauses are reasonable. The licensing agreement, however, is disastrous for legal information consumers, who in the end are our country's everyday citizens and neighbors.

Yours truly,

Lyn Warmath,
Library Director.

L. David Cole

July 12, 1996.

Bancroft Whitney,
P.O. Box 7006, San Francisco, California 94126–7004.

Attention: Brian H. Hall, President West Information Publishing Group

Dear Mr. Hall: As a user of Bancroft Whitney CD-ROMs (California Reports, Deerings, Miller & Starr and California Transactions Forms) for some time, as well as a less frequent user of West Publishing CD-ROMS (U.S. Code Annotated), I was interested to learn of the planned divestiture to which Thomson Publishing has apparently agreed with the Antitrust Division of the United States Department of Justice, as a result of its review of the acquisition of West Publishing by Thomson. When I read the detail which accompanied your letter of June 28, 1996, my interest turned to concern.

I subscribed to Deerings and the California Reports services on CD-ROM from Bancroft Whitney, rather than two comparable sets from West Publishing, primarily because of their integration to Miller & Starr, which I use regularly in my practice. An additional incentive was the potential further integration if I elected to subscribe to Witkin. (Absent that integration, I would probably have chosen West's services, based on its ''key number'' organization.) I observe that neither Miller & Starr nor Witkin is to be included in the divested products. The apparently piecemeal divestiture will over time likely result in unintegrated sets, thereby frustrating the reason for my choice of products, an important component of the value to me of the California Reports and Deerings sets. I foresee, unhappily, that my substantial (to me) investment in Deering and California Reports will be rendered substantially less valuable when the related treatises are no longer under common ownership and integrated. Please consider this letter my protest of the piecemeal divestiture which has apparently been agreed.

As the divestiture is apparently mandated by agreement with the Antitrust Division, I am forwarding a copy of this letter to the Antitrust Division as well, for its consideration, (the likelihood of which, I acknowledge, is slight). However, as the divestiture agreement is, at least from my perspective as a user of the divested product, ill advised and potentially damaging, my protest is made to the U.S. Department of Justice in the hope that it may be considered if public or other comment with respect to the divestitures contemplated.

I hope, without optimism, that my misgivings prove unfounded.

Very truly yours,

L. David Cole

LDC:jb
cc: U.S. Department of Justice

[1] Calculations are based on 1,000 characters of text equalling 38 characters across each of two columns and 50 lines on a page in a random volume of Federal Supplement that contains 1583 pages. That totals approximately 6,015,400 characters in the sample volume, although some amount should be subtracted for West's proprietary headnotes.

HyperLaw

June 26, 1996.

Craig W. Conrath,

Chief, Merger Task Force, Antitrust Division, U.S. Department of Justice, Suite 4000, 1401 E Street, N.W., Washington, D.C. 20530.

Dear Mr. Conrath: Although we have a number of concerns relating to the approval by the Department of Justice of the merger of West Publishing Company and The Thomson Corporation, this letter addresses only the proposed compulsory license agreement for internal pagination.

We conclude that the License Agreement form attached as Exhibit B provides illusory benefits, is not drafted to protect the interests of licensees, is an invitation for the Licensor to engage in further abusive conduct, and is not in the public interest.

We believe that the Final Judgment needs to include an obligation by West-Thomson to negotiate in good faith, an agreement to not enter into discriminatory licensing agreements, and affirmative statements as to what constitutes ''fair use'' in the copying of West case reports when the only purpose of copying the opinion is to remove identifiable West copyrighted material.

The proposed License Agreement is unacceptable. It seems to assume that the Licensor will act in good faith. Based upon past activities of the Licensor, this belief is completely unwarranted. The License Agreement is riddled with one-sided provisions and invitations for the Licensor to continue its anti-competitive practices.

We urge the Department of Justice, as well as the plaintiff Attorney Generals, withdraw consent to the Stipulation and Order until the License Agreement is modified to remedy these substantial problems.

It would appear that the Department of Justice in requiring compulsory licensing was addressing the 1988 pagination licensing agreement entered into between West and Mead at the conclusion of a two week trial. Presumably, West is being required to offer to all what was available only to Mead and now Reed-Elsevier/Lexis. However, in 1988, West and Mead entered into *two* licenses in connection with the settlement of the three pending actions: one license covered internal pagination and the other license covered the use of text copied by Mead from West books. In addition, the 1988 agreements were not an arms length negotiation, and moreover, involved the only two companies in the industry.

Some have even suggested that the 1988 agreements were themselves violative of the antitrust laws, and were nothing other than agreements by the only two companies in the industry to work to keep everyone else out.

Unfortunately, the compulsory licensing agreement crafted by the Antitrust Division addresses only one of these two components, the pagination issue, and even that in an completely impractical manner.

For opinions published in the last 75 years of West reporters, West has asserted proprietary claims as to the opinion text. These claims cover West's non-creative editorial enhancements, such as judge authored changes to an opinion. These text claims are inherent in the compilation copyright claims which have been constructed by West and which West ominously waves when convenient for West to ward off competition. West also claims that the temporary copying of their case reports for the purpose of removing identifiable copyrighted information is not fair use, and is a violation of their copyright.

In order to buttress these claims, West is formulating and pushing legislation. The two main components of the West legislative program are the database protection bill now in Congress and the anti-RAM copying provisions contained in another bill before Congress. The database protection bill is supported by West surrogates such as an ABA subcommittee chaired by a West employee who promoted the original lawsuit by West against Mead and by the West dominated Information Industries Association. The anti-RAM copying provision can similarly be tracked to West initiatives in executive department public/private committees and the IIA. The net effect of these two provisions would be to make it a violation of law to scan a West opinion from a book into a computer, delete the West digests and summaries, and then publish the remaining text. We note that for older opinions found only in West reporters, this is the only practical way, and in many situations the only way, to locate final older opinions.

Thus, at the very least, West must be required as a condition of the merger, to agree not to attempt to assert copyright or any future database protection act claim against those who (1) copy West opinions for the purposes of removing copyrighted materials or (2) copy West corrections and other non-creative material found in the resulting text. Moreover, the pagination license should carry with it a ''license'' for use of the text itself.

The problems presented by the License Agreement include:

1. An escalating royalty rate structure that will benefit only the largest of legal publishers.

- The royalty structure as presented will only be meaningful in the market for smaller collection of cases where there is one time publication, and only if the pagination license carries with it a text license. At this time we will not comment further on the rate structure because we expect that you will receive comments from others. However, for most smaller CD-ROM publishers, a license would not be cost effective and is prohibitive. For example, a number of small CD-ROM publishers have databases of cases of approximately 1 Gigabyte, and all do, or plan Internet availability. The license fee to West would start off at $180,000 per year and grow year after year as a result of escalations and the natural increase in database size. None of these companies can sustain these royalty payments.
- The licensing fee should be a one-time fee.
- The licensing fee should be on a per opinion bases and should be no more than $.05 per opinion (in our view, free) and should be less for older opinions, and no fee for de minimis numbers of opinions, for example, under 1000 opinions on a single CD-ROM.
- The licensing fee should cover all media in which the opinion is disseminated.
- Licensees with products containing under 5000 opinions should not be required to enter into a formal agreement, and royalty payments will be deemed payable on publication, with or without an agreement.

2. Prohibitions in the Agreement against licensees contesting any West compilation copyright claims while licensing internal pagination. This ignores Lear v. Adkins, 395 U.S. 653 (1969), and assures that the West dubious copyrights will not be challenged.

''3.01 *Copyrights.* During the term of this Agreement, Licensees (I) shall respect and not contest the validity of the copyrights claimed by Licensor's arrangement of case reports in NRS Reporters as expressed by NRS Pagination.* * *''

- Licensees should be free to contest the validity of West copyrights.

3. Confidentiality provisions which will permit West to engage in preferential licensing and to continue to engage in abusive licensing practices in secret.

See Section 4.01

- Licensees should have the privilege to waive confidentiality.
- West should report all license agreements to DOJ.
- There should be most-favored-nation clauses.

4. Provisions requiring arbitration in West's home state, and, presumably in privacy.

See Section 6.07

- Arbitration should not be private, unless elected by the Licensee.
- Arbitrations should be able to be held in Washington, DC, at the Licensees option.
- The decision of the Arbitrator should be appealable to the US District Court for the District of Columbia.

5. Enabling West to limit licenses to what it considers in its own discretion to be an original compilation. This limits the meangingfulness of the license. In other words, a company such as Oasis could not take a license to publish Florida Cases, notwithstanding that the selection of these opinions contained therein are made by the Florida courts, because West claims this is an original compilation belonging to West. If the license as drafted is approved, West will remain the monopoly publisher of opinions in a substantial number of states and at the federal level.

''1.03 'Licensee Case Reports' shall mean Licensee's reports of judicial decisions that are selected for reporting by Licensees in [Licensee Product(s)/Service(s) and coordinated and arranged by Licensee within [Licensee Product(s)/Services].''

- The limitation needs to be removed. The West reporters in most situations include only opinions that the authoring courts indicate in one way or another as being suitable for publication.
- In addition, the list of reporters in Section 1.02 should include all of the West state case reporters, and, where West does not claim proprietary rights in a state reporter, that should be clearly identified and West should publicly release rights therein.

6. The pagination license does not extend to the text of the opinions, thereby permitting West to continue its expansive definition of arrangement and coordination and originality to include factual corrections and changes made to individual opinions by West and/or the courts.

• The pagination license should also include a text license, and a waiver of any West claims of intermediate copying, as long as any published case does not include West headnotes and summaries.

7. Provisions that will require the triple payment of license fees—one fee for CD–ROM, one for the Internet or on-line, and another for books.

• The license should cover dissemination of the information in all formats.

8. Requirements that the Licensee prominently display West internal pagination in a way as to further the questionable market position of the internal pagination.

2.05. *Display of Licensed NRS Pagination.* During the term of this Agreement, if Licensee includes NRS Pagination as a part of any Licensee Case Report, such Licensed NRS Pagination shall be presented no less prominently (in terms of size, high-lighting, underlining, etc.) than any other unofficial pagination or pinpoint locators for the Licensee Case Report in question.

Section 2.05 should be deleted.

9. Requirements that the licensee disclose competitive product information to West prior to consummation of the license agreement. Detailed disclosure of product information would provide West with advance plans of competitors.

''1.03. 'Licensee Product(s)/Services]' shall mean [description of Licensee Product(s)/Services]''

• The licensees should only be required to disclose the product in the most general terms. Why should the biggest competitor receive prior information about all new products.

10. Ambiguous provisions as to the License charges for books. It is not clear whether the payment applies only on first publication of a book, or continues as long as the book is being marketed.

• For book and CD–ROM products, the license with West need only be in effect on the date of publication and would be paid only as of the date of first publication.

In addition, it is very important that the following provision be added to create a wide number of sources of paginated opinions to supply smaller independent publishers:

• Third party information providers may sell or license case law data which included West pagination and text on a wholesale basis as long as the purchasers or licensees of the data have entered into or are subject to a pagination License Agreement with West.

There is absoltely nothing in the factual circumstances to indicate that West will negotiate fairly with licensees. To the contrary, all evidence and history would suggest that West will engage in obfuscatory and dilatory tactics, matched with continued expansive intellectual property claims.

As noted above, the License Agreement must be viewed in the context of the legisaltive programs actively pushed by West and its surrogate organizations and association (such as the IIA and the ABA Intellectual Property subcommittee) as found in the proposed Database Protection Act and the Anti-RAM copying bill.

The License Agreement as presently drafted is not in the public interest, and the DOJ should withdraw its consent until a fair, arms-length agreement that reflects the past conduct of the parties and the realities of publishing is negotiated.

We are continuing to ananlyze this provision and will provide additional recommendations before the expiration of the 60-day period.

Sincerely,

Alan D. Sugarman,

President, HyperLaw, Inc.

HyperLaw

June 28, 1996.

Craig W. Conrath,

Chief, Merger Task Force, Antitrust Division, U.S. Department of Justice, Suite 4000 1401 E Street, N.W., Washington, D.C. 20530.

Dear Mr. Conrath: In my letter to you two days ago concerning the many problems with West's License Agreement form, I referred to the following section in the agreement which permits West to vitiate the agreement.

''1.03 'Licensee Case Reports' shall mean Licensee's reports of judicial decisions that are selected for reporting by Licensees in [Licensee Products(s)/Services(s) and coordinated and arranged by Licensee within [Licensee Product(s)/Services].''

I understand that West representatives are now saying that this provision does not mean what it says. It is clear to me: if the Licensee does not itself select for reporting the decisions and then also coordinate and arrange them, as defined by West in its own confidential arbitrary discretion subject only to review by confidential non-appealable arbitration in Minnesota, then West will not grant a license.

To understand what this means, I quote to you the following from a letter from West that is attached to the complaint in Oasis v. West, about to be appealed to the Eighth Circuit.

''[W]est does not object to the use by a competitor of a parallel citation to the first page of West case reports of judicial decision independently selected by the competitor for inclusion in its own reporter volume.''

''With respect to your question of whether West would enter into a star pagination license agreement, the answer is yes. West has entered into star pagination licenses with other publishers and would be happy to discuss such a license with your client. However, the terms of such licenses are individually negotiated and depend in part upon the scope of the use contemplated by the licensees. Therefore, I am unable to quote any type of price or even discuss basic license terms without knowing more about your client's intended product.''

Letter dated January 4, 1995 from Joseph M. Musilek, outside litigation general counsel for West, responding to request ''Our client would like to use not only the initial page numbers of each case but also 'star pagination' reflecting the pagination of the *Florida Cases* as published by West under contract with the State of Florida.''

It would seem that under the proposed License Agreement, West would be able to continue to assert that *Florida Cases* is a West selection of decisions, and deny a license to companies like Oasis under Section 1.03, since the Licensee would, according to West, be copying the West section. And, Oasis would not even be able to tell anyone because it would be muzzled pursuant to the confidentiality provisions accorded to West. Good public policy? I think not.

In response to our letter, others have noted to us that the Department of Justice and the plaintiff Attorney Generals have reserved the right to contest the copyright claims of West. I wish to bring to your attention State of Texas v. West Publishing Co., 882 F.2d 171 (5th Cir. 1989) which was a declaratory judgment action brought by the Attorney General of Texas re West's claims to ownership of chapter and section numbers of Texas statutes.

The Texas Attorney General's challenge was dismissed because there was no case or controversy—the State of Texas was not deemed to have met the justiciabilty standard that the state itself had the immediate intent ability to itself publish the statutes. So, I am having a hard time understanding how these attorneys general or even the Department of Justice is going to challenge the West claims. And, the United States has never intervened in the still pending West v. Mead 1988 case, despite the obvious anti-competitive impact of the settlement, nor has the United States ever taken the obvious step of asking the court to make the agreements public, so that the public can see just how much the public is being abused.

One would conclude that these reservation of rights by the United States and the Attorneys General to contest West copyrights is simple window dressing.

We also note that there is no statute license agreement (something else covered in 1988 between West and Mead in their secret settlement which it seems the Department of Justice and the Attorney Generals felt was only important to Lexis and would not be important to other publishers).

Sincerely,

Alan D. Sugarman,

President, HyperLaw, Inc.

HyperLaw, Inc.

Via Fax—202–307–5802

Copy by Federal Express and Hand Delivery

September 3, 1996.

Craig W. Conrath,

Chief, Merger Task Force, Antitrust Division, U.S. Department of Justice, Suite 4000, 1401 E Street, N.W., Washington, D.C. 20530.

Dear Mr. Conrath: This letter completes HyperLaw's comments to the Department of Justice concerning the Consent Decree relating to the merger of Thomson and West Publishing Company. This letter should be read in conjunction with our letters of June 26, 1996 and June 28, 1996.

The Consent Decree is not in the public interest and the Department of Justice must withdraw its consent.

HyperLaw, Inc. publishes the opinions of federal appellate courts on CD–ROM, and is thus a competitor of West. It also is a supplier of tagged federal appellate opinions to Thomson. In addition, HyperLaw has been threatened by West, which threats have prevented HyperLaw from including West's star pagination in its product and from copying public domain material from West reporters. As United States District Judge John S. Martin found in *Matthew Bender & Company, Inc. and HyperLaw, Inc. v. West Publishing Company,* 94 Civ. 0589 (JSM), 1996 U.S. Dist. LEXIS 11091 (SDNY August 5, 1996) (attached):

''[t]he Court finds that HyperLaw had a reasonable apprehension of being sued by West over use of the West features at issue here at the time that it filed the complaint.''

Among the factors the court considered was that ''Schatz [West General Counsel] told Sugarman that his firm wins all his lawsuits for West.'' The Court ''accept[ed] Sugarman's testimony that Schatz made the comment in the context of a discussion about HyperLaw's use of West features'' after noting that ''Schatz gave varying versions of the time and place of the conversation in his deposition and hearing testimony, and finally testified at the hearing that he was not certain where the conversation took place.'' The Court also found it relevant that ''Stephen Haynes, a senior executive and attorney for West approached Sugarman at a convention and stated that Sugarman was aiding and abetting infringement of West copyrights * * *'' [This is the same Stephen Haynes that is the chair of an ABA Database Protection subcommittee which authored a 1996 report in favor of database protection legislation.]

By filing a comprehensive complaint against West-Thomson, and then proposing an ineffectual consent decree, the Antitrust Division has provided the following benefits to West-Thomson:

Insulated West-Thomson from further antitrust enforcement by the Department of Justice for the foreseeable future.

Sanctioned a license agreement which will be falsely characterized by West-Thomson so as to enable West-Thomson to sway and mislead Congress, the courts, and public opinion, as shown below. Without a doubt, West-Thomson will use this license agreement before Congress as a reason why a database protection action would not be anticompetitive.

In a sense, the Antitrust Division has punched a free antitrust waiver ticket for West-Thomson. It will be able to throw its weight around in the legal market without any concern as to enforcement from the Antitrust Division.

Indeed, the half-hearted inconsequential relief is so limited in effect that we urge DOJ to withdraw its complaint and have no consent decree, rather than perpetuate a meaningless remedy on the public.

Lawyers Cooperative must be divested as an ongoing operating entity, and, the License Agreement must be revised to provide in an unambiguous way a meaningful and adequate remedy to the harms described in the complaint, many of which pre-existed the merger.

We reject as ludicrous the position of the Antitrust Division that in the Division must ignore preexisting violations of the antitrust laws that are discovered during a merger approval investigation.

The consent decree does not provide an adequate remedy to the allegations in the complaint, is ambiguous (the ambiguity of the license agreement has been documented in HyperLaw's previous letters), and lacks any effective enforcement methodology.

If the Antitrust Division persists in its efforts to protect its public relations posture and its political deal with West and Thomson, we believe that even under the stringent standards of *U.S. v. Microsoft,* the District Court should reject the consent decree. The following excerpts are from *U.S. v. Microsoft* and describe what the District Court judge may do. Of course, the Antitrust Division, after consideration of the new information brought to its attention, is in no way restricted by the limited discretion permitted to the District Court.

''whether the remedy provided in the decree was adequate to the allegations in the complaint''

''A district judge pondering a proposed consent decree understandably would and should pay special attention to the decree's clarity.''

''Similarly, we would expect a district court to pay close attention to the compliance mechanisms in a consent decree.''

''When the government and a putative defendant present a proposed consent decree to a district court for review under the Tunney Act, the court can and should inquire, in the manner we have described, into the purpose, meaning, and efficacy of the decree. If the decree is ambiguous, or the district judge can foresee difficulties in implementation, we would expect the court to insist that these matters be attended to. And, certainly, if third parties contend that they would be positively injured by the decree, a district judge might well hesitate before assuming that the decree is appropriate.''

U.S. v. Microsoft, 56 F.3d 1148 (D.C. Cir. 1995) [Because West claims a copyright in its internal page numbers, and because HyperLaw has not paid a citation tax to West so that it could insert the page numbers in its database . . . assuming that West would license the internal pagination for use in HyperLaw's CD–ROM database of almost all of the opinions in recent Federal Reporters and assuming that HyperLaw would sign the onerous agreement and could afford the exorbitant up-front payments without any assurance that it could increase prices and sales to cover such payments . . . HyperLaw does not have the internal page numbers of this opinion in its database, and is unable to cite to the internal page numbers without locating an open public law library during the Labor Day weekend.]

We conclude as follows:

The Consent Decree is defective ab initio and has little remedial effect on a grossly anticompetitive merger.

To the extent the Consent Decree might provide a scintilla of meaningful relief, it relies for enforcement on the good faith of parties that in the past has never been shown. Between the signing of the settlement and the present time, the Wilson Sonsini letter shows that West-Thomson is not acting, and has no intent to act, in good faith.

The Department of Justice has not the means or the will to enforce even that scintilla of relief.

The Department of Justice in its description of the Consent Decree has intentionally misrepresented the scope and effect of the Consent Decree and the License Agreement.

The Antitrust Division has argued as a reason for its tepid actions that in a merger approval under Hart-Scott Rodino, it is circumscribed in addressing past antitrust wrongs. However, there is nothing in Hart-Scott Rodino that prohibits the United States from initiating antitrust enforcement action when it develops evidence of violation of the antitrust laws in the course of a Hart-Scott-Rodino investigation. Thus, there is no justification for the Division's argument that a weak meaningless license agreement should be gratefully accepted by the public merely because it remedies problems that pre-existed (but are worsened by) the merger.

THE LICENSE AGREEMENT IS NOT AN ''OPEN LICENSE AGREEMENT AND IS BEING MISREPRESENTED BY THE ANTITRUST DIVISION AND WEST TO FURTHER THEIR MUTUAL SELF-INTEREST AND TO DECEIVE THE PUBLIC INTO BELIEVING THAT THE CONSENT DECREE IS A ''VICTORY FOR ALL OF US'' AND ''RESOLVE[S] ANY POSSIBLE ANTITRUST CONCERN REGARDING THE AVAILABILITY OF STAR PAGINATION LICENSES.''

DOJ's initial press release misdescribed the scope and applicability of the Consent Decree and in particular called the license agreement an ''open agreement.'' Nothing could be further from the truth. Subsequent to our June letters, during a two hour telephone conversation (described below in more detail) with you, Larry Fullerton and others in the Antitrust Division, we reiterated our displeasure with this mischaracterization, and the Division was unable to provide a credible defense for its positions concerning the license agreement.

Shortly thereafter, as part of its public relations campaign, the Antitrust Division once again engaged in gross misrepresentation of the license agreement in a letter and brief filed by the Antitrust Division on August 5, 1996 before the United States District Court for the Southern District of New York in Matthew Bender & Co., Inc. and HyperLaw, Inc. v. West Publishing Company.

''Part of that settlement requires Thomson to license to other law publishers the right to star paginate to West's National Reporter System. . . . In announcing the settlement, the U.S. Department of Justice stated: 'Today's settlement, with its open licensing requirement does not suggest . . . that the Department believes a license is required for use of such pagination.' ''

Memorandum of United States Of American As Amicus Curiae In Support Of The Proposition That Bender's Star

Pagination To West's National Reporter System Does Not Infringe Any Copyright Interest West May Have In The Arrangement Of The National Reporter System Volumes, p. 2, August 5, 1996, Matthew Bender & Co. Inc. and HyperLaw, Inc. v. West Publishing Company, 94 Civ. 0589 (JSM), United States District Court, Southern District of New York (DOJ New York Brief).

Among other things, it is inappropriate to describe the License Agreement as an ''open'' agreement when it will be negotiated in private and arbitrated in private pursuant to confidentiality provisions agreed to by the Antitrust Division.

We also note that this continued misrepresentation in the August 5 brief occurred after our June letters and the two hour conference in late July with you and other senior Antitrust Division counsel.

DOJ tossed out this self-serving public relations slow ball. Then, West on August 24, 1996, exaggerated further this mischaracterization in its response to the DOJ New York Brief:

''West had agreed, as part of its Proposed Final Judgment in United States v. The Thomson Corp., No. 96–1415 (D.D.C. filed June 19, 1996), to license all other law publishers the right to star paginate to West's National Reporter System publications—at standardized royalty rates which the Antitrust Division approved as commercially reasonable. While, as the Antitrust Division points out, the inclusion of a star-pagination license in the Proposed Filed Judgment does not mean that the Antitrust Division agrees with West's position on star-pagination—it doesn't—the negotiation of the Proposed Final Judgment does not mean that the Antitrust Division agrees with West's position on star-pagination—it doesn't—the negotiation of the Proposed Final Judgment does resolve any possible antitrust concern regarding the availability of star pagination licenses to West competitors.''

West Publishing Company's Memorandum Of Law In Opposition To The Memorandum Of The Antitrust Division Of The Department Of Justice As Amicus Curiae, August 24, 1996, Matthew Bender & Company, Inc. and HyperLaw, Inc. v. West Publishing Company.

We were not aware that the Division was of the opinion that the Proposed Final Judgment ''resolved any possible antitrust concern regarding the availability of star-pagination licenses'' nor are we aware of any basis that the rates are commercially reasonable. We note that there has been no record created as to how the Division arrived at the royalty rates, and how it may be commercially reasonable in certain limited situations, and unreasonable in others.

We believe that West-Thomson should be held to its posturing, and the Licensee Agreement be renegotiated to resolve ''any possible antitrust concern'' by making the agreement an open, practical, reasonably priced agreement both in form and in substance.

WEST'S COPYRIGHT CLAIMS TO TEXT OF COURT OPINIONS, OPINION ARCHIVES AND THE DATABASE PROTECTION ACT.

The DOJ Complaint fully recognized the importance of archives of the text of legal opinions. Unfortunately, not only does the Consent Decree not propose any relief with respect to this problem, but the merger only increases the concentration in this area, by placing into the combined entity the archives of West and the Thomson Companies, and removing the Thomson Companies from its continuing efforts to create and obtain its own archives of opinions. Quite clearly, Thomson was not only a potential competitor in the creation of archives of opinions, but was well on the way to so doing.

The License agreement provides for West to license the internal pagination at an expensive license fee, but is singularly silent as to whether a licensee as part of the license may obtain the text by copying the opinion text from a West reporter. Moreover, no other relief provided in the consent decree will have any measurable impact on the dominance of West and Thomson in enhanced and unenhanced case law.

What does the complaint state:

''Entry would be difficult for three reasons. First, successful entry would require access to past and current court opinions and statutes. Past and/or current opinions simply are not available from many courts, and in many others, obtaining access is costly and time-consuming.''

DOJ is correct in this regard. This paragraph of the complaint although devoted to the West Thomson dominance in enhanced case law, applies equally to unenhanced case law, particularly in those jurisdictions, such as the federal courts (recipients of West's largesse) at West's urging have acquiesced to West's being the provider of the authoritative archive of federal court opinions. The reasons set forth in Paragraph 19 are some of the factors relating to the domination of on-line case law research described later in the Complaint. [Paragraph 19 of the Complaint's lists those markets where West and Thomson's compete in case law. This list is substantially understated, since it only refers to enhanced case law. For example, HyperLaw licenses to Thomson tagged case opinions for the federal appellate courts which Thomson includes on CD–ROMs of state case law in Texas, Louisiana, Mississippi, and Kansas.)

We understand that the American Association of Legal Publishers is providing today to DOJ an analysis of its efforts to obtain original copies of federal court opinions directly from the courts for opinions from the 1960's and 1970's. This study shows that opinions are simply missing from files, that court files are not able to be found, that opinions are misfiled in the case files, that the court archive centers limit the number of case files to as few as three that may be viewed, and that the process if fraught with delays, confusion and expense. It is sometimes difficult to obtain even current court opinions and some federal courts of appeals do not even make all of their published opinions available electronically.

One reason that archives are such a competitive advantage is that the incremental cost of publishing a CD–ROM treatise or enhanced product with the full text of cited opinions is zero for a company with an archive. In other words, the West incremental cost is zero. It does not have to locate and copy the original opinions and does not have to convert them to electronic form. Nor of course does West have to pay a license fee to use the star-pagination.

What is the current position of West-Thomson on the issue of copying court opinion text from West case reports? West's Response to Matthew Bender's Rule 3(g) Statement (wherein Matthew Bender recited undisputed facts in support of its motion for summary judgment) filed August 19, 1996 in Matthew Bender & HyperLaw v. West states as follows:

MATTHEW BENDER STATEMENT OF UNDISPUTED FACT: 40. West contends that rival publishes, including Matthew Bender, are free to obtain slip opinions directly from their issuing courts, but will incur copyright liability by copying those opinions from a West reporter.

WEST'S RESPONSE: West cannot admit or deny this statement, which is actually a hypothetical situation, rather than a ''fact,'' without having specific facts about how much copying has been done from a West Reporter. This statement also incorrectly refers to opinions rather than case reports.

To make matters worse, the DOJ New York Brief suggests that the Antitrust Division is playing a double game here. First, the Antitrust Division has at no time indicated its desire to file a brief in support of HyperLaw's motion that will permit rival publishers to copy the text of court opinions from West reporters. Second, as anticipated in HyperLaw's June letters which referred to West efforts to end-run the copyright laws by lobbying for database protection legislation, DOJ states as follows in its brief:

''Copyright is not the only conceivable legal regime for protecting the fruits of industrious collection. The Delegation of the United States of America recently proposed to the World Intellectual Property Organization an international treaty that would provide to the ''maker'' of certain databases the exclusive right to extract all or a substantial part of the contents, without regard to copyrightability. World Intellectual Property Organization, Preparatory Committee of the Proposed Diplomatic Conference (December 1966) on Certain Sui Generis Protection of Databases, CRNR/PM/7 (May 20, 1996). Legislation providing for such protection has been introduced in Congress. *See* H.R. 3531, 104th Cong., 2d Sess. (1996).

DOJ New York Brief, Page 6, Note 4.

Fortunately, because of widespread opposition, the Congressional legislation has not gone anywhere. So, what has the Administration done in this political season: on behalf of information industry lobbyists and campaign contributors including West, with the seeming support of the Antitrust Division, the Administration has put in place an end-run around the United States Congress and the United States Constitution by having international bodies composed of member nations with constricted views of the public's right of access to government information agree to a treaty that will then be forced down Congress's throat.

If the Antitrust Division was merely being inartful in its disregard of the West monopoly on text, and if it agrees that West has and is

engaging in copyright misuse and anti-trust violations by asserting claims in the text of court opinions drawn from West case reports in West reporters, then we invite the Antitrust Division to: (1) require the amendment of the License Agreement to specifically include the right of the pagination licensee to copy the text of court opinion from West case reports and (2) file an amicus brief in support of HyperLaw's motion for declaratory relief permitting competing publishers to copy the court opinion portion from West case reports.

LICENSE AGREEMENT ISSUES DISCUSSED IN JULY MEETING

We also wish to follow up on the discussion we held in late July concerning our two letters:

1. We specifically objected to the characterization of the license agreement as an ''open'' license agreement. Thereafter, DOJ repeated this mischaracterization twice in its filings in Matthew Bender & HyperLaw v. West.

2. We discussed the effect of Section 1.03, which states:

''1.03 'Licensee Case Reports' shall mean Licensee's reports of judicial decisions that are selected for reporting by Licensees in [Licensee Product(s)/Service(s) and coordinated and arranged by Licensee within [Licensee Products(s)/Services].''

Not one of the five senior Antitrust Division attorneys present at the meeting disputed our interpretation that West would not be required to license page numbers to publishers publishing all of the opinions in a single West Reporter Series. I used as examples the proposed Oasis CD–ROM of opinions found in West Florida Cases, and HyperLaw's CD–ROM which includes almost all opinions appearing in West's Federal Reporter.

3. The Antitrust Division argued that *Lear v. Adkins,* in prohibiting no-contest provisions in license agreements, had been narrowly construed in later opinions. However, there was no response to our point that the public policy issues raised in *Lear v. Adkins* remain valid and were even more relevant where the Antitrust Division had negotiated a compulsory license to remedy destructive anti-competitive behavior.

4. The Division argued that the no-contest provision was narrowly drafted and would only relate to ''contest[ing] the validity of the copyrights claimed by Licensor in Licensor's arrangement of case reports in NRS Reporters as expressed by NRS pagination'' and would not prohibit other objections to West copyright claims. However, we pointed out that West linked all of its claims to its compilation claims, and, that, all West had to do was pull the license and take the licensee to a confidential arbitration in Minnesota, so, that the effect of 3.01 was to prohibit a broader range of contest.

5. The Division argued that the multiple license fee was not a problem since it had determined that most publishers were not intending to publish in multiple media. We pointed out that this was a flatly incorrect statement and that most CD–ROM publishers are or were planning to offer Internet versions. One example I provided was CD-LAW in Washington. In addition, Law Office Information Systems has announced that it would make its CD–ROM information available on the Internet. The Department's position evidences a complete lack of understanding of the information industry wherein the medium of dissemination is irrelevant. In addition, the Division's response is just plain illogical. If no publishers will publish in multiple media, then West-Thomson would lose no revenues by permitting a single license to cover publication in different media. The Division cannot have it both ways.

6. The Division argued that the confidentiality provision were for the protection of the licensee. That may be if the licensee desires confidentiality, and, the Division was unable to explain why the licensee would be forced to maintain confidentiality over its objections. It is clear to us that the primary beneficiary of confidentiality would be West-Thomson. Once again, the Division's defense to accepting this provision is completely illogical.

7. We objected to the fact that providers of HyperLaw would be unable to market star-paginated cases to third parties who would then obtain a license from West, unless HyperLaw also obtained a license from West. Thus, West would obtain two license fees for only one public distribution. The Division staff argued that third-party sales was permitted under Section 2.02. But, we think the staff has misunderstood our objection. Only a third party provider who already had a license would be able to engage in the wholesale sale of star-paginated cases. This is like paying a double sales tax. Moreover, HyperLaw, in order to sell star-paginated cases would have to both sign the license agreement and thereby agree to dismissal of its litigation against West. We think that the Division has completely misconstrued the clear language of Section 2.02.

8. We addressed another issue not covered in our earlier letters: Section 2.01 requires the Licensee to provide star-paginated cases to customers, but only if the customer has signed a Licensee Subscriber Limitations contractual agreement as described in section 1.08. In other words, star-paginated cases will only be available to customers who sign contracts similar to contracts signed by Westlaw subscribers. West as part of the licensing will be able to ask for copies of proposed license agreement and even monitor that process and otherwise harass the publisher. Most important, we noted that any star-paginated case law on the Internet would be limited only to services with restricted access and who obtained written agreements with each user. We noted the belief by Emory Law School that it could obtain a star-paginated license for its Federal Court of Appeals WEB pages was completely misplaced, although, understandable in view of the DOJ's misleading press releases. Here, the Division completely misunderstood the practical impact of this provision.

In our prior letters, and during that conversation, we referred several times to the fact that any and all ambiguity or arguable ambiguity would be interpreted by West-Thomson in its own interests, absent any concept of implied good faith. In all due deference to the views of the Division staff, we do not believe that commercial arbitrators from Minnesota will share the Division's view of the License Agreement.

We have reviewed the letter submitted by Wilson Sonsini Goodrich and Rosati on behalf of Lexis-Nexis, a Division of Reed Elsevier. This letter describes conduct that to us would indicate a complete variance by West-Thomson from the divestiture procedures outlined in the Consent Decree. West-Thomson for example has ignored the requirement to divest Auto-Cite and ignored requirements to permit publishers acquiring divested products to hire West-Thomson employees. We also understand from other sources that publishers are not being permitted to purchase single products, but most also agree to purchase the dog products which riddle the list of divested products. Thus, even during this period where the Consent Decree is under review and its actions are not subject to confidentiality, West-Thomson is acting as expected, to narrowly and in bad faith interpret each and every provision of the Consent Decree. No doubt, it will do the same with the License Agreement.

Our comments focused on the license agreement. However, the approval of the merger, without also requiring the divestiture of Lawyers Cooperative is not in the public interest.

The divestiture of products with a revenue of only 48 million dollars will have no significant competitive impact on legal publishing in the future. We believe that most of these products would have been consolidated with other West-Thomson products, left without marketing or development resources to die on the vine, or killed outright. Certainly, West-Thomson has no reason to fear competition from any company that is foolish enough to purchase a crippled divested product.

Absent significant modifications to the Consent Decree, we believe that the public interest would be best served were the Antitrust Division to seek dismissal of the Complaint without prejudice.

We believe that the bad faith shown by West-Thomson as described in the Wildson Sonsini letter and the mischaracterization of the settlement as indicated in the West filing in the New York litigation is sufficient reason standing alone for the Antitrust Division to pull its consent.

Sincerely,

Alan D. Sugarman,

President, HyperLaw, Inc.

This letter could not be reprinted in the Federal Register, however, they may be inspected in Suite 215, U.S. Department of Justice, Legal Procedures Unit, 325 7th St. N.W., Washington, D.C. at (202) 514–2481 and at the Office of the Clerk of the United States District Court for the District of Columbia.

Supreme Court of California

August 7, 1996.

Craig W. Conrath,

Chief, Merger Task Force, Antitrust Division, U.S. Department of Justice, 1401 H Street, N.W., Suite 4000, Washington, D.C., 20530

Dear Mr. Conrath:

Standing of Advisory Committee

This comment on the proposed consent decree for merger of the Thomson Corporation and West Publishing Company is submitted on behalf of the California Advisory Committee on Publication of the Official Reports.

The California Advisory Committee for Publication of the Official Reports was appointed by the Chief Justice of California in October 1995 to study the California Official Reports, solicit publication proposals pursuant to the California Government Code, and make recommendations concerning publication of the Official Reports, including a recommendation as to the publisher. The committee's recommendations are made to the California Supreme Court and the contracting parties to the Official Reports publication contract for the State of California (i.e., the Chief Justice of California, the Attorney General, the Secretary of State, the President of the State Bar, and the Reporter of Decisions).

The advisory committee consists of Supreme Court Associate Justice Marvin R. Baxter, chair; Court of Appeal Associate Justice J. Gary Hastings; Supervising Deputy Attorney General Linda Cabatic; Chief Assistant Secretary of State Robert Jennings, Kenneth Drexler for the President of the State Bar; Nanna Frye, Librarian for the Fourth District Court of Appeal; and, Edward Jessen, Reporter of Decisions.

Advisory Committee's Analysis of Proposed Consent Decree

The advisory committee met on July 15, 1996, to review how the proposed consent decree would affect publication of the California Official Reports. The committee concluded that the proposed consent decree does not adequately preserve competition in California for enhanced primary law products. (Primarily, present competition is between Thomson's California Official Reports and West's unofficial California Reporter, and between Deering's Annotated California Codes and West's Annotated California Codes).

The economic reality of publishing enhanced primary law products in California compels a continuing nexus between Deering's Codes and the Official Reports following completion of the Thomas/West merger. The advisory committee notes that there is no language in the proposed consent decree to require continuation of the existing nexus between Deering's Codes and the official Reports. (Relevant language on page 19 of the proposed consent decree is as follows: ''Thomson shall transfer to the Official Reporter Contract State a license, which shall be perpetual in term, sublicensable, assignable,and royalty-free, to the use of any intellectual property rights which Thomson holds pertaining to the headnotes, case notes, and/or case summaries in the products at issue.'' This language does not relate to the future; there is some doubt it will suffice to maintain a nexus between Deering's Codes and the Official Reports after completion of the merger and divestitures.

In California, Thomson and West presently have competing enhanced primary law products. Each publisher pairs an enhanced opinion products and an enhanced code product, and each also publishes secondary law materials that combine with the enhanced primary law products to form two competing systems of integrated legal information. With the possible exception of New York, the committee is unaware of any state that has competing systems of legal information.

The economic importance to a publisher of such an integrated system of legal information is that a portion of the editorial cost of producing headnotes for the enhanced opinion product (i.e., the California Official Reports and West's unofficial California Reporter) can be allocated to the enhanced code product (i.e., Deering's Annotated California Codes and West's Annotated California Codes), as well as to secondary law materials. The significant nexus, however, is between the opinion and code products.

The proposed consent decree preserves West's economic advantage of having enhanced primary law products within an integrated system of legal information. It fails, however, to include provisions to preserve the existing unity of Thomson's enhanced primary law products within an integrated system of legal information. Preservation of the existing unity of opinion and code products is left to chance. The advisory committee believes that this situation is not in California's public interest.

If Deering's Annotated California Codes cannot use the headnotes from the California Reports as annotations in an enhanced code product, the resulting increased editorial costs will lead to uncompetitive pricing. Likewise, pricing for the California Official Reports may increase unless a portion of editorial costs for headnoting opinions can be allocated to other products.

If two competing lines of enhanced primary law products within integrated systems of legal information are reduced to a single Thomson/West integrated system, the economic reality is that no publisher would be able to effectively compete with Thomson/West in California. Rather than fostering competition, the consent decree would lead to a market with a single dominant vendor.

Conclusion

The foregoing analysis reflects the consensus of the California Advisory Committee on Publications of the Official Reports pursuant to the committee's study of Official Reports publication. The committee requests that the proposed consent decree be modified to require that divestiture of Deering's Annotated California Codes be linked in some manner to the California Official Reports.

For the advisory committee,

Edward W. Jessen,

Reporter of Decisions and Secretary to California Advisory Committee on Publication of Official Reports.

American Association of Law Libraries

July 29, 1996.

Mr. Craig Conrath,

Chief, Merger Task Force, Antitrust Division, U.S. Department of Justice, Suite 4000, 1401 H Street, N.W., Washington, D.C. 20530

Subject: Proposed Merger of West Publishing with Thomson Corporation

Dear Mr. Conrath: I am writing today to comment on the proposed consent order in the sale of West Publishing Company to the Thomson Corporation. The American Association of Law Libraries presented its views on the merger at an earlier stage of the proceeding in a letter to Ms. Anne Bingaman dated March 26, 1996. We appreciate the attention the Department has given to this issue, and we very much appreciate the effort the Department has made to respond to our concerns. Nonetheless, in light of the proposed settlement, we do wish to submit some additional comments for your consideration.

The American Association of Law Libraries is a nonprofit educational organization headquartered in Chicago with nearly 5,000 members nationwide. Our members build legal and law-related collections in over 1,900 libraries, and they respond to the legal and governmental information needs of attorneys and law students, judges and legislators, and the general public. We are almost certainly the largest single identifiable consumer group for the products of the companies involved. As our immediate past-President, Patrick E. Kehoe, said when the merger was first announced: ''the merger of Thomson and West will change legal publishing forever.''

The American Association of Law Libraries remains neutral on the issue of the merger itself. In filing these comments A.A.L.L. does not wish to be understood as opposing the sale of West to Thomson, and nothing we say here should be construed in that manner. Rather, the American Association of Law Libraries remains committed to the larger goal of ensuring the continuation of high quality legal information products at reasonable prices in a healthy competitive environment. With that general goal in mind, A.A.L.L. would like to comment on three aspects of the settlement including: the proposal to sell selected individual titles from the publishers' inventory, rather than selling off companies, the amount of the proposed license fee for the use of star pagination from West's National Reporter System, and the requirement in the license agreement that a licensee relinquish their legal right to challenge West's claim of copyright. We also want to reiterate our concern for the impact of the sale on competition in the online environment.

The viability of individual titles. The proposed settlement relies heavily on spinning off some 52 titles to maintain competition in the legal publishing industry. With those sales as the basis of the future competitive environment, it will be essential that those titles are able to survive in the marketplace.

From the beginning of this process, the members of the American Association of Law Libraries have been concerned about the impact of the merger on their ability to choose among competing print products and their ability to obtain the benefits of

competition in matters of product pricing and product quality (see letter to Anne Bingaman, March 26, 1996, pp. 2–5). The settlement is plainly responsive to those concerns since it proposes to maintain the competitive environment by requiring the companies to sell off those individual products where the impact of the merger on competition would be the greatest.

Some members of our Association are concerned, however, about the decision to require the sale of individual titles rather than subsidiary companies. To them, it is not clear that individual titles will continue to be viable entities in the market when separated from the larger organizations of which they have been a part.

First, the production of a complex legal title requires the existence of a substantial supporting infrastructure. Most obviously, it requires a trained and knowledgeable staff, skilled in the identification and analysis of legal developments, whether statutory or judicial, and skilled in the presentation of those developments in a format that is useful to attorneys. Although the settlement allows the purchaser to attempt to hire the staff that has been involved in the creation of the titles in question, it is by no means clear that staff would choose to leave a larger parent organization to follow an individual stand-alone title.

The supporting infrastructure also includes production, including design and layout, marketing and sales, computer support, and printing. Each of these operations is substantial and is frequently shared across product lines within a single company. Again, it is not clear that it is economically viable to establish this kind of production and printing support for a single title, or even for a small group of titles that have been split off from a larger company.

Second, at least some of the publications in question have long been an essential component of a larger system of legal research. The Total Client Service Library provides a system by which the many products of Lawyer's Coop have been integrated into a research system. Cross references among the products provide a helpful and seamless way for the lawyer to move from one Lawyer's Coop product to another, including the American Law Reports, American Jurisprudence, 2d, and other practice materials that are not being sold as part of the divestiture.

A booklet published by Lawyer's Coop in 1990 described Am Jr 2d, ALR and USCS as being ''part of a comprehensive legal research system.'' (See A Student's Guide to Am Jur 2d, ALR and USCS, Lawyers Coop, 1990.) The booklet states: ''The comprehensive legal research system published by Lawyers Cooperative Publishing covers everything from on-point cases in both state and federal jurisdictions, to principles of law, statutes, procedure, model forms, trial techniques * * * in short, everything you need to handle almost any legal matter. And since it is fully cross-referenced, you can go quickly from one aspect of your matter to another with assurance that no aspect will be overlooked.''

They then list as part of the ''system'' some fourteen separate titles ranging from encyclopedias and form books to ALR, the USCS, and Lawyers Edition, to several services and texts on specialized legal topics. With extensive cross-referencing among these products, it is again not clear that one or two can be pulled out, scrubbed clean of the value-added cross-referencing, and then be expected to stand alone in the market place. Pulled out of the system, they will be different products, and the market may no longer find them to be so desirable or so valuable.

The American Association of Law Libraries would very much like to see further analysis on the issue of the viability of individual titles and they would like to receive some assurance that those titles will be able to continue to compete in the marketplace following the merger.

Pricing of the license for use of the West pagination. The association is concerned about the pricing of the proposed license for the use of the pagination in the West Reporter system.

The Association has long believed that the system of citation to legal publications should be in the public domain. In testimony on behalf of the American Association of Law Libraries in favor of H.R. 4426 in the 102d Congress, Professor Laura Gasaway stated: ''Copyright protection should not extend to volume and page numbers of these materials for two reasons: because page numbers lack sufficient originality to merit protection, and [because] allowing one publisher to control the means of citation to important public domain materials gives that publisher the power to exclude others from the market. Such protection would become a mechanism by which one publisher could turn public domain materials into protected materials that they can control.''

At the same hearing, the representative of Thomson Legal Publishing was even more forceful. Accompanied by a representative of Lawyers Cooperative, she argued that the copyright of legal citation information had led to the monopolization of the ''publication of lower federal court opinions, statutory law in Illinois and Texas and elsewhere, and the appellate case law of many states.''

The proposed license illustrates the problem. The American Association of Law Libraries welcomes the development of an open structure for the pricing of West's citation information. But the level of the pricing involved seems designed to accomplish precisely what the proponents of H.R. 4426 feared: exclusion of others from the marketplace. Nine cents does not sound like a great deal of money until one does the math. But when the numbers are multiplied out for some of the very large sets in the National Reporter System, the price seems to us to be significant. Such pricing could be a major barrier to using the data and entering the legal publishing market to anyone except a very large existing enterprise.

The Association does note that this issue could become moot or largely irrelevant if the courts and organs of legal scholarship would accept a medium neutral/vendor neutral system of citation, such as the one previously endorsed by this Association.

The Association takes no position on what the appropriate level of pricing ought to to be. Nonetheless, in view of the Association's interest in promoting a healthy competitive environment for access to legal information, we believe that the level ought to be set such that a prospective entrepreneur can enter the market, and with a reasonable increment on its other costs add the system of pagination to its new product. The current strikes us as excessive to meet that goal.

The requirement that a licensee give up some of their legal rights. The Association believes that the license approved by the United States Department of Justice and the United States District Courts for the District of Columbia should not contain a provision that requires the licensee to give up its legal right to contest West's claim of copyright in the system of pagination.

The proposed license agreement states in relevant part:

3.01. *Copyrights.* During the term of this Agreement, Licensee (I) shall respect and not contest the validity of the copyrights claimed by Licensor in Licensor's arrangements of case reports in NRS Reporters as expressed by NRS Pagination. * * *

We understand why West-Thomson would want such a provision as part of the agreement. However, in this case, the provision will have the approval of the U.S. Department of Justice and approval is now being sought from the United States District Court for the District of Columbia as well. We see no reason why those organs of justice should approve a provision requiring a licensee to give up a legal right when they sign the agreement.

We respectfully request that this provision be stricken from the proposed license.

Online competition. The Association remains concerned about the impact of the merger on the market for online legal information.

In its earlier letter to the Department, the American Association of Law Libraries expressed concern about the impact the merger could have in the competition for online legal services, citing the need that LEXIS has to acquire source data from existing publications that will now be under the sole control of its chief competitor. Insofar as the record shows, nothing has changed in this regard.

The Order does direct the sale of one legal database—Auto-Cite—and grants an option to extend the License Agreements for Investext, ASAP, and Predicasts, three non-legal databases. But nothing is said about access to other legal databases to which LEXIS might want access such as state statutory materials, American Law Reports Annotated, and other ancillary material such as the RIA Tax Coordinator. We worry that if one company is the sole source for certain important information, it could use that control to make its competitor's product less desirable and thereby squeeze it out of the market. In view of the fact that there are only two major competitors in the market for online legal information, we believe it is critical to address the issue of licensing, or equitable access to such sole source information, in the final order.

The American Association of Law Libraries appreciates the opportunity to comment again on the proposed merger of the two

largest legal publishers. This change in the legal publishing landscape is almost certainly the most important development in the field that any of us will see during our careers. It is critical to do it in a way that maintains a competitive market for high quality legal information products at reasonable prices.

If we may be of further assistance or answer any questions about any of these matters, I hope you will not hesitate to call upon me at (202) 622–9161.

Sincerely,

Robert L. Oakley.

Craig W. Conrath,
Chief, Merger Task Force, Antitrust Division, U.S. Department of Justice, Suite 4800, 1401 H Street, N.W., Washington, DC 20530

Dear Mr. Conrath: Even after taking the list of divested titles into consideration, members of the Association of Law Libraries of Upstate New York continue to feel concern over the potential ramifications of the acquisition of West Publishing by Thomson. With this purchase, Thomson will have control of a significant portion of the secondary sources that aid in interpreting the law. In the past, Thomson practices have made acquired products both more labor intensive and costly to maintain. Updates to looseleaf sets from Callaghan and Clark Boardman are updated routinely more than once a year as Clark Boardman Callaghan titles. With the advent of online services, the need for an increase in chapter and supplement shipments has come into question. In addition, many former pocket titles from Lawyers Cooperative have been converted to binder formats which are more labor intensive to update.

It is the area of pricing that is truly cause for concern. Ten years ago, it was rare for maintenance of a Lawyers Cooperative title to increase more than 9% a year excluding price spikes created by revisions or new editions. Since Thomson acquired Lawyers Cooperative, individual title maintenance often runs well over 25% a year. This has not been true for West products. For example:

	Percent increase 1985	Percent increase 1995
CBC: Bailey, Crimes of Violence: Rape	4.3	57.4
LCP: Carmody-Wait	8.5	63.0
Foster, Law and the Family	7.5	20.4
WEST: Devitt, Federal Jury Practice	1.4	10.2

Your consideration of these factors in your continued review of West's acquisition by Thomson will be appreciated.
Sincerely,

Cyndi A. Trembley,

President.

This letter could not be reprinted in the Federal Register, however, they may be inspected in Suite 215, U.S. Department of Justice, Legal Procedures Unit, 325 7th St., N.W., Washington, D.C. at (202) 514–2481 and at the Office of the Clerk of the United States District Court for the District of Columbia.

Darby Printing Company

August 9, 1996.

Mr. Craig W. Conrath,
Chief, Merger Task Force, Antitrust Division, U.S. Department of Justice, Suite 4000, 1401 H Street, N.W., Washington, D.C. 20530.

Dear Mr. Conrath: On behalf of Darby Printing Company I wish to comment on the proposed consent degree entered in the merger of Thomson Corporation and West Publishing Company.

After reviewing the documents filed in this anti-trust action, we have two questions regarding the proposed settlement. First, why were the states of Washington, Wisconsin, and California given the option to rebid their contracts and not the states of Illinois, Massachusetts and New York? These states also have enhanced case law reporters which fit the two principle criteria as defined in paragraph 21, beginning on page 8 of the Complaint, in that these publications contain the entire body of case law for their respective jurisdictions and they contain comprehensive written descriptions of points of law within the opinions. As with the states covered in the complaint, West and Thomson publish the dominant enhanced case law reporters in the states of Illinois, Massachusetts and New York.

Second, after having contacted those responsible for overseeing the publication of the case law reporters in California, Washington, and Wisconsin, there appears to be some confusion as to the definition of ''option''. Is the option given to these states a true option, in that these states may opt not to rebid the contracts, or is it a mandate that these states rebid? The opinions of those involved in making the decision in these states are split as to what they are required to do under this proposed consent. Furthermore, if the option is exercised will Thomson-West be allowed to participate in the bid process?

Darby Printing Company believes that based on the Herfindahl-Hirschman Index those states given the option to rebid their respective case law contracts should be mandated to rebid those contracts without the participation of the Thomson Corporation. The HHI numbers, 4762 for California enhanced case law, an increase of 3866, 4521 for Washington enhanced case law, an increase of 996, and 5535 for Wisconsin enhanced case law, increased by 2424, as provided in Appendix B of the complaint, prove that the post merger markets in these states are very concentrated. It is our opinion that the only way to create competition in these markets is to compel the Thomson Corporation in effect to divest these products.

Thank you for your attention in this matter. We look forward to hearing your response to our questions.

Sincerely,

Karen Ehmer, Esq.

Law Offices, David C. Harrison, Daniel M. Belov

July 2, 1996.

Janet Reno,
Attorney General, Department of Justice, Washington, DC 20530.

RE: Merger: The Thompson Corporation/ West Publishing

Dear General Reno: I have just learned that Anti-Trust Division has approved the merger of The Thompson Corporation (which is better known as Lawyers Cooperative Publishing) with West Publishing. How can the Justice Department approve the merger of the second largest legal publisher with the largest legal publisher, giving the new company a virtual monopoly?

It is this kind of nonsense that enrages Democrats who would like to support President Clinton but are finding it increasingly difficult to do so. He is becoming a Republican clone, as is his administration. How can this merger be justified?

Very truly yours,

David C. Harrison

DCH: slh

ALOIS V. GROSS

August 12, 1996.

Mr. Craig W. Conrath,
Chief, Merger Task Force, Antitrust Division, U.S. Department of Justice, 1401 H Street N.W., Suite 4000, Washington, D.C. 20530.

Re: Public Comment, U.S. v The Thompson Corporation and West Publishing Co., U.S. District Court for the District of Columbia, Civil Action No. 96–1415

Dear Mr. Conrath: I have enclosed my Public Comment on the above matter. I understand the enclosed comments and your reponses will be published in the Federal Register and filed with the Court.

Please feel free to call me if you would like clarification of anything in my Public Comment.

I am part of a group who is a prospective acquirier of Divestiture Products. Although my private comments in this respect have been directed in a separate letter to Mr. James Foster at the U.S. Department of Justice, I have enclosed a copy of that letter for your review as well.

Very truly yours,

Alois V. Gross

Enclosures/2

Public Comment on Proposed Final Judgment and Competitive Impact Statement, U.S. v. The Thomson Corporation and West Publishing Co., U.S. District Court for the District of Columbia, Civil Action No. 96–1415

I. Premise

The Proposed Final Judgment fails to attain its goal, as required by the federal antitrust laws of eliminating the anticompetitive effect that a merger of the two Defendants creates

in the legal publishing market. It should therefore be rejected by the Court.

II. Argument

A. Tradenames Must Be Divested

Thomson/West is not required by the Proposed Final Judgment to divest the ''Bancroft-Whitney'', ''LawDesk'', and ''Lawyers' Cooperative Publishing'' tradenames currently owned by The Thomson Corporation. These tradenames should be included in the list of Divestiture Products in the Proposed Final Judgment (Exhibit A), but they are not.

These tradenames carry valuable goodwill and brand market recognition developed over many decades of legal publishing. They will be essential in maintaining the confidence of customers and the market share for the Divestiture Products identified with these tradenames. Without these tradenames, the acquirer of such Divestiture Products will have the same barriers to entry as a start-up publication. With its vast financial, marketing, and distribution resources. Thomson/West could easily overwhelm and overpower the acquirer within months of divestiture.

To ensure the Divestiture Products remain viable, the goodwill and market recognition associated with the ''Bancroft-Whitney'', ''LawDesk'', and ''Lawyers' Cooperative Publishing'' tradenames must transfer with the Divestiture Products, and therefore these tradenames must be divested by Thomson/West.

''Bancroft-Whitney'' is the tradename associated with the oldest law publishing company in the country, established in California nearly 150 years ago. ''Bancroft-Whitney'' is identified currently with the products Thomson sells to the California legal market, and will be vitally important to the successful acquirer of the California-specific Divestiture Products.

Substantial current revenue brought to Thomson from its ''Bancroft-Whitney'' office is derived from the sale of products listed as Divestiture Products, including Deering's California Codes Annotated; California Appellate Reports (official); California Reports (official); California Reports Advance Sheets (official); and California Digest. Consequently, without the Bancroft-Whitney tradename, the acquirer of these products is severely disadvantaged.

''LawDesk'' is also a tradename—for CD–ROM products—owned by Thomson that is not included on the list of Divestiture Products in the Proposed Final Judgment. It will be vitally important to the successful acquirer of Divestiture Products sold in CD–ROM format under the ''LawDesk'' tradename to maintain the market recognition and goodwill associated with the ''LawDesk'' tradename.

CD–ROM based legal information is a growth market. Both Thomson and West have CD–ROM product lines with tradenames associated with these products. West uses the ''West'' tradename for its CD–ROM products, and Thomson uses the ''LawDesk'' tradename for its CD–ROM products.

Each of these tradenames (''LawDesk'' and ''West'') has a substantial reputation in the CD–ROM legal information market. ''LawDesk'' CD–ROM products are the only major competitor to the ''West'' CD–ROM products in many markets.

Furthermore, Thomson's indication that it will be operating under the familiar and powerful ''West'' tradename in the United States following the merger (Thomson/West's merged organizational name will be West Information Publishing Group), highlights the probability that there will be little or no measurable loss to Thomson from the divestiture of the tradename ''LawDesk''.

''Lawyers' Cooperative Publishing'', a tradename owned by Thomson, is also excluded from the list of Divestiture Products in the Proposed Final Judgment. ''Lawyers' Cooperative Publishing'' is the tradename associated with the oldest continuously published edition of the United States Supreme Court Reports—Lawyers Edition (L Ed 2d)—which is listed as a Divestiture Product. ''Lawyers' Cooperative Publishing'' is the tradename identified with this and many other Divestiture Products that Thomson currently sells to the national, federal, and many state legal markets. Transfer of this tradename along with the Divestiture Products will be essential for their success.

B. The Star Pagination System Needs No License

''Star-pagination'' is not universally considered to be a definitive proprietary feature of the West National Reporter System.* No licensing arrangement should be established or sanctioned by the Court for ''star-pagination'' of the West National Reporter System.

Until such time as there is a definitive ruling, a licensing scheme that is national in scope, such as the License Agreement contained in the Proposed Final Judgment (Exhibit B), should not be established or sanctioned by the Court.

By sanctioning the licensing of ''star-pagination'' by a merged Thomson/West organization, the Court is establishing de facto monopolistic proprietary rights, which by its very nature is anticompetitive. The issue of the copyrightability of ''star-pagination'' has no definitive ruling from the United States Supreme Court or clear legislative coverage in the Copyright Act.

Moreover, by sanctioning such a licensing scheme for ''star-pagination,'' the Court will be fostering a monopoly for a merged Thomson/West organization and fostering anticompetitiveness in the legal publishing market by giving judicial approval to the West National Reporter System as the de facto official reporter system throughout the United States.

C. Official Reports and Digests Must Be Divested

Without clearly stating it, the Proposed Final Judgment allows a merged Thomson/West organization to retain and not divest the Divestiture Products listed in Exhibit A.3 (official reports, appellate reports, and advance sheets for California, Washington, and Wisconsin) and Exhibit A.4 (digest of official reports for California and Wisconsin).

The Proposed Final Judgment requires Thomson to offer information on such publications only after the respective States exercise their option to cancel their current contract to publish the official reports (which the States are not required to do). Thus, unless and until the respective States to which those publications apply choose to cancel their respective contracts with the merged Thomson/West organization, Thomson and West arguably are not required to offer information regarding such products to prospective bonafide acquirers.

Furthermore, if a merged Thomson/West organization is allowed to maintain these contracts, this will have an anticompetitive effect, since the Defendants also publish the major competing publications in the pertinent markets. Therefor, the final judgment should require Thomson to disclose to bonafide prospective acquirers all pertinent information on these Divestiture Products, without regard to whether the States cancel their current publishing contracts for these products. The final judgment should also require Thomson to divest these products: California Appellate Reports (official), California Reports (official), California Reports Advance Sheets (official), California Digest (of official reports and appellate reports), Washington Appellate Court Reports (official), Washington Supreme Court Reports (official), Wisconsin Official Reports, Wisconsin Official Reports Advance Sheets, and Wisconsin Digest (of official reports).

D. Bids Must Not Be Limited to Entire List of Divestiture Products Only

The Proposed Final Judgment ambiguously allows Thomson to require all prospective bonafide acquirers of Divestiture Products to bid only on the entire list of Divestiture Products, rather than on one or a group of the products. This has the anticompetitive effect of allowing Thomson to refuse to offer important information on individual Divestiture Products to prospective bonafide acquirers. Secondly, this allows Thomson to refuse to consider an offer on a single or group of Divestiture Products by a prospective bonafide acquirer.

Competitiveness in the legal publishing market will be fostered if Thomson is required to consider and in fact favor bids for individual or groups of Divestiture Products over bids for all the Divestiture Products. Having more legal publishers in the market will more likely result in competitive pricing and higher quality of law products for the consumer. Having a few very large legal publishers in the market could result in anticompetitive pricing and lower quality of law products for the consumer. Thomson should be required to consider and favor bids for individual or groups of Divestiture

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* See *West Publishing Company* v *Mead Data Central, Inc.* (1985, DC Minn) 616 F Supp 1571, 227, USPQ 631, affd (1986, CA8 Minn) 799 F2d 1219, 230 USPQ 801, cert den (1987) 479 US 1070, 93 L Ed 2d 1010, 107 S Ct 962; *Oasis Publishing Company* v *West Publishing Company* (D Minn 1996) _____ F Supp _____, 1996 WL 264773 (pending litigation); *Matthew Bender and Company, Inc.* v *West Publishing Company* (S.D.N.Y.) Docket No. 94–CIV–0589 (pending litigation).

Products over bids for all Divestiture Products.

E. Jurisprudence Publication Must Be Divested

The Proposed Final Judgment fails to eliminate the anticompetitive effect of the merger of Thomson and West with regard to jurisprudence publications, otherwise known as legal encyclopedias. West publishes Corpus Juris Secundum (CJS); and Thomson publishes American Jurisprudence 2d (Am Jur 2d).

These two publications are the only major national legal encyclopedias in the United States legal market. Without divestiture of one of these publications, the merged Thomson/West organization will have a monopoly on the national legal encyclopedia market. Since the West tradename is already associated with CJS, divestiture of Am Jur 2d would more effectively satisfy the goal of ensuring competition in the market place. Thomson should be required to divest one of these two national legal encyclopedias to ensure a competitive market.

Dated: August 12, 1996.

Respectfully submitted,

Alois V. Gross,

Minnesota Attorney No. 13322X, 2219 Pillsbury Avenue, Minneapolis, MN 55404–3266, Phone: (612) 871–4680.

Alois V. Gross

August 12, 1996.

Mr. James Foster,

Merger Task Forth, Antitrust Division, U.S. Department of Justice, 1401 H Street N.W., Suite 4000, Washington, D.C. 20530.

Re: Private Comments by Prospective Acquirer of Divestiture Products, U.S. v The Thomson Corporation and West Publishing Co., U.S. District Court for the District of Columbia, Civil Action No. 96–1415

Dear Mr. Foster: I am part of a group who is a bonafide prospective acquirer of Divestiture Products in the above matter. I was recently informed by your office that private inquiries and comments should be addressed to you. I wish this letter and your response to it not be published in the Federal Register, nor filed with the Court in the above matter. I have under separate cover sent ''Public Comments'' to Mr. Craig Conrath, as well as a copy of this letter. I have also sent copies of this letter to the other Plaintiffs in the above matter.

Thomson has in a very short time decimated the competition in the legal publishing industry in the U.S., by following a course of takeover of companies and aggressive downsizing. Following Thomson's acquisition/takeover of Lawyers' Cooperative Publishing Company (along with its then subsidiary companies—Bancroft-Whitney and Research Institute of America) in 1989, Thomson ''downsized'' these U.S. organizations, eliminating two-thirds of the Bancroft-Whitney staff, as well as making severe reductions in the staff at the other acquired U.S. companies. Thomson then similarly acquired and substantially downsized other U.S. law publishers, such as Clark-Boardman and Callaghan.

In the process of this U.S. industry takeover by a foreign corporation, Thomson has been in a constant state of restructuring and reorganization of its U.S. legal publishing dynasty. This history of takeover by Thomson in the U.S. legal publishing industry is important to view in the proper perspective Thomson's present acquisition/takeover/''merger'' of West Publishing Company (West).

If the current Proposed Final Judgment is approved by the Court, one result will be that the U.S. legal publishing industry will have no real competition. Furthermore, Thomson's products for the U.S. legal market will likely suffer in quality from decreased editorial input. Its legal information products will likely have substantial price increases due to a lack of any real price competition in the market.

The Proposed Final Judgment does not require divestiture of certain valuable tradenames currently identified with the Divestiture Products. ''Bancroft Whitney'', ''LawDesk'', and ''Lawyers' Cooperative Publishing'' command tremendous goodwill and brand market recognition in the legal publishing market. Brand market recognition is essential for the viability of the Divestiture Products in the legal publishing market. If a prospective purchaser acquires Divestiture Products such as the California Appellate Reports (official), California Reports (official), California Reports Advance Sheets (official), California Digest and Deering's California Codes Annotated *without* the accompanying tradenames long associated with such product—''Bancroft Whitney'' and ''LawDesk'', then they are at a severe competitive disadvantage against the ''West'' brand. Thus, if Thomson is successful in maintaining ownership of the ''Bancroft Whitney'' and other tradenames, it will obtain a de facto monopoly in any legal publishing market where those tradenames hold clout.

Thomson has already indicated it will be using the familiar and powerful ''West'' tradename in marketing its products in the U.S. legal market, by announcing that its U.S. legal publishing operation will change its name from Thomson Legal Publishing to West Information Publishing Group. The ''West'' tradename has tremendous goodwill and brand market recognition attached to it in the legal publishing market. When familiar tradenames associated with legal publishing in the U.S. are no longer available to competitors, Thomson (with the ''West'' tradename) will achieve a de facto monopoly. In California, for example, the ''West'' California Reporter will continue to have the brand market recognition and goodwill it always has had. Without the Official Reports' accompanying ''Bancroft-Whitney'' goodwill and brand market recognition, the perceived quality and resulting market share for the Official Reports will likely decline.

The same argument applies to the statutory law publications in California: without the accompanying ''Bancroft-Whitney'' goodwill and brand market recognition, the perceived quality and resulting market share of Deering's California Codes Annotated will surely decline. As is, the Proposed Final Judgment will create a de facto monopoly for Thomson/West in one legal publishing market after another.

This reasoning applies equally to the legal CD–ROM product market in the U.S. There are two major competing legal CD–ROM product lines in the U.S.—the ''West'' CD–ROM products and the ''LawDesk'' CD–ROM products. In the interest of maintaining competition and preventing a de facto Thomson monopoly, Thomson must be required to divest one of these two major competing legal CD–ROM trademarks.

''West'' is the tradename The Thomson Corporation has already indicated that it will be relying on to advance its merged legal publishing business throughout the United States. Therefor, ''LawDesk'' is the likely candidate for divestiture.

It is even more likely Thomson will replace its ''LawDesk'' CD-ROM product line with the ''West'' CD-ROM product line, since Thomson now owns the operating system software on which the ''West'' CD-ROM product line is based—Premise.* Thomson should be required to divest the ''LawDesk'' tradename.

Initially, after we wrote to request information from Thomson and West on certain Divestiture Products, I was told in a telephone conversation by Thomson that, unless we intended to make one bid on *all* the Divestiture Product, Thomson was not obligated to—and would not—make available any information at all on individual Divestiture Products. This all or nothing approach is extremely anti-competitive. Thomson should be required to disseminate information and consider bids on any individual Divestiture Product.

In the ''Offering Memorandum-Selected Legal Products'' from Thomson, there is absolutely no information—financial or otherwise—concerning certain Divestiture Products such as the various official reports and digests for the three jurisdictions involved. When I then specifically requested by telephone this information from Thomson, I was informed that it was not required to give any information concerning the official reports or digests, or any information other than what it included in the above-mentioned Offering Memorandum. We intended to bid on some or all of the official reports and digests. However, without financial and other information, it is impossible to make an educated analysis of and proposal for these Divestiture Products. Thomson should be required to make information available on the official reports and digests, and all Divestiture Products, to bona fide prospective bidders.

Furthermore, the financial and other information included in the above-mentioned Offering Memorandum is misleading. It contains no meaningful and historical presentation of the facts and figures. The Divestiture Products have all seen changes in

*The operating system software for the ''LawDesk'' CD-ROM products (the base for the legal information that is stored there) is Folio—owned by Folio Corporation. The operating system software for the ''West'' CD-ROM products is Premise—owned by West * * * and now Thomson.

their production since Thomson first acquired many of them in 1989, in its acquition/takeover of Lawyers' Cooperative Publishing and Bancroft Whitney. To obtain an understanding of the value of the Divestiture Products, it is necessary to compare financial and other information on the products both prior to Thomson's initial acquisition of such products in 1989 and in the 7 years since its ownership of such products. This is important because of the changes in production that Thomson has implemented on these products since its ownership of them.

The present value of the Divestiture Products is directly related to how they have been produced both prior to Thomson's acquisition of them and since that time—a time that has been filled with substantial personnel reductions and shifting of resources throughout the Thomson organization, all of which affects the value of any Divestiture Products. Thomson should be required to disclose to all bonafide prospective acquirers, financial and other information on the Divestiture Products in a meaningful and historical presentation from the time immediately prior to its acquisition of such products in 1989 to the present time, with proper supporting documentation.

Thomson initially established a deadline of August 8th for submission of proposals for acquisition of the Divestiture Products. On August 2nd, Thomson sent a letter indicating the deadline was changed to August 15th. In light of the concerns and inquiries I have expressed here, Thomson should be required to extend its deadline on August 15th, until these concerns can be satisfactorily resolved. As part of a group who is a bonafide prospective acquirer of Divestiture Products, I ask that you apply to the Court for an appropriate and necessary order to resolve the issues raised in this letter.

I would like to speak with you at your earliest convenience since Thomson's August 15th deadline for proposals is almost here. Thank you.

Very truly yours,

Alois V. Gross

CC: Mr. Craig W. Conrath, Mr. James E. Doyle, Jr., Ms. Christine O. Gregoire, Mr. Dennis C. Vacco, Mr. Scott Harshbarger, Mr. Jim Ryan, Mr. Richard Blumenthal, Mr. Daniel E. Lungren

ALOIS V. GROSS

August 20, 1996.

Mr. Craig W. Conrath,

Chief, Merger Task Force, Antitrust Division, U.S. Department of Justice, 1401 H Street N.W., Suite 4000, Washington, D.C. 20530.

Re: Public Comment, U.S. v The Thomson Corporation and West Publishing Co., U.S. District Court for the District of Columbia, Civil Action No. 96–1415

Dear Mr. Conrath: The enclosed Public Comment on the above matter is an addendum to my Public Comment sent to you on August 12th. I understand the enclosed comments and your responses will be published in the Federal Register and filed with the Court.

Please feel free to call me if you would like clarification of anything in my earlier Public Comment or this Public Comment Addendum.

Very truly yours,

Alois V. Gross

Enclosure

Public Comment on Proposed Final Judgment and Competitive Impact Statement, U.S. v The Thomson Corporation and West Publishing Co., U.S. District Court for the District of Columbia, Civil Action No. 96–1415 (Addendum to Public Comment filed August 12, 1996)

I. Premise

The Proposed Final Judgment fails to attain its goal, as required by the federal antitrust laws, of eliminating the anticompetitive effect that a merger of the two Defendants creates in the U.S. legal publishing market. It should therefor be rejected by the Court.

II. Argument

A. Tradenames Must Be Divested

Thomson/West is not required by the Proposed Final Judgment to divest the ''Total Client-Service Library'' (''TCSL''), ''A Practice Systems Library Manual'', and ''American Jurisprudence'' (''Am Jur'') tradenames currently owned by the Thomson Corporation. These tradenames should be included in the list of Divestiture Products in the Proposed Final Judgment (Exhibit A), but they are not.

These tradenames carry valuable goodwill and brand market recognition developed over many decades of legal publishing. They will be essential for maintaining the confidence of customers and the market share for the Divestiture Products identified with these tradenames. Without these tradenames, the acquirer of such Divestiture Products will have the same barriers to market entry as with a start-up publication. With its vast financial, marketing, and distribution resources, Thomas/West could easily overwhelm and overpower the acquirer within months of divestiture.

To ensure the Divestiture Products remain viable, the goodwill and market recognition associated with the ''Total Client-Service Library'' (''TCSL''), ''A Practice Systems Library Manual'', and ''American Jurisprudence'' (''Am Jur'') tradenames should transfer with the Divestiture Products, and therefor these tradenames should be divested by Thomas/West.

''Total Client-Service Library'' (''TCSL'') is a tradename feature appearing in many Divestiture Products and other publications currently produced by the Lawyers' Cooperative Publishing (LCP) and Bancroft Whitney (BW) offices of Thomson. It is a very useful reference tool for locating related primary and secondary legal publications, by way of cross-reference citations. (Currently, ''TCSL'' is used to cross-refer readers to other publications produced by the LCP and BW offices of Thomas—a very useful internal marketing feature.) The Divestiture Products obtain value from the inclusion of the ''TCSL'' tradename feature. Without continued inclusion of the ''TCSL'' feature in the Divestiture Products, the acquirer of such products will be severely disadvantaged in the market from the inability to cross-refer, and ''internally market'' other related legal products published by the acquirer—in a manner that is both familiar to and valued by current users of the Divestiture Products. Any change in these publications following divestiture, whereby the ''TCSL'' feature is no longer included, will likely be a severe disadvantage to the competitiveness of such publications.

If Thomson/West desires to continue using the ''TCSL'' feature in non-divestiture products, it should be required to license the use of this tradename from the acquirer. The burden to license the use of the ''TCSL'' tradename should be placed on Thomson/West rather than on the acquirer, since the continued viability of Divestiture Products is already questionable due to the inevitable changes in their production following divestiture.

Any unnecessary burden, such as requiring the acquirer to license the use of existing tradenames in Divestiture Products will negatively affect the ability of the acquirer to maintain cost-effective production of the Divestiture Products. Should such a burden become too great for the acquirer, the ''TCSL'' tradename feature could be eliminated from the Divestiture Products, with a resulting negative impact on the competitiveness of such products. In order to maintain the competitive survival of the Divestiture Products, the ''TCSL'' tradename should transfer with such products upon divestiture, with a license-back to Thomson/West for its continued use of ''TCSL'' in non-divestiture products.

Similarly, ''A Practice Systems Library Manual'' is a tradename associated with many Divestiture Products, and other non-divestiture publications produced by the LCP and BW offices of Thomson/West. This tradename appears in the titles of such publications. This tradename is not included on the list of Divestiture Products, but it should be.

The goodwill and brand market recognition associated with the ''A Practice Systems Library Manual'' tradename was developed over many decades of legal publishing. The Divestiture Products currently associated with this tradename obtain value from this tradename. Without continued inclusion of this tradename in the Divestiture Products currently associated with it, such products will be competitively disadvantaged in the market. The same argument regarding licensure of this tradename feature discussed above for ''TCSL'' applies equally here. If Thomson/West desires to continue using this tradename in producing non-divestiture publications, it should be required to license-back such tradename use from the acquirer.

''American Jurisprudence'' (''Am Jur'') is the tradename currently associated with one of the two national legal encyclopedias in the U.S. that under the current divestiture plan will both be owned by a merged Thomson/West. Both the tradename and the encyclopedia (American Jurisprudence 2d) should be included on the list of Divestiture Products in the Proposed Final Judgment, but they are not. The encyclopedia was recommended for required divestiture in a Public Comment filed August 12, 1996.

If American Jurisprudence 2d is divested as recommended, the ''Am Jur'' tradename will still be associated with certain non-divestiture products owned by Thomson/West, including: Am Jur Legal Forms, Am Jur Pleading and Practice Forms, Am Jur Proof of Facts, and Am Jur Trials. Such related products should also be divested to keep the Am Jur product line in tact and competitive. Alternatively, Thomson/West should at the very least be required to license back the tradename ''Am Jur'' from the acquirer of American Jurisprudence 2d, for continued use in Thomson/West's related ''Am Jur'' products.

B. Thomson/West Must Pay License Fee for ALR cites on Auto-Cite

Auto-Cite is a Divestiture Product that contains substantial references to Thomson/West-owned legal publications, for which the acquirer of Auto-Cite should be compensated on a license basis from Thomson/West. The Proposed Final Judgment does not provide for a license fee to be paid by Thomson/West to the acquirer of Auto-Cite, but it should.

In particular, Auto-Cite contains the many thousands of citations to case reports and annotations contained in Thomson/West's American Law Reports (ALR) publications: ALR, ALR 2d, ALR 3rd, ALR 4th, ALR 5th, and ALR Federal. Developed over many years of legal publishing, Auto-Cite derives competitive value from the inclusion of citations to ALR case reports and annotations, since such citations in their entirety currently appear in no other electronic legal research product/service on the market.

Following divestiture of Auto-Cite, its competitive value attributable to ALR citations will probably diminish in some degree over time, since Thomson/West will in time likely add all ALR citations and text to its Westlaw electronic legal research product/service. Nevertheless, Thomson/West should be required to pay a license fee to the acquirer of Auto-Cite, for inclusion of all references to Thomson/West's ALR citations, since Thomson/West will also obtain value from the continued inclusion of ALR citations in Auto-Cite.

III. Conclusion

An overriding concern with the Proposed Final Judgment is that it does not effectively maintain real competition in the U.S. legal publishing industry, following this latest advance in Thomson's calculated takeover of the industry and fracturing of product lines. Valuable goodwill, brand market recognition, and product-line customer loyalty currently associated with Divestiture Products will likely suffer under the current divestiture plan. The current plan makes no attempt to maintain the competitiveness of Divestiture Products by requiring divestiture of and along entire product lines. Moreover, the current plan also makes no attempt to maintain the competitiveness of Divestiture Products by requiring divestiture of and along company tradename lines, such as all ''BW'' products or all ''LCP'' products.

Goodwill, brand market recognition, and customer loyalty associated with entire product lines and interrelated publications and services currently produced by the BW and LCP offices of Thomson will be fractured following divestiture under the current plan. Some of these BW and LCP products and services will be published by Thomson/West, and some (Divestiture Products) will be published by the acquirer(s), under the current plan.

Incongruously, the current plan leaves most products and entire product lines presently produced by West under the familiar ''West'' tradename in tact and largely unscathed, with regard to goodwill, brand market recognition, and customer loyalty. These are the products and product lines that Thomson/West will continue to own following divestiture under the current plan. While on the contrary, the current plan fractures many product lines of which Divestiture Products are presently a part. It also fractures the many tradenames presently associated with Divestiture Products. The current plan therefor places Divestiture Products and their acquirer at a severe competitive disadvantage in the legal publishing market following divestiture.

Under the Proposed Final Judgment, this fractured U.S. legal publishing industry will continue with only one clear market leader—Thomson/West—and a de facto monopoly in that organization. Real competition in the U.S. legal publishing industry will likely be gone forever under the current plan.

The Thomson/West merger-divestiture should be reevaluated with an eye toward requiring Thomson/West to divest entire product lines that share common tradenames. At the very least, all tradenames currently associated with Divestiture Products should be divested and transferred with those products.

Dated: August 20, 1996.

Respectfully submitted,

Alois V. Gross,

Minnesota Attorney No. 13322X, 2219 Pillsbury Avenue, Minneapolis, MN 55404–3266, Phone: (612) 871–4680.

Tax Analysts

September 3, 1996.

By Hand Delivery

Craig W. Conrath, Esq.

Chief, Merger Task Force, Antitrust Division, U.S. Department of Justice, 1401 H Street, N.W., Suite 4000, Washington, D.C. 20530.

Re: *United States* v. *The Thomson Corporation and West Publishing Company*, Case No. 1:96CVO1415 (U.S. District Court for the District of Columbia)

Dear Mr. Conrath, I have read the comments of Lexis-Nexis relating to the proposed final judgment in this case.

I agree with Lexis-Nexis' conclusion that the Department of Justice has failed to provide the safeguards that are needed to preserve competition in the market for enhanced case law. I also agree with Lexis-Nexis' conclusion that the proposed final judgment will result in substantially lessened competition in the markets identified in the complaint.

I particularly agree with Lexis-Nexis' criticism of the failure of the Department of Justice to take steps that would ''lower the high barriers to entry that have caused such extreme market concentrations'' in legal publishing. See comments, page 2. As a small legal publisher, Tax Analysts is well aware of the existence of these barriers to entry. For further information on this subject, please see the comments that we submitted to you on August 29, 1996.

Tax Analysts opposes entry of the Proposed Final Judgment, unless and until it is modified to eliminate the problems identified in the Lexis-Nexis comments and in our own comments of August 29, 1996.

Best regards,

Thomas F. Field,

Publisher.

cc: Constance Spheeris, Esq., General Counsel, Tax Analysts

PUBLIC COMMENTS SUBMITTED BY TAX ANALYSTS: CIVIL ACTION NO. 96–1415

The United States, et al. v. the Thomson Corporation and West Publishing Company

Mr. Craig W. Conrath,

Chief, Merger Task Force, Antitrust Division, U.S. Department of Justice, 1401 H. Street, N.W., Suite 4000, Washington, D.C. 20530.

Dear Mr. Conrath: Tax Analysts respectfully submits the following comments regarding the Department of Justice's current review of, and proposed settlement terms for, the acquisition of West Publishing Co. (''West'') by the Thomson Corporation (''Thomson''). As you know, Tax Analysts moved to intervene on July 25 in this matter and was denied. We reference by incorporation our court filings in that proceeding, particularly for the legal basis of our contentions.

One of the most serious barriers to competition in the legal publishing industry is the unavailability to most publishers, particularly newer and/or smaller publishers, of past or archival case law. The seriousness of this barrier is evidenced by its inclusion in the Department of Justice's (''the Department'' or ''Justice'') *prima facie* case in this action alleging anticompetitive behavior against defendants Thomson and West. *See* paragraph 30 of the Complaint. Despite this, the Department's proposed Final Judgment does not provide a remedy for this competitive barrier, which is serious enough to warrant inclusion in its *prima facie* case. Tax Analysts submits that this omission makes the proposed settlement incomplete and unworthy of judicial or departmental approval, as the underlying monopolistic behavior of West, not Thomson, remains unchecked.

The reason there is no remedy, we suggest, is because the Department has locked itself into a collusive posture with West in separate litigation over this very issue—public access to past case law. In that litigation, *Tax Analysts v. Department of Justice and West Publishing Co.*, 913 F.Supp 599 (D.D.C. 1996), stayed pending decision on appeal under F.R.Civ.Pro.54(b) in the U.S. Court of Appeals, Case No. 96–5109, Justice is co-asserting West's proprietary rights over the words of judges in United States federal case

law. Thus, the Department has an irreconcilable conflict of interest with respect to the availability of past case law, paragraph 30 of the Complaint, because of its defensive position with West in co-asserting a West proprietary interest in the past case law contained in the JURIS database. This conflict clearly disables the Department from fulfilling its statutory mandate under the Tunney Act because it is unwilling or unable to provide a remedy to the anticompetitive allegations contained in paragraph 30 of the Complaint.

As a result, the proposed Final Judgment is inadequate and unacceptable and should be amended to provide a remedy, which is readily available, to this very real and continuing barrier to competition. Without access to past case law, there will be little or no increase in competition in the legal publishing industry. It is within Justice's authority to require the release of the past case law contained in JURIS as part of the terms of approval of Thomson's acquisition of West.

Tax Analysts urges the Department and the District Court to order the public domain release of nonproprietary federal case law and statutes contained in the JURIS database as a condition of settlement in its antitrust review of Thomson's acquisition of West.

1. The Public Is Not Represented by Justice's Collusive Position With West With Respect to Past Case Law

Because of Tax Analysts unique circumstances in litigating against the Department of Justice to secure release into the public domain of the only publicly developed database of archival case law, JURIS, we are acutely aware of your department's inability to represent the public interest because of its collusion with West in co-asserting West proprietary rights to entirely public domain information in case law contained in JURIS. This is also apparent in the divergent and conflicting positions adopted by the antitrust and civil divisions of the Department with respect to this issue. *See* Appendix A, *Memorandum of the United States of America as Amicus Curiae in Support of the Proposition That Bender's Star Pagination to West's National Reporter System Does Not Infringe Any Copyright Interest West May Have in the Arrangement of the National Reporter System Volumes, (''the Department's Memorandum'')*, at 5–15, 17.

Tax Analysts is the plaintiff in a Freedom of Information Act suit which seeks to preserve and make freely available to the public the *nonproprietary* portions of the Department's electronic database known as JURIS. *See Tax Analysts, supra.* The nonproprietary portions of JURIS contain the words in judicial opinions written by U.S. judges and the statutes enacted by State and Federal legislatures.

The nonproprietary portions of the JURIS database do *not* contain value-added information that could arguably be subject to proprietary claims. For example, the nonproprietary portions of JURIS do not contain page numbers, synopses or headnotes, *nor* do these portions contain any West electronic formatting, search software, or electronic searching capability. West's so-called ''stream format'' was eliminated by use of government-owned software as the first step in creating JURIS. *See* Appendix A.

The JURIS database was electronically formatted by means of government-owned software, written at public expense by government employees, and applied at public expense by a third-party computer-services contractor, West, to the nonproprietary portions of the JURIS database. On the basis of its role as the computer-services contractor to the Department, West claims proprietary rights in the nonproprietary portions of the JURIS database; that is, the unenhanced text of the judges' own words and the legislatures' statutes. These claims, advanced in concert by West and the Department, have thus far been successful in blocking release of the JURIS database to the public.[1]

As a consequence, U.S. federal statutes and retrospective case law in electronic form are unavailable as a practical matter to smaller publishers seeking to enter the legal publishing market. And, as paragraph 30 of the Complaint in this action make clear, ''successful entry [into the legal publishing market for enhanced primary law] would require access to past and current court opinions and statutes. Past and/or current opinions simply are not available from many courts and in many others, obtaining access is costly and time-consuming.''

The nonproprietary portions of the JURIS database—the words of judges and legislatures—constitute a very valuable public asset. JURIS is the only publicly owned database containing Federal and State statutes and Federal case law. Until the nonproprietary portions of the JURIS database are made available to the public, including smaller publishers, there is ''unlikely to be entry by any company offering enhanced primary law in any of the relevant product markets identified. * * *'' *See* Complaint, paragraph 30.

It is clear from the proposed Final Judgment that the Department's collusion with West in *Tax Analysts, supra,* renders it unable to craft a fair settlement of third-party publishers in the current monopolistic conditions in the legal publishing industry. These conditions are almost entirely the result of West's monopolistic control and assertions of proprietary rights over the original, unenhanced words of judges in past case law. For small, innovative publishers, the lack of access to past case law is rightly alleged in paragraph 30 of the Complaint. The Department's failure to require the release of nonproprietary federal case law and statutes contained in JURIS, as a response to this *prima facie* monopoly practice or claim, is untenable. The Department's JURIS database is a readily available and appropriate remedy to this competitive barrier. Tax Analysts believes that allowing this situation to continue will do more harm to competition in the industry than any existing remedy contained in the Final Judgment will do to alleviate it.

But for the Department's decision to propound and support West's assertions of proprietary rights over public domain case law in the JURIS database, the nonproprietary portions of that database rightly would be released into the public domain. Rather than encourage competition in the legal publishing industry by requiring release of this database by West and the Department, the Department continues to collude with West by choosing to omit the release of JURIS from the Final Judgment in this action.[2]

2. The Department Is Disabled From Representing the Public With Respect to Access to Past Case Law

If the Department were truly acting in the public interest with respect to access to past case law, it would require the release of JURIS into the public domain as a condition of approval of Thomson's acquisition of West. Collusion, including virtual co-pleading, in a prior litigation with a current opposing party, to the detriment of a current client—in this case, the American People, whom Justice purports to represent in this Tunney Act antitrust review—violates the very foundation of professional responsibility.[3] By these actions, Justice proves that it cannot represent the public interest in gaining access to past case law. The archival case law contained in JURIS, stripped of West enhancements, was and still

[1] On January 16, 1996, U.S. District Court Judge Gladys Kessler granted the motions of the Department and West to dismiss those portions of Tax Analysts' Complaint that relate to the nonproprietary portions of the JURIS database. On April 1, 1996, the Judge's ruling was certified as final, pursuant to Fed. Rule Civ. Pro. 54(b). Tax Analysts has appealed. The appeal will determine whether Judges Kessler and Richey erred in denying Tax Analysts' repeated requests for discovery needed to oppose West's claims that its computer services contract with Justice created proprietary rights in the federal statutes and case law contained in the nonproprietary portions of the JURIS system. Oral argument is set for January 13, 1997. The remainder of the JURIS case has been stayed, pending resolution of the appeal. Meanwhile, similar actions are in preparation in other venues.

[2] Although Tax Analysts and others maintain that the mere words of judges and legislators contained in case law and statutes, stripped of West value-added enhancements, is entirely nonproprietary, whether West holds any proprietary rights in the raw data that it provided to Justice under contract for JURIS is irrelevant here. Along with the other materials West and Thomson are required to divest for purposes of approval, the Department is fully empowered to require release into the public domain of the federal case law and statutes contained in JURIS, regardless of what portions are claimed as proprietary by the parties.

[3] *See, e.g.* pleadings in *Tax Analysts, supra:*

(1) Defendants' *Motions to Dismiss* using almost identical language and submitted to the court on the same day: (Justice, February 14, 1994) ''* * * dismiss * * * to the extent Plaintiff seeks disclosure of West licensed data.''; (West, February 14, 1994) ''* * * dismiss * * * insofar as it [Plaintiff] seeks to obtain West licensed data.'' At no time was West-licensed data ever sought by Tax Analysts in its FOIA request or in the subsequent litigation.

(2) West and Justice *Joint Opposition to Plaintiff's Motion to Establish Procedure for Resolution & Discovery on Agency Record Issue*, submitted to the Court on June 9, 1994.

(3) West and Justice joint statement as to undisputed facts and disputed issues of fact and law, Appendix B to *Joint Pleading Pursuant to Order Dated May 6, 1994*, dated May 27, 1994.

is available to Justice as a remedy here if it truly wishes to end the monopolistic hold of West on past case law, and, therefore, on the legal publishing industry as a whole. Justice's failure to include this remedy in its Final Judgment speaks of its continued collusion with West.

Release of JURIS is the simplest and quickest remedy to the competitive harm caused by the lack of access to past case law. Given the many millions of taxpayer dollars already spent on computer services contractors such as West to provide the raw data for JURIS, we urge the Department to include its release as a condition of approval of Thomson's acquisition of West.

3. Only the Public Can Claim Rights in the Words of Federal Judges

Even though it is irrelevant whether West has proprietary rights over the words of federal judges contained in the case law of JURIS for the purpose of an antitrust settlement, as a matter of record, it is important to examine who owns what in an electronic database. While proprietary claims in the electronic or digital world are in a state of change, some aspects of this emerging legal framework are clear. First, it is settled that mere gathering or collecting is not a copyrightable act, no matter how much ''sweat of the brow'' is involved. *See Feist Publications, Inc. v. Rural Telephone Service Co.*, 499 U.S. 340 (1990). Conversely, Tax Analysts agrees that West has a proprietary claim in its original, value-added enhancements to case law, such as synopses and headnotes.

Second, it is also settled that despite the originality of any compilation or arrangement, no one owns the actual information in the database, particularly when the information originates from a public entity, such as courts and legislatures. See Feist, supra, at 349, and Appendix A, the Department's Memorandum, at 5, 6, 11, 12, 14, 16, 17.

Third, in the digital world, value-added material—summaries, search engines, other formatting designs, etc.—that is digitally coded onto the raw data is easily removed. In the case of JURIS, West's value-added materials had to be removed and Department JURIS software procs inserted for the database to run the raw data, e.g. case law and statutes, provided by West under contract. See Appendix B. While West's enhancements may constitute value, they were never an object of Tax Analysts' original FOIA request for the public domain release of JURIS or of the subsequent litigation, nor are they contemplated in these comments for release as a remedy to the anticompetitive allegations in paragraph 30.

Simply put, the mere original words of judges and legislators in the JURIS database, devoid of West material, is what is appropriately available for release by Justice into the public domain. No one 'owns' these words except the public. The fact that West provided to Justice for departmental input in JURIS the words of judges in case opinions confers no proprietary right on West in the cases themselves. ''Feist's thin copyright leaves facts unprotected while protecting only creative selection and arrangement. West's principle, in contrast, effectively protects facts.'' Appendix A, the Department's Memorandum, at 15.

The following passage illustrates this point well:

An electronic database is any collection of information maintained in a computer * * * How much of an online database can be owned under copyright law? The answer is that a person who compiles a database will have a copyright in the original 'selection, coordination, or arrangement' of that database. However, no one can own the 'facts' contained in the database, no matter how much work he or she may have put into gathering those facts. This is because facts are not originated by the database developer, but are an independent part of the world apart from the developer, free to all who want to use them. In other words, a database developer does not create facts, he or she discovers them, and no one can copyright a discovery. * * * This legal rule may not seem fair * * * Nonetheless, it reflects a major limitation on copyright law, which protects expressions of facts only, and not the facts themselves. (emphasis added, except for ''discovers'')

Netlaw: Your Rights in the Online World, by Lance Rose (1995), p. 109–110.

The Department, in its Memorandum in the Matthew Bender case, explains the policy rationale behind this legal development:

This case [Matthew Bender & Co., Inc., v. West Publishing Co.] like Mead before it, arose primarily because new technologies, new means of managing information, became available, a frequent event in the information age. We have seen, in on-line computer searchable databases and in CD–ROM products, new ways of working with the raw materials of legal research—case reports, statutes, and other materials that once appeared only in print form. Neither we nor this Court can predict what new technological developments will next year or in the next decade further revolutionize the practice of law and make the substance of law more readily available to all. By making clear the limited scope of copyright protection for factual compilations, Feist cleared the way for these creative developments. It should be followed here. (emphasis added)

Appendix A, the Department's Memorandum, at 17.

Given this public representation in a court filing, the Department surely knows that ''these creative developments'' will occur only if ''the raw materials of legal research''—case law and statutes—are universally available. Why, then, is the availability of the raw material of legal research, the absence of which is part of the Department's prima facie case against the defendants, not made a condition of settlement in the proposed Final Judgment?

Moreover, the proprietary rights West claims, with Justice's support, in the compilation or arrangement of federal case law in JURIS is inapposite in a digital platform. There is no such thing as one arrangement or compilation in an electronic format. Unlike the print medium which permits presentation by only the arrangement appearing in the order designed on the printed page, information presented in digital media is accessible through a variety of entry points. There is no ''Table of Contents,'' only a vast, chaotic collection of digital bits, or data; analog material that has been randomly digitized and is accessible as randomly. While electronic formatting for search purposes is arguably copyrightable, West's formatting is not part of JURIS.

4. Small Publishers Must Have Access to Past Case Law or They Will Perish

The Department has demonstrated either wanton disregard or benign neglect of smaller legal publishers in this antitrust review. Not once is this dynamic and innovative segment of the industry mentioned in any pleading or proposed order. We urge the Department now to give fair attention to the critical competitive need of small legal publishers to gain access to past case law, as they are the ones most injured by the competitive barriers created by West's monopoly. Without the ability to provide complete primary law products with retrospective case law obtained at reasonable cost, particularly in electronic format, small publishers will not be able to launch primary law products on a competitive track with Thomson/West. It is well known in our industry that West's ability to maintain its monopolistic market position is largely based on its government sanctioned assertion of proprietary rights over the raw materials of legal research; viz., case law and statutes.

Indeed, as the attached statements of small publishers make clear, many of them already have suffered commercially and been forced to abandon projects because of their inability to gain access to past case law. (Other publishers have informed us that they will be sending to you directly their statements regarding this issue.) These smaller publishers experienced the anticompetitive effects of that monopoly when they tried to release new products. This is detrimental to a healthy economic climate and will only continue with the aggregated market share of Thomson/West. The Department has rightly cited this competitive harm in paragraph 30 as part of its prima facie case but has ignored the reality of its continuing harm in the Final Judgment.

In short, without public domain access to past case law, the legal publishing industry will become less and less competitive as a result of Thomson's acquisition of West, as Thomson will also acquire West's unsubstantiated and unproven proprietary claims to past case law; including the largest national, publicly financed electronic database of past case law that was maintained by the Department for decades for internal legal research, JURIS.

The Department's role as the nation's antitrust law enforcer mandates the formulation of an economic climate for the legal publishing industry that fosters a truly competitive and fair nonmonopolistic environment for all members of the industry. Public access to government-generated raw data—case law and statutes—is an essential component of such an economic environment:

The interest of the United States in ensuring the proper preservation of that

balance [between protecting private ownership of expression and establishing the free use of basic building blocks for future creativity] also reflects the fact that it has primary responsibility for enforcing the antitrust laws, which establish a national policy favoring economic competition as a means to advance the public interest''

Appendix A, the Department's Memorandum, at 2.

5. The Electronic Legal Publishing Industry Is Not a Duopoly

The Department's treatment of the electronic legal publishing industry as a duopoly between Lexis and Westlaw and its exclusive inclusion of Lexis/Nexis in the Final Judgment adds insult to injury for smaller publishers. The fact that the Department was willing to craft a special remedy for one third-party legal publisher, and attempt to portray that publisher as the only competitor in electronic publishing, is astonishing to industry members.

There are scores of small legal publishers engaged in new, innovative, and entrepreneurial electronic products from CD–ROM to internet-based products formatted from and for multimedia platforms. Tax Analysts refers the Department to any of several listings of these many legal publishers, including the *Directory of Law-Related CD–ROMS,* 1996, Infosources Publishing. The Department demonstrates little understanding of and concern for the less powerful elements of the industry under review and, therefore, little regard for offering appropriate remedies for the enormous competitive barriers posed by West's monopolistic control over archival case law.

Tax Analysts is deeply concerned that the competitive damage done to small, especially electronic, legal publishers will only continue if the Department remains unwilling to address the competitive barrier named in paragraph 30. We bring their concerns to you because the cost of participation and legal representation prohibits most of them from doing so independently. An antitrust settlement that addresses only the competitive harm to consumers and to the largest of the defendants' competitors is not a fair or just settlement.

We urge you to reconsider the proposed Final Judgment so that the anticompetitive experiences of third-party legal publishers resulting from West's monopolistic control over past United States case law, soon to be in the hands of Thomson, will be terminated by this proceeding. There will not likely be another opportunity for the Department to stop the monopolistic practices cited in the Complaint. All members of the industry deserve the same deference reserved in the Final Judgment for Lexis/Nexis.

We are pleased to provide these comments and look forward to discussing them further with you.

Sincerely,

Thomas F. Field,

Publisher.

In the United States District Court for the Southern District of New York

Matthew Bender & Co., Inc., Plaintiff, v. West Publishing Company, Defendant. 94 Civ. 0589 (JSM)

Memorandum of United States of America as Amicus Curiae in Support of the Proposition That Bender's Star Pagination to West's National Reporter System Does Not Infringe any Copyright Interest West May Have in the Arrangement of the National Reporter System Volumes

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In The United States District Court For The Southern District of New York

Matthew Bender & Co., Inc., Plaintiff, v. West Publishing Company, Defendant. 94 Civ. 0589 (JSM)

MEMORANDUM OF UNITED STATES OF AMERICA AS AMICUS CURIAE IN SUPPORT OF THE PROPOSITION THAT BENDER'S STAR PAGINATION TO WEST'S NATIONAL REPORTER SYSTEM DOES NOT INFRINGE ANY COPYRIGHT INTEREST WEST MAY HAVE IN THE ARRANGEMENT OF THE NATIONAL REPORTER SYSTEM VOLUMES

The United States submits this Memorandum to express its view that Bender's star pagination to West's National Reporter System does not infringe any copyright interest West may have in the arrangement of the National Reporter System volumes. We believe that the Court will be able to reach this conclusion without deciding disputed issues of fact and that the conclusion will permit the Court to rule for Bender on the critical issue in the parties' motions for summary judgment. This Memorandum, however, was prepared before the parties served their motions and without access to those portions of the summary judgment record under protective order.

INTEREST OF THE UNITED STATES

The United States has a substantial interest in the resolution of the issue discussed in this Memorandum. It has numerous responsibilities related to the proper administration of the intellectual property laws and to advancement of the public interest. The standards for copyright protection embody a balance struck between protecting private ownership of expression as an incentive for creativity and enabling the free use of basic building blocks for future creativity. *See Twentieth Century Music Corp.* v. *Aiken*, 422 U.S. 151, 156 (1975). The United States therefore has an interest in properly maintaining the ''delicate equilibrium,'' *Computer Associates International* v. *Altai, Inc.*, 982 F.2d 693, 696 (2d Cir. 1992), Congress established through the copyright law.

The interest of the United States in ensuring the proper preservation of that balance also reflects the fact that it has primary responsibility for enforcing the antitrust laws, which establish a national policy favoring economic competition as a means to advance the public interest. Moreover, the United States is a substantial purchaser of legal research materials of the kind at issue in this case.

Finally, the United States has recently taken actions relating to the issue discussed. On June 19, 1996, the United States, together with seven states, filed an antitrust suit challenging the acquisition of West Publishing Co. by The Thomson Corp., together with a proposed settlement of that suit. Part of that settlement requires Thomson to license to other law publishers the right to star paginate to West's National Reporter System. *United States* v. *The Thomson Corp.*, No. 96–1415 (D.D.C. filed June 19, 1996), Proposed Final Judgment, 61 Fed. Reg. 35250, 35254 (July 5, 1996). In announcing the settlement, the U.S. Department of Justice stated:

> Today's settlement, with its open licensing requirement does not suggest * * * that the Department believes a license is required for use of such pagination. The Department expressly reserves the right to assert its views concerning the extent, validity, or significance of any intellectual property right claimed by the companies [West and Thomson]. The Department also said that the parties agree that the settlement shall have no impact whatsoever on any adjudication concerning such matters.

U.S. Dept. of Justice, Press Release No. 96–287, at 3–4, 1996 WL 337211 (DOJ) *2 (June 19, 1996). This Memorandum asserts those views.

STATEMENT

1. West Publishing Company (''West'') publishes the well-known National Reporter System, which includes case reports of federal and state courts in the United States. In particular, it is ''the only entity to publish decisions of the United States Courts of Appeals and United States District Courts in comprehensive book form,'' *Matthew Bender & Company* v. *West Publishing Co.*, 1995 WL 702389 at *1 (S.D.N.Y.) (''*Bender I*''), in the familiar Federal Reporter and Federal Supplement series and other series. It also ''publishes the opinions of New York state courts,'' *id.*, in several series of volumes. West claims copyright in these volumes.

Matthew Bender & Company (''Bender''), another publisher of various legal materials, has prepared for publication in Compact Disk-Read Only Memory (CD–ROM) format a work (the ''New York product'') which includes, among other things, the text of opinions of the United States Court of Appeals for the Second Circuit, four United States district courts, and various New York state courts, all for a number of recent years.[1] Bender has inserted into the text of some of the opinions appearing in its New York product—those also published in West's volumes—information about the places in West's volumes where the text may also be found. Bender provides the West volume and page number where the beginning of each such case may be found; it also marks with West page numbers the places in its text where page breaks occur in West's publication of these opinions. In other words, Bender has star-paginated to West's volumes. *Bender II* at *3 & n.2.

2. Bender sued West for a declaratory judgment that ''West does not possess a federal statutory copyright in the pagination in West's federal reporters or West's New York reporters,'' and that ''Bender does not and will not infringe any copyright of West's by its current and intended copying of the pagination from West's federal reporters and West's New York reporters.'' Second Supplemental Complaint 9. West moved to dismiss for lack of an actual controversy between the parties, and this Court denied that motion on May 2, 1996. The parties agreed to serve each other with motions for summary judgment on August 5, 1996.

West has contended that the pagination of its volumes reflects the arrangement of cases in those volumes, that the arrangement is protected by West's copyright, and that therefore star pagination to West's volumes infringes West's copyrights. See, *e.g.*, *Oasis Publishing Co.* v. *West Publishing Co.*, 924 F. Supp. 918, 922 (D. Minn. 1996), *appeal docketed*, No. 96–2887 (8th Cir. July 19, 1996). These contentions lie at the core of this case.

ARGUMENT

Bender's star pagination does not infringe West's copyright interest in the arrangement of cases within the National Reporter System volumes. To reach that conclusion, this Court need not determine whether that arrangement rises to the level of originality necessary for copyright protection. Even supposing the necessary level of

[1] Although West contends that a different Bender product, the ''Texas product,'' contains ''textual additions'' copied from West's volumes, *Matthew Bender & Company* v. *West Publishing Co.*, 1996 WL 223917 at *7 (S.D.N.Y.) (''*Bender II*''), it makes no such claims regarding the New York product.

originality in West's arrangement, Bender does not infringe unless it copies that which is protected. And only a discredited reading of copyright law suggests that Bender copied West's arrangement of cases.

I. The Copyright on a Compilation Is Thin, Protecting Only Those Components of the Work That Are Original to the Author and Only Against Copying of Those Components

The Supreme Court has made clear that copyright protection for compilations like West's is thin, far thinner than some courts had previously assumed. Even if the arrangement of West's volumes is protected by copyright, that protection extends no further than West's original contributions.

In *Feist Publications, Inc.* v. *Rural Telephone Service Co.*, 499 U.S. 340 (1990), which concerned copying from a telephone directory, the Court addressed two fundamental tensions in copyright law. One is between the principle that facts are not protected by copyright and the principle that compilation of facts [2] generally are protected. *Id.* at 344–45.[3] The other is between the means of ''assur[ing] authors the right to their original expression'' and the end of ''encourag[ing] others to build freely upon the ideas and information conveyed by a work.'' *Id.* at 349–50. The Court resolved those two tensions by emphasizing that ''the copyright in a factual compilation is thin.'' The facts themselves are not protected because they are not the product of an act of authorship. *Id.* at 349.

The overriding principle is that ''copyright protection may extend only to those components of a work that are original to the author,'' *id.* at 348, where the concept of originality encompasses both independent creation and ''a modicum of creativity.'' *Id.* at 346. If the words expressing facts are original, they are protected; another author may copy the facts, but not the precise words. *Id.* at 348. But if ''the facts speak for themselves,'' protectible expression exists, if at all, only in ''the manner in which the compiler has selected and arranged the facts,'' and then only the original selection and arrangement are protected. *Id.* at 349. Because such a copyright is thin, copying from the copyrighted work is not infringement ''so long as the competing work does not feature the same selection and arrangement.'' *Ibid.*

This holding has economic bite. The value of a factual compilation may lie less in the compiler's selection and arrangement of the facts than in the industriousness required to compile them, and the thinness of the copyright may permit others to appropriate that value. As the Court observed, while, at first blush, it ''may seem unfair,'' *ibid.*, to permit that appropriation, ''[t]his result is neither unfair nor unfortunate. It is the means by which copyright advances the progress of science and art.'' *Id.* at 350.[4]

Feist repudiated a body of case law that had used the so-called ''sweat-of-the-brow'' theory to provide broad copyright protection for factual compilations, thus protecting the fruits of mere industrious collection. The Court specifically rejected *Leon* v. *Pacific Telephone & Telegraph Co.*, 91 F.2d 484 (9th Cir. 1937), and *Jeweler's Circular Publishing Co.* v. *Keystone Publishing Co.*, 281 F. 83 (2d Cir.), *cert. denied*, 259 U.S. 581 (1922), precisely because these cases ''extended copyright protection in a compilation beyond selection and arrangement—the compiler's original contributions—to the facts themselves.'' 499 U.S. at 352–53.[5]

Feist also addressed whether the alphabetical arrangement of a telephone book involved the ''quantum of creativity'' necessary for copyright protection. 499 U.S. at 363–64. It therefore speaks to whether West's arrangement of cases exhibits the necessary quantum of creativity to permit copyright protection. But it is not necessary to resolve that question to decided this case. It is enough that *Feist* makes clear that even if West's arrangement is protected by copyright, the protection resulting form that creativity does not extend beyond arrangement to protect other components of a work.

II. The Arrangement of Bender's Compilation of Cases Is Not A Copy Of The Arrangement Of West's Compilation Of Cases

No one seriously contends that Bender's CD–ROMs actually ''feature the same . . . arrangement,'' *Feist*, 499 U.S. at 349, of cases as West's National Report System, even in the limited sense of putting one case before the other in a pattern identical, or even notably similar, to the pattern found in West's volumes, let alone in a sense encompassing the arrangement of text on pages within each case.[6] This is true

[2] A compilation is defined as ''a work formed by the collection and assembling of preexisting materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship.'' 17 U.S.C. 101.

[3] The Copyright Act provides that ''[t]he copyright in a compilation * * * extends only to the material contributed by the author of such work, as distinguished from the preexisting material employed in the work, and does not imply any exclusive right in the preexisting material. The copyright in such work is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection in the preexisting material.'' 17 U.S.C. 103(b).

[4] Copyright is not the only conceivable legal regime for protecting the fruits of industrious collection. The Delegation of the United States of America recently proposed to the World Intellectual Property Organization an international treaty that would provide to the ''maker'' of certain databases the exclusive right to extract all or a substantial part of the contents, without regard to copyrightability. World Intellectual Property Organization, Preparatory Committee of the Proposed Diplomatic Conference (December 1966) on Certain Copyright and Neighboring Rights Questions, Proposal of the United States of America on Sui Generis Protection of Databases, CRNR/PM/7 (May 20, 1996). Legislation providing such protection has been introduced in Congress. See H.R. 3531, 104th Cong., 2d Sess. (1996). The Supreme Court long ago held that the common law of unfair competition or misappropriation protected uncopyrighted news reports. *International News Service* v. *Associated Press*, 248 U.S. 215, 239–40 (1918), although the preemption provision of the Copyright Act, 17 U.S.C. 301, may limit such protection to the case of systematic appropriation of ''hot'' news, *Financial Information, Inc.* v. *Moody's Investors Service, Inc.*, 808 F.2d 204, 208–09 (2d Cir. 1986), *cert. denied*, 484 U.S. 820 (1987). Trade secret law may also provide some protection in appropriate circumstances. See *Kewanee Oil Co.* v. *Bicron Corp.*, 416 U.S. 470 (1974).

[5] Although the Court specifically rejected a 1922 opinion of the Second Circuit, it also noted that the Second Circuit had since ''fully repudiated the reasoning of that decision.'' 499 U.S. at 360, citing *Financial Information, Inc.*, v. *Moody's Investors Service, Inc.*, 808 F.2d 204, 207 (2d Cir. 1986), *cert. denied*, 484 U.S. 820 (1987); *Financial Information, Inc.* v. *Moody's Investors Service, Inc.*, 751 F.2d 501, 510 (2d Cir. 1984) (Newman, J., concurring); and *Hoehling* v. *Universal City Studios, Inc.*, 618 F.2d 972, 979 (2d Cir.), *cert. denied*, 449 U.S. 841 (1980).

[6] In that respect, this case is unlike *Callahan* v. *Myers*, 128 U.S. 617, 660–61 (1888), where the infringing volumes of case reports substantially duplicated the paging of the infringed volumes. *Cf. Banks Law Publishing Co.* v. *Lawyer's Co-operative Publishing Co.*, 169 F. 386 (2d Cir. 1909) (implying same ordering of cases but different pagination; star pagination used in allegedly infringing work; held, no infringement), *appeal dismissed*, 223 U.S. 738 (1911). We note that the *Callahan* Court, following the lower court, did not treat duplication of the paging as an independent basis for finding infringement, apparently on the ground that arranging and paginating the cases involved inconsiderable labor and was not worthy of protection in and of itself. 128 U.S. at 662. The Eighth Circuit has read *Banks* as turning on the official status of the reporter whose works were copied. *West Publishing Co.* v. *Mead Data Central, Inc.*, 799 F.2d 1219, 1225 (8th Cir. 1986) (''*Mead*''), *cert. denied*, 479 U.S. 1070 (1987). That reading has been strongly criticized, *id.* at 1245–47 (Oliver, J., concurring in part and dissenting in part); L. Ray Patterson & Craig Joyce, *Monopolizing the Law: The Scope of Copyright Protection for Law Reports and Statutory Compilations*, 36 UCLA L. Rev. 719, 740–49 (1989), and a post-*Banks* case in the Second Circuit casts doubt on the Eighth Circuit's reading, *Eggers* v. *Sun Sales Corp.*, 263 F. 373, 375 (2d Cir. 1920) (copying from plaintiff's publication of uncopyrightable official report suggested by identity of pagination in defendant's publication, ''but legally that is not of sufficient importance to

whether ''arrangement'' refers to the physical ordering of electronic bits of information on Bender's CD–ROMs, to the order in which the Bender computer software presents cases to the user, or to any other concept of ''arrangement.'' Indeed, it is hard to see how there could be any such contention.

Courts routinely analyze whether an arrangement protected by copyright has been impermissibly copied by looking at the two works and comparing the ordering of material in the accused work with the ordering of material in the allegedly infringed compilation. *Seem, e.g., Lipton* v. *The Nature Co.,* 71 F.3d 464, 470, 472 (2d Cir. 1995) (plaintiff's arrangement of terms of venery protectible; defendant's arrangement of 72 of these terms is ''so strikingly similar . . . as to preclude an inference of independent creation'' when 24 of first 25 terms are listed in same order, and in four other places four or more terms appear in the same order); *Schiller & Schmidt, Inc.* v. *Nordisco Corp.,* 969 F.2d 410, 414 (7th Cir. 1992) (office supply catalog not infringed as compilation when plaintiff did not contend that defendant copied ''the order of products or other typical features of a compilation''); *Key Publications, Inc.* v. *Chinatown Today Publishing Enterprises, Inc.,* 945 F.2d 509, 515, (2d Cir. 1991) (no infringement when arrangement of categories in business directory is protectible, but facial examination reveals great dissimilarity between arrangement in copyrighted directory and in allegedly infringing directory); *Worth* v. *Selchow & Righter Co.,* 827 F.2d 569, 573 (9th Cir. 1987) (alphabetical arrangement of factual entries in trivia encyclopedia not copied when trivia game organizes factual entries by subject matter and by random arrangement on game card).

Infringement does not require exact identity of arrangement, but only substantial similarity between the protectible components of the copyrighted work and the corresponding components of the allegedly infringing work. *Key Publications,* 945 F.2d at 514. Nevertheless, a comparison may show some similarity of arrangement without suggesting copying. Some similarity of arrangement may result not from copying, but instead from common influences. Thus, for example, if Bender arranges cases in strict chronological order, while West's arrangement relies in part on chronology, there will be some similarity of arrangement. But that level of similarity does not ''preclude an inference of independent creation,'' *Lipton,* 72 F. 3d at 472, by Bender of its arrangement of cases, or even suggest that Bender has copied West's arrangement of cases, for it would suggest only the common influence of chronology.

A comparison of Bender's New York product and West's volumes in this case should be enough to decide the question of infringement of arrangement in Bender's favor. Our examination of Bender's product did not leave us confident that we understood the physical arrangement of the cases on the CD–ROM itself, unobservable by the naked eye. However, the computer program that allows the user to search for and read these cases did not present them to us in an order that closely matched the West ordering of cases. Thus, the Bender ''table of contents'' for the decisions of the United States Court of Appeals for the Second Circuit appeared to present all those decisions in strict chronological order (with the order of cases decided the same day following no principle we could discern). West can hardly tell the Court that it simply arranges cases chronologically. West has only recently explained to another federal district court its extensive departures from a chronological order, thus persuading that court that the arrangement is sufficiently creative to merit copyright protection. See *Oasis,* 924 F. Supp. at 924.[7] Some cases also in West's volumes appeared in the Bender table of contents in the same order as they appear in West's volumes (although generally separated by other cases in the Bender table of contents), while others appeared in an order that differed from West's. The Bender and West arrangements are clearly different. Nothing suggests that Bender's arrangement is a copy of West's arrangement.

III. Bender's Star Pagination May Describe, But It Does Not Copy, West's Arrangement of Cases

West relies on *West Publishing Co.* v. *Mead Data Central, Inc.,* 799 F.2d 1219 (8th Cir. 1986) (''*Mead*''), *cert. denied,* 479 U.S. 1070 (1987), in order to argue that Star pagination impermissibly copies West's arrangements despite clearly differing arrangement in the allegedly infringing work. In *Mead,* a divided panel of the Eight Circuit, ruling before *Feist,* concluded that a product that Star paginated to West's volumes impermissibly copied West's arrangement of cases. In effect, *Mead* holds that Star pagination, without more, is sufficient copying of the arrangement to infringe.[8] West had alleged that ''the LEXIS Star Pagination Feature is an appropriation of West's comprehensive arrangement of case reports in violation of the Copyright Act of 1976.'' 799 F.2d at 1222. The district court granted a preliminary injunction and the Eight Circuit affirmed.

Mead rests on the discredited ''sweat-of-the-brow'' theory of compilation copyright and cannot be reconciled with *Feist.* As we show below, to follow the *Mead* analysis is to eviscerate *Feist,* with substantial, and undesirable consequences for the progress of science and art in the modern technological era. This Circuit has not followed *Mead,* and this Court should not do so now.

The *Mead* district court recognized that the arrangement of cases in the Lexis database differed significantly from the West arrangement. Faced with the argument that the Lexis ''star pagination will not infringe West's arrangement because its random generated arrangement is entirely different from West's arrangement * * * [and] star pagination will not bring the arrangements closer together,'' *West Publishing Co.* v. *Mead Data Central, Inc.,* 616 F. Supp. 1571, 1579–80 (D. Minn. 1985), *aff'd,* 799 F.2d 1219 (8th Cir. 1986), *cert. denied,* 479 U.S. 1070 (1987), the district court held that ''for infringement purposes, [Mead] need not physically arrange it's [*sic*] opinions within its computer bank in order to reproduce West's protected arrangements.'' 616 F. Supp. at 1580. That is, it did not matter that Mead's work did not ''feature the same * * * arrangement,'' *Feist,* 499 U.S. at 349, as West's. As support for this pre-*Feist* holding, the court relied (616 F. Supp. at 1580) on *Rand McNally & Co.* v. *Fleet Management Systems, Inc.,* 600 F. Supp. 933, 941 (N.D. Ill. 1984): '' '[D]atabases are simply automated compilations—collections of information capable of being retrieved in various forms by an appropriate search program[.] * * * [I]t

constitute infringement of copyright,'' citing *Banks*), but our argument does not turn on the correct reading of *Banks.*

[7] As explained in *Oasis,* 924 F. Supp. at 924, West's arrangement of Florida cases in the Southern Reporter in general first separates cases by court level, then places the ''fully headnoted opinions and jacketed memoranda'' (arranged chronologically), before ''sheet memoranda,'' which in turn precede ''table dispositions'' (arranged alphabetically); West also makes exceptions to these general principles. Purely chronological ordering for a single court level would not separate by type of disposition, would not arrange some dispositions alphabetically, and would not make exceptions.

[8] In the recent *Oasis* decision, the district court in Minnesota followed the court of appeals for its circuit. 924 F. Supp. at 925–26.

us often senseless to seek in them a specific fixed arrangement of data.'' [9]

Rand McNally, however, rests entirely on the theory *Feist* rejected: ''the basis for compilation protection is the protection of the compiler's efforts in collecting the data.'' 600 F. Supp. at 941. While the *Feist* Court thought selection and arrangement were the only protectible elements in the typical factual compilation, the *Rand McNally* court saw little significance to arrangement, relying on Professor Denicola: '' 'The creativity or effort that engages the machinery of copyright, the effort that elicits judicial concern with unjust enrichment and disincentive, lies not in the arranging, but in the compiling. * * * *The arrangement formulation * * * is dangerously limited. At face value the rationale indicates that the entire substance of a compilation can be pirated as long as the arrangement of data is not substantially copied.*' '' 600 F. Supp. at 941 (emphasis added) (quoting Robert C. Denicola, *Copyright in Collections of Facts: A Theory for the Protection of Nonfiction Literary Works.*, 81 Column L. Rev. 516, 528 (1981)). However limited, the ''arrangement'' formulation is the Supreme Court's. Specifically referring to the very same article by Professor Denicola, the *Feist* Court wrote, ''[e]ven those scholars who believe that 'industrious collection' should be rewarded seem to recognize that this is beyond the scope of existing copyright law.'' 499 U.S. at 360.

Nevertheless recognizing that West's case rested on the copying of the arrangement of cases, the *Mead* district court found, without further explanation, ''that [Mead] will reproduce West's copyrighted arrangement by systematically inserting the pagination of West's reporters into the LEXIS database. LEXIS users will have full computer access to West's copyrighted arrangement.'' 616 F. Supp. at 1580. One must look elsewhere for the reasons why the fact that Mead systematically inserted the pagination means that Mead reproduced West's arrangement.

On appeal, the Eight Circuit, which never questioned the district court's recognition that the Lexis arrangement of cases different significantly from the West arrangement, attempted to explain how Lexis could copy West's arrangement while not arranging its cases as West did. The court began by asserting that Mead's proposed star pagination would infringe West's copyright in the arrangement because, in combination with another feature of Lexis, it would permit Lexis users ''to view the arrangement of cases in every volume of West's National Reporter System,'' 799 F.2d at 1227, even if users were not likely to do so.[10] But the court added that it would find infringement even absent this capability. It is enough, the Court explained, that star pagination communicates to users ''the location in West's arrangement of specific portions of text,'' with the result that ''consumers would no longer need to purchase West's reporters to get every aspect of West's arrangement. Since knowledge of the location of opinions and parts of opinions within West's arrangement is a large part of the reason one would purchase West's volumes, the LEXIS star pagination feature would adversely affect West's market position.'' *Id.* at 1228.

Missing in the court's analysis is any explanation of how communicating location—that is, describing West's arrangement—amounts to copying West's arrangement. The court leapt directly from the fact of the communication to the economic consequence of that communication. Thus the vice of unauthorized star pagination, in the Eight Circuit's eyes, is made clear. The vice is not that original expression is copied; rather, it is that unauthorized star pagination permits unfair appropriation of the fruits of industrious collection.[11]

Feist, however, makes clear that, as a matter of copyright law, this appropriation is not unfair, and that this test is not the proper test of infringement. See page 6 *supra*. Assuming the copying of protected arrangement, the resulting impact on West's market position would properly be considered in addressing a fair use defense to infringement. See 17 U.S.C. 107(4) (fair use analysis to consider ''the effect of the use upon the potential market for or value of the copyrighted work''). But under *Feist* it plays no role in a determination of whether protected arrangement has been copied.[12]

There remains the fact that star pagination communicates to users ''the location in West's arrangement of specific portions of text.'' 799 F.2d at 1228. A compilation copyright, however, protects original components of the compilation against copying; it does not protect even original components against description. Many ways of describing West's volumes and their content other than star pagination would also communicate such information. Essentially any index, any topical or other table of contents, any concordance, or any other finding aid would do so.[13] But surely that does not mean that all such finding aids would *copy* West's arrangement, even though they might be said to describe that arrangement. An index is only an index, not a copy of the book it indexes.[14]

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[9] *Rand McNally* quoted those words from Professor Denicola. *Rand McNally* also supported its denigration of arrangement as the basis of protection for factual compilation by citing *National Business Lists* v. *Dun & Bradstreet, Inc.*, 552 F. Supp 89 (N.D. Ill. 1982), which expresses the view that because computers store information ''without arrangement * * * [,] an emphasis upon arrangement and form in compilation protection becomes even more meaningless than in the past.'' 552 F. Supp. at 97.

If it were true that data in an electronic database necessarily lacked arrangement, it would seem to follow that an electronic database simply could not infringe the copyright-protected interest in the arrangement of a compilation. Under *Feist*, the impossibility of copying the arrangement does not allow one to prove infringement without proof of copying. We doubt that it is true, however, since data lacking any arrangement at all would be difficult to use.

[10] Under appropriate circumstances, users' actions might lead to vicarious liability for infringement. But vicarious liability must rest either on the alleged vicarious infringer's right to control the conduct of the individual who actually performs the infringement, *Sony Corp.* v. *Universal City Studios, Inc.*, 464 U.S. 417, 437 (1984), or on an absence of substantial noninfringing uses, *id.* at 442. Neither requisite has been, or could be, established with respect to either Lexis or the Bender CD–ROMs.

[11] *Mead*'s protection of industrious collection is underscored by the court's response to the argument that star pagination does not infringe because citations to West page numbers are merely statements of fact. In rejecting the argument, the Court said, ''The names, addresses, and phone numbers in a telephone directory are 'facts'; though isolated use of these facts is not copyright infringement, copying each and every listing is an infringement,'' 799 F.2d at 1228, citing *Hutchinson Telephone Co.* v. *Fronteer Directory Co.*, 770 F.2d 128 (8th Cir. 1985). *Hutchinson* adopts precisely the view of copyright rejected in *Feist*; it even relies on *Leon* and *Jeweler's Circular*, 770 F.2d at 130–31, two cases specifically rejected in *Feist. See* page 6 *supra.*

[12] In its infringement analysis, the Eight Circuit quoted the Senate Report on the Copyright Act of 1976, as quoted in *Harper & Row Publishers, Inc.* v. *Nation Enterprises*, 471 U.S. 539, 568 (1985): '' '[A] use that supplants any part of the normal market for a copyrighted work would ordinarily be considered an infringement.' '' 799 F.2d at 1228. *Harper & Row*, however, involved admittedly verbatim copying of protected expression, 471 U.S. at 548–49, and the issue was fair use.

[13] We realize, of course, that the economic significance of these finding aids differs substantially from the economic significance of star pagination of a collection of case reports. The pure finding aids no doubt do not reduce market demand for West's products. But as we have just observed, such marketplace factors go to fair use, not whether there is copying.

[14] Few cases address infringement by indexing. In *New York Times Co.* v. *Roxbury Data Interface, Inc.*, 434 F. Supp. 217 (D.N.J. 1977), the district court denied a preliminary injunction against publication of a personal name index to the New York Times Index. Although the court determined the likelihood of success in light of fair use factors, it noted that the ''personal name index differs substantially from the Times Index, in form, *arrangement*, and function,'' *id.* at 226 (emphasis added), even though it communicated the locations in the Times Index at which particular personal

Star pagination thus does not copy West's arrangement. To find infringement despite the absence of copying of original expression, and thus to protect its compilation from a competitor's description, West must rely on some other principle. The alternative principle on which West would rely, however, cannot be reconciled with *Feist* and if adopted would eviscerate *Feist. Feist's* thin copyright leaves facts unprotected while protecting only creative selection and arrangement. West's principle, in contrast, effectively protects facts. It has substantial implications for circumstances far beyond those of this case.

In essence, West's principle is this: Where the arrangement of a factual compilation is protected by copyright even though the facts are not, it is infringement for another to publish the facts if those facts include sufficient information to permit the protected arrangement to be recreated, even though the allegedly infringing publication does not itself recreate the protected arrangement. Indeed, if the ordering of the first compilation were based on the facts in that compilation, under West's principle it would seem to be infringement to obtain those facts from another source and publish them in an original order.[15] To escape a claim that it copied the first compilation's arrangement, the second compilation would have to leave out facts found in the first compilation.[16]

A hypothetical example may clarify the implications of West's principle. Suppose a firm obtains from the 1990 Census of the United States data concerning every county in the United States and publishes a compilation of those data, listing the counties in descending order of one of the included data elements, the proportion of the population consisting of males of ages 18 through 40. Suppose further that this arrangement, which may meet the *Feist* test of originality and which may interest those marketing products to adult males, is protected by the firm's copyright on the compilation. Under *Feist*, another firm may copy all the data from the first firm's compilation, while arranging its compilation alphabetically by state and county. It may do so because even though the arrangement of the first compilation is protected by copyright, the data themselves are not, and the second compilation does not ''feature the same * * * arrangement,'' *Feist*, 499 U.S. at 349, as the first. But the second compilation contains all the information a user needs to recreate the arrangement of the first, and so under West's principle, creation of the second compilation would infringe the copyright on the first.[17] West's principle therefore protects the facts themselves in many circumstances where *Feist* would leave them unprotected.

This case, like *Mead* before it, arose primarily because new technologies, new means of managing information, became available, a frequent event in the information age. We have seen, in on-line computer searchable databases and in CD–ROM products, new ways of working with the raw materials of legal research—case reports, statutes, and other materials that once appeared only in print form. Neither we nor this Court can predict what new technological developments will next year or in the next decade further revolutionize the practice of law and make the substance of law more readily available to all. By making clear the limited scope of copyright protection for factual compilations, *Feist* cleared the way for these creative developments. It should be followed here.

CONCLUSION

Star pagination to West's volumes does not in itself infringe any copyright interest West may have. The Court should therefore rule for Bender.

Respectfully submitted.

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This page could not be reprinted in the Federal Register, however, they may be inspected in Suite 215, U.S. Department of Justice, Legal Procedures Unit, 325 7th St., N.W., Washington, D.C. at (202) 514–2481 and at the Office of the Clerk of the United States District Court for the District of Columbia.

Civic Research Institute, Inc.

July 31, 1996.

Certification

I, Arthur H. Rosenfeld, upon my oath depose and state:

1. I am the President of Civic Research Institute, Inc., (hereinafter referred to as ''CRI'') a publisher of legal materials, located at 4490 U.S. Rout 27, PO Box 585, Kingston, NJ 08528.

2. CRI published professional reference materials for lawyers and others including the following:

Correctional Law Reporter (''CLR''), a print on paper, bi-monthly report on legal developments affecting prisons and jails. It includes reports on new legislation and legislative trends and recent court cases, on the federal level and in all of the states. An annual subscription is $125. It is used by lawyers and other professionals working in the criminal justice system and in private practice.

Community Corrections Report on Law and Corrections Practice, a print on paper bi-monthly that covers programs and legal developments, as described in CLR above, affecting community corrections. Price, $125 a year. It is used by lawyers and other professionals working in community corrections and by lawyers in private practice.

Juvenile Justice Update, same format, frequency and price as above publications. It covers legal developments on all levels as they do and programs involving juvenile crime and delinquency. It is used by lawyers and other professionals working in the system and by lawyers in private practice.

3. If CRI was able to obtain federal judicial opinions from federal appellate courts at a reasonable price or for the cost of transmission, we would publish compilations of the above publications and others that would contain the full text of the opinions referred to in those publications. These new publications would be issued in an electronic format, such as CD ROM, and would be a very useful service for our present subscribers and others in the market we now serve.

names could be found. The court greeted with incredulity the plaintiff's argument ''that a copyrighted work cannot be indexed without permission of the holders of the copyright to the original work.'' *Id.* at 224–25. *See also Kipling* v. *G.P. Putnam's Sons*, 120 F 631, 635 (2d Cir. 1903) (defendants ''were at liberty to make and publish an index'' of copyrighted material).

[15] Some compilations are arranged in orders not based on the data found in the compilation. In *Lipton*, for example, the compilation was arranged according to the compiler's esthetic judgments. 71 F.3d at 470. The copyright on a volume of Shakespeare's sonnets, all in the public domain, arranged in order of the editor's judgment of esthetic merit would, we assume, protect that original arrangement. Another editor could, without infringing the copyright, copy the sonnets from that volume and publish them in a different arrangement. But as we understand West's principle, it would be infringement were the editor of the second volume to include an appendix telling the reader the order in which the sonnets appear in the first volume.

[16] Even under *Feist*, there may be infringement if a creative selection of facts is copied. We do not understand the star pagination question here to raise an issue of protected selection, so we simplify the analysis by abstracting from issues of selection.

[17] To avoid infringing under West's principle, the publisher of the second compilation would have to omit the data concerning the proportion of the population consisting of males of ages 18 through 40, even though *Feist* would allow copying those data. And there would be no infringement even under West's principle if the first compilation arranged the counties in order of the first publisher's assessment of the moral worthiness of the county's population, and the second publisher listed the counties in a different order.

4. Our legal system depends on full and equal access to the law, to all federal and state statutes, past and present, and to all federal and state appellate court opinions, past and present, and it is inconceivable to me that any private company can be allowed to control access to these materials and charge whatever they choose to charge for access when they are willing to grant it. It is contrary to and undermines our system. Furthermore, even if there were some arrangements that could be made that would make it proper for one company to maintain such materials, it seems to me unwise and against our national interests to allow such company to be a foreign company subject to the control of another country.

I understand that if any statements made by me are knowingly false, I am subject to punishment.

Arthur H. Rosenfeld,

President.

InfoSynthesis, Inc.

CERTIFICATE

I. Clayton R. Smalley, certify that I am President and Executive Editor of InfoSynthesis, Inc., 10301 University Ave., N.E., Ste. 105, Minneapolis MN, 55434.

Since March, 1994, this Company has published USSC+ CD–ROM, a CD-based collection of the full text of United States Supreme Court decisions. Presently, the disc contains complete coverage of full decisions by the Court from 1966 to date, together with assorted earlier leading cases dating back to 1793—5000+ cases comprising some 250 megabytes of data. The cases are searched and retrieved by means of Folio Views(tm) software, the latter included at no extra charge.

The cost of initial purchased of USSC+ is presently $145. Semiannual optional cumulative supplements cost $95, and each expands coverage of both older and newer cases.

Our present subscriber base is approximately 400, although we are confident that it could be much higher if we had the funds for extensive promotion.

We have recently made the cases in our collection accessible over the World Wide Web (see http://usscplus.com), where they may be searched and retrieved by use of the Folio Views Web Server. This service is currently free, but a nominal fee (probably less than $100 per year for unlimited access) will shortly be attached.

We have received many inquiries from customers and prospective customers as to what other bodies of cases and statutes are available. To date, we have had to respond to such inquiries that no other databases are offered, primarily because West Publishing Company, the sole present provider of printed versions of many state and federal reporters, claims a copyright on the inner pagination of its reporters. Although there has recently been word that West would license such pagination to others, the fees to be charged are far to high to be afforded by ''boutique'' electronic publishers such as our company.

Because of what we conceive to be the clear superiority of the Folio Views platform for search and retrieval purpose, particularly when that platform is implemented in the manner we have developed for USSC+, we believe we could be a significant competitor to other much larger legal publishers in both the CD–ROM and World Wide Web marketplace, particularly in the field of judicial decisions.

We currently obtain our information by scanning the official ''United States Reports'' version of the Supreme Court's opinions, thereafter enhancing the text with the indexing, internal segmentation, and ''hot links'' available through Folio Views technology. The acquisition and editing of the underlying data is a very expensive, exacting, and time-consuming process.

If the text of other bodies of federal and state judicial opinions were available to us in electronic form, and the copyright asserted by West were somehow eliminated as a barrier, we would be very interested in offering for sale other federal and state judicial decision databases, and are confident that our presence on those markets would (as it has in the case of the Supreme Court) lower the price of this information to the consumer by a factor of at least ten (i.e., an order of magnitude). Such price reductions are made possible by the recent advent of computer, CD, and internet technologies, which are revolutionizing legal (and other) publishing. The only barrier to that revolution remain the availability of the underlying data.

Dated: August 6, 1996.

Clayton R. Smalley,

Pres., InfoSynthesis, Inc.

I, Peter Wayner, certify that I am the President of NewRay Inc., a Maryland corporation that marketted disks filled with court opinions. These disks contained the electronic versions of the opinions of the U.S. Supreme Court supplied by the Court itself through the Hermes project. Unfortunately, the Court only released data beginning in 1990. The easy access to this data made it possible for me to offer the disk at a low price that was generally under $40.00.

Many customers asked for a larger and more comprehensive collection of opinions, but I was unable to supply them because I did not have the funds to either scan in the past opinions or pay for someone who could type them in. In the end, this prevented me from serving the needs of the customer.

If the Department of Justice could release the electronic versions of the case law that they control, I could easily produce a high-quality disk with many advanced searching features for a low price. It is silly for me to duplicate the work that was already done at the tax payer's expense. The customer would be forced to pay for the digitization twice—once in tax dollars and once by my corporation.

Peter Wayner,

President.

28 August 1996

WILSON SONSINI GOODRICH & ROSATI

August 29, 1996.

via Federal Express

Craig W. Conrath, Esq.,

Chief, Merger Task Force, U.S. Department of Justice, Antitrust Division, 1401 H. Street, Suite 4000, N.W., Washington, D.C. 20530

Re: *United States* v. *The Thomson Corporation and West Publishing Company* Case No. 1:96CV01415 (U.S. District Court for the District of Columbia)

Dear Mr. Conrath: On behalf of our client, Lexis-Nexis, a division of Reed Elsevier Inc. (''Lexis-Nexis''), we submit these comments concerning the Proposed Final Judgment in the above-referenced case.[1]

This acquisition involves the combination of the largest publisher of legal research materials (West Publishing Company) with the second largest legal publisher (Thomson Corporation) in an industry that is already highly concentrated. In permitting this acquisition to proceed, the Department of Justice has failed to achieve the level of safeguards necessary to preserve competition in the markets identified in the Complaint. Indeed, it is almost certain that the Proposed Final Judgment will result in substantially lessened competition in these markets for legal materials. Consumers will pay for this reduced competition through increased prices, reduced choice, and reduced innovation.

There are three principal flaws in the Proposed Final Judgment. First, West and Thomson are the only two companies that provide editorially enhanced case reporters and codes in the relevant product markets.[2] Yet the Proposed Final Judgment requires West and Thomson only to spin off the weakest of the overlapping products, and even then they are spinning off what amount to nothing more than product fragments. There is no chance (much less a significant chance) that an actual or potential competitor could take these fragments and put together a rival set of enhanced products that could compete effectively with West-Thomson.

Under these circumstances, the proposed acquisition never should have been permitted to be consummated: its likely harm to competition is obvious and inevitable. Even if the acquisition were permitted to proceed, however, the Department could have taken steps that would at least have ameliorated the acquisition's anticompetitive consequences. In particular, the Department should have required the divestiture of all of the essential Thomson materials—particularly its American Law Reports (''ALRs'') and American Jurisprudence 2d (''Am Jur'')—necessary for an acquiror to offer enhanced primary law products that can compete effectively with West-Thomson. By failing to do so, competition in the markets for enhanced case reporters and codes will

[1] The economic analysis set forth herein was prepared in extensive consultation with Garth Saloner, Magowan Professor of Economics and Strategic Management, Graduate School of Business, Stanford University.

[2] The Department's Competitive Impact Statement acknowledges this. *See* 61 Fed. Reg. 35250, 35260 (''For both law reporters and codes, Thomson and West provide unique, enhanced primary law products. * * * There are no other codes or case law reporters in the above markets that offer this set of enhancements to consumers.'').

wither, and monopoly in these markets is the likely outcome.

Second, the failure to require the effective divestiture of Auto-Cite, Thomson's electronic citator product, will have a substantial adverse effect in the market for comprehensive online services. The Department's Complaint recognizes that ''a price increase, reduction in quality and innovation, or loss of access'' to Auto-Cite would materially injure competition in the online legal research market, in which Lexis-Nexis provides the only significant competition to West. Complaint ¶ 60. Yet, as discussed in more detail below, this is precisely the outcome that the Department has endorsed in its Proposed Final Judgment.

Finally, other steps taken by the Department, including its failure to lower the high barriers to entry that have caused such extreme market concentrations, will exacerbate the acquisition's anticompetitive effects. Each of these consequences of the Proposed Final Judgment is discussed immediately below.

1. The Complaint recognizes that what distinguishes the West and Thomson case law reporters and codes is that they are *enhanced*. The Complaint identifies two significant features of such enhancements. The first is that they contain ''comprehensive written descriptions'' of the relevant law, which the Complaint refers to as ''headnotes'' and ''summaries'' (for case reporters) and ''annotations'' (for codes). *See* Complaint ¶¶ 20–21. The second is that ''each product also contains cross-references to relevant secondary law products or relevant case law in the same or other jurisdictions.'' *Id.*

Through the combination of these summaries and cross indexes, West and Thomson, prior to the acquisition, each had been able to offer their enhanced primary law products as parts of a system. As the Complaint reflects, West refers to its system as the West National Reporter System. Thomson's system of enhancements and cross-references is referred to as the Total Client-Service Library (''TCSL''). In both instances, integration of these features into case reports and codes provides the means for competitively ''enhancing'' the primary legal product.

Thus, for example, one of the product markets identified in the Complaint is the provision of editorially-enhanced case reporters for decisions by the United States Supreme Court. The West and Thomson offerings in this market typify the way their products are enhanced and cross-referenced, In the West version of the case reporter, each reported Supreme Court decision begins with a series of summary paragraphs (''headnotes'') regarding the holding of the case. These headnotes are organized by an indexing system known as Key Numbers. The Key Number system provides the principal means for conducting research in West products across courts in the same jurisdiction (for example, federal appellate and district court decisions) and across jurisdictions. Through a comprehensive set of digests organized by Key Numbers, the headnotes are collected and reproduced for all of the states and for all levels of the federal courts.

The Thomson system works quite differently. Prior to the acquisition, Thomson published enhanced codes and case reporters in just a small fraction of jurisdictions (for example, case reporters in only six states, and the Supreme Court in the federal system). A digest-based system therefore would have been inferior to the West offering, inasmuch as it would have covered only a small fraction of the potentially relevant case law.

Thomson accordingly took quite a different approach to its enhanced products, as its Supreme Court reporter reflects. Although each Supreme Court decision in the Thomson reporter, like the West reporter, is preceded by summary paragraphs organized by subject matter (for example, ''Administrative Law § 77''), these subject headings to not provide a means for cross-referencing decisions in other jurisdictions. Indeed, Administrative Law § 77 refers to one subject in Thomson's Supreme Court reporter, but a different subject, for example, in its California case reporter.

Instead of relying on such subject categories, the enhancements in Thomson's Supreme Court reporter are organized principally around a system of selective reporting, referred to as ''annotations.'' These annotations provide exhaustive coverage on selective, discrete subjects. Thus, for example the back portion of each Thomson Supreme Court reporter contains several annotations relating to subjects addressed recently by a decision of the Supreme Court. In addition, each Supreme Court decision in the volume begins (after a brief summary of the case) with a prominent box denominated ''Total Client-Service Library References.'' The box identifies other annotations, collected in Thomson's ALR volumes, that relate to the issues addressed in the opinion (as well as to other secondary products published by Thomson) The annotations thus serve as the springboard for comprehensive, cross-jurisdictional research in the Thomson system, in the same way that Key Numbers provide such a function in the West system.

As the Complaint recognizes, West and Thomas are able to charge significantly more for their products because of their enhancement systems. Unenhanced codes and case reporters sell for ''significantly less'' than the West and Thomson products. Complaint ¶¶ 23–24. This increased value is predicted by economic theory, which recognizes that users gain utility not just from the components but because of the way they are interconnected. For example, as Katz and Shapiro observed: ''Many products have little or no value in isolation, but generate value when combined with others. * * * We describe them as forming systems, which refers to collections of two or more components together with an interface that allows the components to work together.'' Michael L. Katz & Carl Shapiro, Systems Competition and Network Effects, J. Econ. Persp., Spring 1994, at 93.

The Complaint acknowledges (and the extraordinarily high HHIs cited by the Department confirm) that West and Thomson provide virtually the only enhanced primary case reports and codes in the product markets identified in the Complaint. If the merger is allowed to go through as proposed, competition in these markets will be adversely affected. That is because some of the central enhancements of the Thomson products—most notably, the ALRs that are at their core—will remain under the control of West-Thomson. Whereas divestiture of the ALRs (together with a relatively small number of other Thomson publications such as Am Jur) would potentially have enabled competition to continue, the Proposed Final Judgment effectively permits West-Thomson to avoid any meaningful threat of competition.

Competition will be adversely affected for two main reasons. First, the merged company has an obvious incentive to eliminate competition from whatever set of cross-references a competitor might try to cobble together using the fragmentary Thomson products. Control of important components of the Thomson system provides West-Thomson with a ready means of doing so. For example, West-Thomson can foreclose access to ALR (as well as other important elements of the TCSL) to the purchaser of its divested assets. In so doing, West-Thomson can destroy the effectiveness of the competitor's use of the divested assets, and accordingly monopolize the market for enhanced primary products.[3]

Second, even if a competitor were somehow able to remain in competition in these markets in the short run, control over ALR and other Thomson references would enable West-Thomson to eliminate the ability of the competitor to compete effectively in the long run. Thus, West-Thomson could choose to maintain ALR and to continue to offer access, but simply raise the price so as to extract it monopoly rents in that way. Clearly the incentive for the merged company is to charge a much higher price for ALR than Thomson does as a stand-alone company competing with the West Key Number system. Here too consumers would be harmed by having to face significantly higher prices.[4]

In the example of Thomson's Supreme Court reporter, therefore, one alternative is that the competitor's product will amount to nothing but a shell of the current Thomson offering. If West-Thomson decides to foreclose access to its annotations altogether, what is currently the back portion of each Thomson reporter will have to be omitted, as

[3] Under these circumstances, West-Thomson might continue to provide ALR and other Thomson components as part of a bundle with West products. It would do so, however, at monopoly prices. Alternatively, as a monopolist, West-Thomson might decide to save itself the cost of maintaining ALR. In that case, consumers would face not only monopoly prices but also reduced variety.

[4] Lexis-Nexis believes that, as between these two alternatives, it is unlikely that West-Thomson will continue to invest in both sets of classification systems. Moreover, whether it integrates the two systems or simply eliminates the Thomson products, it is undisputed that West-Thomson will control the only comprehensive system of cross-references in the United States. With the elimination of competition at the system level, West-Thomson is likely to have enhanced leverage from its dominance in editorial classification systems into related fields of legal information publishing.

well as the annotation cross-references at the beginning of each case. All that will remain are summary paragraphs organized in a way that provides no means for researching decisions by any court but the Supreme Court. Moreover, even if access to these annotations is permitted, it will be at prices that permit West-Thomson to extract its monopoly rent and that will harm consumers.[5]

2. Additional inadequacies in the Proposed Final Judgment exacerbate these anticompetitive effects. First, the Complaint recognizes that a significant barrier to entry in providing enhanced legal products is the fat that ''a sophisticated editorial staff would be needed to create the headnotes and summaries, as well as to identify relevant cross-references to other sources of authority on issues presented in each statute or current or historical case.'' Complaint ¶31. The Department has not identified any actual or potential entrant (and Lexis is not aware of any) with an editorial staff trained in the Thomson headnote and indexing system. Nor is Lexis aware of any actual or potential entrant with a trained editorial staff capable of processing the volume of headnotes and summaries required by the nine primary law products proposed to be divested.

There are only two companies with trained editorial staffs of that size: West and Thomson. Yet the proposed decree does not require West-Thomson to spin off the divested products as part of a viable operational entity. Instead, it simply invites prospective purchasers to try to hire away personnel from West-Thomson. Final Judgment ¶ IV.F.[6] The Department makes no assessment that a prospective purchaser is likely to succeed under these circumstances in assembling a ''sophisticated editorial staff'' on the requisite scale.

Presumably the Department's silence reflects the fact that any such conclusion would be economically unsound. Preservation of West-Thomson's (newfound) monopoly in editorial staff will permit it to extract monopoly rents. West-Thomson therefore will have a significantly greater financial incentive in retaining its staff than any potential acquiror would have in attempting to hire them away. At the same time, given expectations that West-Thomson will be the stronger (if not only) long-term provider of enhanced legal products, editorial staff would be unlikely to switch employers absent significantly greater incentives from the potential acquiror. There is accordingly no reason to expect that any potential acquiror will be able to assemble the staff needed to offer meaningful competition to the West-Thomson enhanced legal products.[7]

3. The second way in which the Consent Decree exacerbates the proposed acquisition's anticompetitive effects is in its failure to require Thomson to provide continued access to, and use of, the portions of the Thomson system that the Department is not proposing for divestiture. Ironically, the Final Judgment is careful to preserve *Thomson's* continued right to use the enhancements from the *divested* products in its retained products during a transition period. *See* Final Judgment ¶ IV.D. Yet the Department has failed completely to impose a reciprocal obligation on Thomson—even though it is apparent, from the most cursory review of the proposed divested products, that cross-references to annotations and indexes in Thomson's retained products (ALR, AmJur, Witkin for California law, and so forth) are at the core of the ''enhanced'' portion of the proposed divested products.

It thus appears that the Department understands the Final Judgment to permit West-Thomson to divest piecemeal the nine primary law products without permitting continued use of relevant cross-references and annotations that are an integral part of their enhancements. At the same time, there is no finding by the Department that an acquiror can develop or maintain effective competition with the West-Thomson enhanced products through use of only those components of the Thomson system that are included in the divestiture. In the words of Katz and Shapiro, *supra* , the divested primary law products ''have little or no value in isolation,'' but rather ''generate[d] value when combined with others.'' The Proposed Final Judgment permits West-Thomson to retain the crucial components of the Thomson system to itself, while divesting only isolated fragments from which no rival set of enhanced products can effectively be developed.

4. The failure to ensure continued system competition not only impairs competition in the primary law markets identified in the Complaint, but also in the market for comprehensive online legal research services. *See* Complaint ¶ 53 (identifying relevant product market). West's most important means of product differentiation in the online market is its integrated system of Key Numbers and headnotes. In order to compete effectively, Lexis-Nexis needs the ability to provide a competing system of enhancements.

To date, it has done so through the Thomson system of enhancements, consisting of its Auto-Cite citation service and other TCSL products. For example, when a user on the Lexis-Nexis system wishes to check the continued viability of a particular case, Auto-Cite provides not just the negative history of the case but also references to ALR and other Thomson sources. By clicking on the ALR reference, the user is taken immediately to the appropriate ALR annotation.

The Proposed Final Judgment injures Lexis-Nexis' ability to compete in two ways. First, by permitting West-Thomson to keep the key components (indeed, most of the components) of Thomson's system of enhancements, the Proposed Final Judgment effectively eliminates Lexis-Nexis' ability to offer competition to the West enhancement system. As discussed above, neither Lexis-Nexis nor any other actual or potential competitor has any reasonable likelihood of being able to develop the fragments being spun off into a viable ''non-West'' system. The Department in fact appears to have made no assessment that Lexis-Nexis (or any other source available to it) will be able to develop an alternative system. If the Department now purports to have made such a finding, such a finding is factually unsupportable and hence plain error.

Second, the Final Judgment impairs Lexis-Nexis' contract rights to Auto-Cite, thus affirmatively damaging its ability to compete. Under its existing contract, Lexis-Nexis has the right to use Auto-Cite in its existing form, which includes cross-references to sources such as ALR. Lexis-Nexis specifically bargained for the right to prevent Thomson from being able to modify any of these existing features without its consent.

By ''forcing'' West-Thomson to spin off its Auto-Cite license with Lexis-Nexis, the Department has abridged these critical contract rights. The acquiror of the existing Auto-Cite license agreement will have no ability on its own to provide such features (they are being retained, or course, by West-Thomson), and West-Thomson has refused to confirm that the acquiror will be permitted to continue to include such features after the divestiture. These issues were specifically raised with West-Thomson; West-Thomson refused to confirm that such rights would be included in the divestiture; and the Department has endorsed West-Thomson's refusal. The Department apparently thus intends for its Final Judgment to strip Lexis-Nexis of these valuable contract rights (without compensation for the taking), with a direct and substantial adverse effect on its ability to compete in the online legal research market.

5. In addition to impairing Lexis-Nexis' existing contract rights, the Department's

[5] Even for enhanced products within a single jurisdiction, the Department appears to have overlooked critical facts relevant to the question whether competition in the market will be adversely affected. For example, the summary paragraphs that Thomson includes in its California annotated code (and its California Digest) are reproduced from the summaries that it prepares for its California case reporters. The cost of developing these summaries accordingly can be spread out over several products.

1The Proposed Final Judgment, however, provides for the divestiture only of the California code—*not* of the case reporter or digest (unless California elects to place them up for rebid). Yet the Department appears to have made no factual finding that the enhancement costs that profitably could be undertaken when allocated among three sets of products, will be economically viable if required to be undertaken separately for the California code alone.

[6] Notwithstanding this provision, Thomson has required potential acquirors to agree, as a condition to receiving information needed to bid on the divested assets, that they will not solicit any West-Thomson employees for one year ''other than in response to a bona fide advertisement for employment.'' In other words, West-Thomson has been permitted to tie the hands of any potential acquiror, and even the modest proposal of Paragraph IV.F effectively has been nullified.

[7] Indeed, any finding that personnel could be hired in the requisite numbers would be plain error. In order to offer effective competition to West-Thomson, it would be necessary for a competitor to hire away not just a few individuals, but an entire editorial staff. For the reasons stated above, however, West-Thomson has a powerful economic incentive to retain its staff in order to preserve its monopoly. These incentives, combined with an incumbent's pre-existing advantages (such as seniority and pension benefits) make it exceedingly unlikely that a competitor could offer terms that would secure an editorial staff of the requisite size, training and experience.

description of the Auto-Cite divestiture in its press release and other public statements has been substantially misleading. In the Department's press release, and, indeed, in the Final Judgment itself, it appears that West-Thomson is being required to divest ''all rights and interests'' in Auto-Cite, *See, e.g.,* Proposed Final Judgment ¶ II.B. These rights are defined as ''including'' (not limited to) the ''delivery of a transferable royalty-free perpetual license of the Auto-Cite case database.'' *Id.*

Nevertheless, in West-Thomson's Offering Memorandum, and in subsequent communications with the Department, Lexis-Nexis has confirmed that transfer of a (non-exclusive) license right (together with the Auto-Cite trademarks and associated software and trade secrets) is *all* that the Department intends to require West-Thomson to divest. Thomson is thus not divesting itself of Auto-Cite at all: it is retaining the database itself; the staff trained in its use; the (apparently exclusive) right to use important elements of the Auto-Cite system, *i.e.,* the cross-references and integration with the ALRs and other Thomson products; and other important incidents of ownership, such as the ability to sublicense.

The Department has made no finding—and none can be made—that an acquiror of the Auto-Cite license can provide effective competition to West-Thomson with no trained staff, no ability to use key elements of the Auto-Cite system, and no ability to use cross-licenses as a means of enhancing the content accessible through the database. The Complaint recognizes that Lexis-Nexis will be materially injured in its ability to compete as a result of ''a price increase, reduction in quality and innovation, or loss of access'' to Auto-Cite. Complaint ¶ 60. All three consequences, however, would be likely to flow from the Proposed Final Judgment. Price increases would be likely because of the failure to require divestiture of Auto-Cite as a viable, ongoing product line, entailing additional expense, *inter alia,* in hiring and training staff.[8] Reduction in quality and innovation is likely because of the failure to require divestiture of ownership rather than merely a non-exclusive license with no ability to sub-license. And Lexis-Nexis has lost effective access because of the failure to include critical components of the service (*e.g.,* prospective access to ALR) in the divestiture.

Given these impairments in the ability to offer an effective Auto-Cite product, one of three outcomes is likely, none of which is beneficial to consumers. The first is that the absence of adequate infrastructure would effectively preclude continued use of Auto-Cite as a viable product, resulting in immediate and substantial injury to competition in the online legal research market. The second is that even if it were possible for Lexis-Nexis to offer an Auto-Cite product (either directly or through license), it would be at such a competitive disadvantage that West-Thomson would be well-positioned to engage in behavior (repackaging Auto-Cite, bundling it with Insta-Cite, and then pricing the products aggressively) designed to drive it from the market.

The third potential outcome is that Lexis-Nexis (or some other competitor) would offer a non-exclusive Auto-Cite product while West-Thomson would offer a bundle of both an Auto-Cite clone and Insta-Cite. Because of the influence of learning and network effects in this market, consumers would likely gravitate towards West-Thomson, a process that would become self-reinforcing as market shares became more disproportionate. Lexis-Nexis or its licensor would therefore have fewer resources to invest in the Auto-Cite product, thereby further aggravating the increase in concentration in the market. Whatever theoretical short-term efficiency gains might be asserted for the cloning of Auto-Cite, therefore, would be swamped by the adverse consequences of dramatically increased market concentration. Instead of a market characterized by two strong competitors, therefore, the only realistic outcome of the Proposed Final Judgment would be to substitute a market structure characterized by a single dominant player.

6. The Department has compounded these deficiencies regarding Auto-Cite by its failure to enforce Paragraph IV.E of the Proposed Final Judgment. That paragraph purports to require West-Thomson to provide prospective purchasers with ''any and all financial, operational, or other documents and information as may be relevant to the divestiture.'' In fact, West-Thomson has provided virtually no information regarding the Auto-Cite divestiture that would permit any prospective purchaser to evaluate and make a meaningful bid on the product. On the one hand, West-Thomson has refused to provide even the most basic information regarding what is actually being purchased. (What ownership rights is West-Thomson reserving? What rights are included in the divestiture?) On the other hand, West-Thomson has refused to provide *any cost information* regarding the product, so that it was impossible to assess the product's profitability. Yet prospective purchasers were required to ''bid'' under these (preposterous) circumstances. It is regrettable that, having shown the foresight to include Paragraph IV.E in the Proposed Final Judgment as an obviously necessary element, the Department now appears to have no intention of enforcing it.

7. The Department recognizes that West's claim of a copyright in the page-breaks of its case reporters has been a major barrier to entry for potential competitors considering entry into the market for enhanced primary products.[9] Complaint ¶ 32. Inconsistently with its own position in *Matthew Bender & Co., Inc.* versus *West Publishing Co.,* 94 Civ. 0589 (S.D.N.Y.), in which it has sought leave to file an *amicus* brief contending that West's copyright claim should not be enforced (and notwithstanding the extreme market concentrations in the nine primary law product markets identified in the Complaint), the Department did not require West to disclaim its copyright claim. Such a step was taken, for example, by the Department under the Bush Administration in connection with Borland International's acquisition of Ashton-Tate. In the Ashton-Tate acquisition, the barriers to entry were far lower, and of far shorter duration, than those which West has been able to sustain in the market for enhanced primary law products over the course of many decades.

In this case, however, rather than requiring such a divestiture, the Department claims that it has ''significantly lowered'' the royalty rates for potential competitors' use of West's ''copyright'' page-breaks.[10] As the Department is aware, however, that claim is wrong. The Department claimed that Lexis-Nexis' current licensing fee is 17 cents per thousand characters. That is not correct. It appears that the Department's figure was derived from a very minor license that West granted to Butterworths pertaining to case reports for the U.S. Virgin Islands (with license fees of less than $2,000 per year).

In fact, the rates set forth in the Proposed Final Judgment are approximately equal (but may under some circumstances exceed) the current Lexis royalty rate.[11] It is worth emphasizing that the Lexis license was entered into only (i) after a Court of Appeals decision had been entered in favor of West and against Lexis, but (ii) before the Supreme Court's 1991 decision in *Feist Publications* v. *Rural Telephone,* which rejected the principal rationale underlying the Court of Appeals decision which found in West's favor. The current Lexis rate therefore reflects the maximum rate that West would have sought even after the successful conclusion of litigation, and if *Feist* had never been decided. It seems unlikely that any higher fees would have resulted from private negotiations prior to the acquisition.[12]

[8] The failure to spin off Auto-Cite as an ongoing product line raises the same concerns regarding the ability to hire trained staff that were discussed above.

[9] Even though West's copyright claim ultimately may (and should) be found invalid, West successfully has used the *threat* of litigation as a substantial deterrent to potential competition.

[10] *See, e.g.,* Albert R. Karr, *Thomson's Pact to Acquire Rival Receives Government Approval,* Wall St. J., June 29, 1996, at B10 (quoting Department as stating that under the settlement, ''the rates that Thomson can charge when licensing the West page-numbering system are capped at a 'significantly lower' level than those charged by West for Lexis-Nexis''). *Accord,* Maria Shao, *Purchase of West Publishing Approved; Buyer Agrees to Divest 50 Legal Publications,* Boston Globe, June 20, 1996, at 42; Sharon Smickle et al., *West Deal Gets U.S. Go-Ahead,* Minneapolis Star-Tribune, June 20, 1996, at 1D.

[11] To make matters worse, West-Thomson has taken the unilateral position that, notwithstanding the fact that Paragraph IX.A of the Proposed Final Judgment provides that ''defendants shall grant to *any* third party'' the right to license star pagination at rates beginning at $0.09 for the first year, Lexis-Nexis will be charged $0.13 (the third-year rate) as its beginning rate. Lexis-Nexis has brought this flagrant violation of the Proposed Final Judgment to the attention of the Department, but is not aware of any steps taken by the Department in response.

[12] Other participants in the industry may well now accept these rates, however, because West-Thomson's ability to raise barriers to entry has been greatly strengthened by the proposed acquisition. That is because, as is implicit in the Department's submission, Thomson has *not* previously asserted a copyright claim in the page breaks of its reporters.

Continued

8. One final point requires comment. The Department's press release claimed that assets representing approximately $72 million in sales were to be divested. As the Thomson Offering Memorandum reflects, however, the divested assets generated sales of only approximately $48 million. The press release thus overstates the economic significance of the divested assets by 50%. Notwithstanding the misleading nature of the Department's press release (which it has been aware of for at least several weeks), the Department has not seen fit to issue a corrective press release clarifying that only approximately 4% ($48 million out of $1.1 billion) of the sales of the number one and number two legal publishers are subject to divestiture.[13]

Sincerely,

Gary L. Reback.

Dear Sirs: Please consider the enclosed as comment offered in regard to the consent decree entered in association with Thomson's acquisition of the West Publishing Company or, alternatively, as information bearing on anticompetitiveness in legal publishing generally.

I apologize for the informality of the submission and for my inability to provide my name.

Dear Sirs: In regards to the recent acquisition of West Publishing Company by the Thomson Corporation, here is some important information pertaining to the United States Code Annotated (U.S.C.A.), a West publication which is the dominant commercial compilation of federal statutes.

What needs to be understood is that U.S.C.A. is the product of a collaboration between West and the Office of the Law Revision Counsel of the United States House of Representatives (O.L.R.C.). This collaboration has given West a significant advantage over its competitors in this lucrative market.

When laws are enacted by Congress, and sometimes even before they are enacted, Ed Willett, the head of the O.L.R.C., seen to it that copies are quickly sent to West's Westbury, N.Y. office. There, under the direction of Michael Pavesi, Assistant Managing Editor in charge of the U.S.C.A., West employees ''classify'' the laws. This means they determine what provisions of the United States Code are affected by amending and repealing legislation and if, where and in what form new statutes are to appear in the Code.

West faxes these proposed classifications to the O.L.R.C., which reviews them and immediately reports any changes and/or corrections back to West. At this point, West has the official U.S. Code classifications, while its competitors do not. In a field where speed of publication and conformity to official classification are at a premium, this inside scoop virtually insures the dominance of West's product.

Nor does the collusion end here. West editors do all the work associated with the codification of the new law. They prepare the various notes necessitated by the legislation (Amendment, Reference in Text, Codification, etc.) as well as assigning headings where needed and making decisions about credits. Once again, all of this information is shipped to the O.L.R.C. where it will eventually appear, virtually verbatim, in the U.S. Code. In the event that major changes are to be made by the O.L.R.C., West is informed and incorporates them into U.S.C.A.

Finally, when the O.L.R.C. prepares new or supplementary editions of the U.S. Code, page proofs are sent to Westbury so that, as with the classification and codification of new legislation, West can be sure that it has the official version before any of its competitors.

Whatever company possesses this privileged, insider relationship, whether it be West or Thomson, enjoys an enormous and unwarranted market advantage. It borders on scandal that any single company is permitted to have a stranglehold on the market for federal statutory law, especially when that stranglehold is attributable exclusively to a sweetheart deal with an instrumentality of the federal government.

P.S.—For obvious reasons, the writer wishes to remain anonymous. Accordingly, the information in this letter has been left deliberately vague. The full scope of the relationship described herein can almost certainly be exposed with minimal investigation.

Marc L. Ames, Attorney at Law

July 9, 1996.

Philip Cody, Esq.,

Chief Attorney, U.S. Department of Justice, Anti-Trust Division, 26 Federal Plaza, 36th floor, New York, NY 10278

Re: Merger of Thompson Publishing Co. (which includes Lawyers' Cooperative Publishing Co.) and West Publishing Co.

Dear Mr. Cody; I am advised that the Department of Justice recently approved the merger between the two above captioned companies for reasons that remain unclear to me.

In any event, as one who has practiced law for almost thirty years I can tell you, without equivocation, that Lawyers' Coop and West have always been arch competitors and have presented and alternative for attorneys who sought information which these companies marketed. More particularly, as you know, both companies specialize in the publishing of legal research materials which are indispensable to any viable law practice.

Most recently, I became involved in a dispute with the Lawyers' Cooperative Publishing Co. over my account (017249–11801) which contains a balance reflecting certain large purchases that I had previously made of legal research materials on CD ROM as well as other subscriptions. Prior to making those purchases I had arranged with the Lawyers' Cooperative Publishing Co. to have all of the materials to which I subscribe paid by one monthly payment. Thereafter, at the time that the additional materials were sold to me I was informed that this would raise my monthly payment of approximately $125.00 only slightly, leaving it below $200.00 per month. However, in my subsequent dealings with the company and another salesman I was informed that the monthly payment must be increased to the sum of $205.00 in order to cover all of my outstanding charges for the various services and materials to which I subscribe. I reluctantly consented to this increase believing it would cover all of the materials.

Most recently, I was informed by somebody of Lawyers' Cooperative Publishing Co. that I was being undercharged on a monthly basis and that I should be charged $250,000 a month and failing my paying that amount or the arrears of $505.54 my subscriptions (apparently all of them) would be cancelled.

I thereafter wrote a letter to the President of Lawyers' Cooperative Publishing a copy of which is enclosed. It is regrettable that I shortly thereafter received a letter from Ms. Margaret Cook, the Delinquent Accounts Manager advising me my subscriptions had been canceled! A copy of that letter is well enclosed. There followed shortly on heels of Ms. Cook's correspondence a letter from Ms. Michele Miller also of the Account's Receivable Department, advising me I had given them authorization during May of 1994 to raise the monthly amount of my installment to $250.00 beginning with the September installment and she would accordingly charge my bank account (despite the cancellation of my subscriptions). I never authorized them to charge my bank account directly the sum of $250,000, monthly as a copy of the agreement enclosed will show. Ms. Miller's letter is obviously in error to put it euphemistically.

The point of my writing this letter is not to show you that such a company can make mistakes but rather to point out and underscore a shift in attitude when business becomes too large as the result of mergers and acquisitions. In years gone by it was eminently clear to me that the Lawyers' Coop would do everything in its power to straighten out and adjust any misunderstanding with one of its customers. This is apparently no longer the case because the company feels that it has the market cornered. More particularly, I point to the fact that West always presented an alternative to the materials published by Lawyers' Coop however now that the company has been acquired, any disagreement with Lawyers Coop leaves me without the alternative of seeking refuge with West and visa-versa.

Thus, the poor consumer is left at an inordinate disadvantage and the acquisition of the West Publishing Company by the Thompson Legal Publishing group should not be and should not have been approved.

In the primary law markets that are the subject of the Complaint (particularly those where Thomson was the official reporter), therefore, other competitors could cite to the specific page of the Thomson reporter without facing a copyright claim. Now, because (for the reasons noted previously) there is no substantial likelihood that there will be a viable competitor to replace Thomson in the market for enhanced case reporters, the ability of West-Thomson to raise barriers to entry in these markets has been significantly strengthened.

[13] This number actually significantly overstates the revenue that a West-Thomson competitor is likely to receive from the divested assets. As noted previously, this is the value of these components as part of a unified system. As individual fragments, they are likely to generate revenues that are only a fraction of their sales under Thomson.

As you are no doubt aware, law book publishing companies stand in a rather unique position in relation to their customers. The materials sold to customers are often of a extremely high price. Moreover, these materials are supplemented very regularly at an additional cost—generally a very substantial additional cost! Further, if one does not choose to subscribe to the supplementation he is paying a rather exorbitant fee for materials which when initially purchased are current but which soon become worthless if not kept up-to-date. In the circumstances the Justice Department should be extremely circumspect about approving any mergers among law book publishers that are giants and competitors, and which virtually control the field.

I sincerely believes in this instance you have left me and others with very little alternative in our dealings and urge that you do all necessary to reverse whatever action you have taken and undo the approval of this consolidation and merger.

I sincerely hope that you will give your attention to this matter in earnest and advise me of your thinking and any action taken herein.

Sincerely yours.

Marc L. Ames

Marc L. Ames

Attorney at Law

June 24, 1996.

Mr. James Lupisella,

Lawyers Cooperative Publishing, Aqueduct Building, Rochester, NY 14694

Dear Mr. Lupisella: As stated during our conversation as an inducement to purchase materials from your company I was told that one easy monthly payment of $205.00* charged to my bank account would take care of all payments required in connection with the open items on my account including supplementation. I made clear that I did not want my monthly obligation to exceed that sum. I was assured it would not.

Your recent letter threatening to terminate my subscription unless I cough up another $100/month is irksome, problematic and otherwise unappealing. Perhaps this is diagnostic of internal problems the consequences of which will be visited upon attorneys such as myself by reason of your recent acquisition of West.

By copy of this letter sent to Mr. Bryan Hall, the president of your company, I am requesting that someone in a higher position then yourself be in touch with me concerning this potential controversy and public relations problem.

Sincerely,

Marc L. Ames,

MLA/is

Lawyers Cooperative Publishing

July 1, 1996

Marc L. Ames,

225 Broadway Rm 3005, New York, NY 10007

Re: Account #017249 11801

Dear Mr. Ames: Your subscriptions have been cancelled!

Recently we advised you that failure to pay on your account would result in cancellation of your subscriptions. Your failure to respond precipitated that action.

To prevent your library from becoming outdated, forward a check for $505.54. This will allow us to put your subscriptions back in line.

If you have made payment arrangements with our office or have forwarded the amount indicated above within the last 30 days, please disregard this letter.

Margaret Cook,

Delinquent Accounts Manager, 1–800–231–3120.

P.S. To make payment as convenient as possible, we will accept Visa, Mastercard, Discover and American Express. Simply fill out the information requested below:

Visa/MC/Disc/AE Account # _____

Expiration date Q _____

Total amount paid Q _____

Authorized signature _____

Lawyers Cooperative Publishing

January 11, 1995.

Re: Account Number 01724911801

Dear Client: Please consider this letter as a reminder that our terms are net 30 days.

The amount due on your account is $463.47. According to our records a portion of this amount includes items which are 60 days past due. Please use the enclosed envelope to mail your payment.

If you have made payment arrangements with our office, or have forwarded your check within the past 30 days, please disregard this letter.

Thank you.

Lori Smith,

Regional Collection Manager, 1–800–231–3120–ext 6482

P.S. To make payment as convenient as possible, we will accept Visa, Mastercard and American Express. Simply fill out the information requested below:

Visa/MC/AMEX Account _____

Expiration Date _____

Total Amount paid _____

Authorized Signature _____

Geronimo Development Corporation

September 3, 1996.

Craig W. Conrath,

Chief, Merger Task Force, Antitrust Division, United States Department of Justice, Suite 4800, 1401 H Street, N.W., Washington, D.C. 20530

RE: United States v. The Thomson Corporation and West Publishing Company Case No. 1:96CV01415 (U.S. District Court for the District of Columbia)

Dear Mr. Conrath: Geronimo Development Corporation, a Virginia corporation hereinafter ''Geronimo''), 1 submits the following Comments regarding the Final Judgment in the above matter.

Geronimo publishes, exclusively in CD–Rom format, Virginia case law, statutes and administrative materials, along with U.S. Fourth Circuit and U.S. Supreme Court cases. We compete directly with two giants, West Publishing Company and the Michie division of Reed-Elsevier, and with a small electronic, publisher, DiscSense, Incorporated.

The Complaint identifies nineteen product markets in which West and Thomson compete directly and identifies anti-competitive consequences of the merger in those product markets. The Final Judgment addresses those concerns. Comments from other parties address and express the concerns we have over the issues raised in the Complaint (most notably the comments from Gary L. Reback, counsel for Lexis-Nexis, and Robert S. Oakley on behalf of the American Association of Law Libraries [''AALL'']).

Our major concern is that the Complaint ignores the fact that West has a monopoly in the market for enhanced primary law products for the lower federal courts (the Federal District Courts and the Circuit Courts of Appeal). Only West publishes a complete set of enhanced opinions for these decisions. Although the Lexis online service includes all of the same opinions, West's monopoly is not broken thereby. The Complaint notes that online legal research services are ''not good substitute(s)'' for enhanced primary law products because they don't provide users with editorial analyses.

West has actively maintained its monopoly. For example, despite the decision in *Feist Publications, Inc. v. Rural Telephone Services, Inc.*, 499 U.S. 340, 111 S. Ct. 1282 (1991), West continues to claim that the interior page numbers of cases reported in its publications are entitled to protection under the copyright laws. West will not unequivocally state that the first page citation to cases in its reporters is in the public domain. West claims that its ''enhancements'' to the official text of decisions, including the correction of typographical errors, are entitled to copyright protection.[2] Finally, West actively opposes the adoption by any court of a public-domain citation system.[3]

To compete in this market while avoiding litigation, a potential competitor would need to obtain the original text of all the decisions from all federal courts, convert that text into digital format for either printing or electronic publication, create a new citation system, prepare headnotes and correlate such headnotes into a digest or encyclopedia. This is a daunting, if not impossible, task.

As noted at Paragraph 30 of the Complaint, accessing opinions in the product markets identified in Paragraph 19 is difficult because ''past and/or current opinions simply are not available from many courts, and in many others, obtaining access is costly and time-consuming.'' Because the lower federal courts have relied upon West for such a long time, it is likely that access to the original copies of these opinions would be even more difficult than in the state courts identified in Paragraph 19.[4]

The only entities with the financial ability and publishing expertise to produce and market a competing federal product would be other large legal publishers. After the West-Thomson merger, there will be one less potential competitor; possibly, none. Further, as noted in the comments of Lexis-Nexis and

*Initially stated to be less.

AALL, this merger poses a threat to the continued viability of Lexis-Nexis, which is the *only* other source of the text of the decisions of the lower federal courts (albeit, electronic and ''unenhanced''). Thus, if the merger is allowed in its present form, West's monopoly over federal reports will be *strengthened*.

15 U.S.C. § 18 prohibits mergers.

''* * * where in any line of commerce or in any activity affecting commerce in any section of the country, the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly.''

If an acquisition that might ''tend to create a monopoly'' is prohibited, then certainly an acquisition that would *strengthen* an existing monopoly must likewise be banned. The evil to be prevented, lessened competition, is the same in both instances.

Nothing in the Final Judgment addresses West's monopoly over federal case law. The provisions dealing with the licensing of interior page numbers will not foster competition in this market (see below). Three provisions should be added to the Final Judgment to encourage competition in this market:

1. Require West/Thomson to acknowledge that the text of court decisions reported in its products is in the public domain, regardless of trivial enhancements thereto, and to disclaim any copyrights in such text.

This would lower, slightly, the major barrier to entry into the market for primary lower federal case law, encouraging competition which might offset the harmful effects of this merger.

In many instances, especially with older materials, the text of decisions in the West federal publications is the *only* printed version of the decision. The only citation to a decision of a lower federal court allowed by the Harvard Blue Book is the West cite. The rules of all state and federal courts require that citations to lower federal court decisions cite the West reports.[5] Clearly, West's federal decisions represent the de facto official text of this fundamental body of law. It is inconceivable that the official text of the decisions of the federal courts would not belong to the people.

2. Require West/Thomson to allow third parties to retrieve the *public domain* portions of federal case law from West's print and/or electronic publications, and require West/Thomson to acknowledge that the inadvertent and temporary copying of materials in which West legitimately possesses a copyright during such retrieval constitutes ''fair use'' under copyright law.

By itself, an acknowledgment by West/Thomson that the text of federal court decisions contained in its reports is in the public domain will not foster competition because West/Thomson would be able to utilize current copyright law to thwart potential competitors from retrieving the text in any efficient manner (scanning and optical character recognition or direct extraction from CD–Rom databases). The only alternative for a potential competitor would then be to manually key in the text.

A competitor could digitally scan the pages of the printed reports and convert the text into computer format with optical character reading software. Such software allows the user to ''preview'' a page of text on the computer screen and to mark those portions (such as headnotes, West Key numbers, etc.) which should not be processed. However, current copyright law can be interpreted to hold that the image of the page in the computer's memory, and thus the image on the monitor, is itself a copy (See MAI Sys. Corp. v. Peak Computer, Inc., 991 F.2d 511 (9th Cir. 1993), cert. dism'd 114 S.Ct. 671 (1994). Potential competitors would, of course, exclude West/Thomson's copyrighted materials from their finished product, and *the only reason for displaying such materials temporarily on their computer monitors would be for the purpose of identifying them in order to exclude them*. Thus, West/Thomson should be required to acknowledge that such ''copying'' falls within the ''fair use'' exclusion of U.S. copyright law.

Of course, scanning public domain materials from printed text and converting them into digital format is absurdly inefficient in light of the fact that the public domain text already exists in digital databases on West's CD–Rom products. Nothing could be simpler than for a competitor to ''download'' the public domain text from West's digital products for use in preparing a new electronic or print publication. Such an act, however, would surely assure a lawsuit from West/Thomson claiming violation of copyright in the database containing the public domain text, or violation of the license agreement pursuant to which the electronic media was accessed. Unfortunately, the law in this area is not sufficiently clear that a competitor could hazard such litigation.

The copyright office considers a computer database to be copyrightable as a ''compilation.'' Copyright law extends protection to compilations as a form of literary work. 17 U.S.C. § 103. When the compilation is composed of public domain materials, copyright protection may extend to the selection and arrangement of the materials, but it does not extend to the materials themselves. Feist, supra.

The medium on which material is recorded is irrelevant to the question of whether it is in the public domain. There is no question that the text of the U.S. Constitution, recorded in ink on a piece of paper, could be copied by anyone. Recording the same document on a floppy disk should not take it out of the public domain. Further, there is no question that a page containing the Constitution within a book (a ''compilation'') could be copied—even if the book itself was copyrighted. Likewise, placing the Constitution into a database (also a ''compilation'') should not remove it from the public domain, even though the database itself might be copyrightable.

Unfortunately, many opinions from U.S. courts reveal a lack of understanding of computer technology, much less the application of copyright law to electronic information. Would-be competition will be chilled by the threat of litigation. Thus, in order to encourage competition in this long-monopolized market, West/Thomson should be required to allow third parties to retrieve the public domain texts from the West CD-Rom databases.

3. Require West/Thomson to abandon claims that its internal page numbers are entitled to copyright protection.

The Eighth Circuit has held that West has a copyright in the arrangement of cases in its National Reporter System and that the internal page numbers of those books ''reflect and express'' this copyright, so that commercial use of those numbers infringes West's copyright in the arrangement. *West Publishing Co.* v. *Mead Data Central, Inc.*, 799 F.2d 1219 (8th Cir. 1986), cert. denied, 107 S.Ct. 962 (1987), aff g. 616 F.Supp. 1571 (D. Min. 1985). This decision, combined with West's de facto monopoly in the enhanced primary law of the lower federal courts, severely limits competition in this market.

The legal theories trotted out to support the decision in West break down upon closer examination. The Eighth Circuit granted copyright protection to interior page numbers because they ''express'' the arrangement of the cases in a volume. However, the Court also states ''West concedes that citation to the first page of its reports is a noninfringing 'fair use' * * * so these citations are not at issue here.'' Certainly the arrangement of the cases in a volume could be easily reproduced using the first page citations—which the Court does not protect. Consider the publisher who wishes to reproduce the cases as arranged in a West volume, but wants to use a page size that is somewhat larger than the page size used by West. In order to reproduce the *arrangement*, this publisher will refer to the first page citation (which West says is in the public domain), rather than any of the interior page numbers. Clearly, the interior page numbers have no value in protecting the arrangement of the cases in the West publications, they only serve to indicate where the page breaks fall in a particular report.

Further, while the Court allows West's claim of a copyright in the arrangement of cases within a volume, it ignores the fact that the arrangement of cases within a reporter is totally irrelevant to the *use* of those cases. No lawyer or judge I have ever known has ever read all of the cases, front to back, within a report. No case in a reporter is any more or less ''important'' than any other case to the researcher. West's ''arrangements'' serve no purpose other than to provide a means of removing public materials from the public domain.

While nothing that West does not and cannot claim any copyright in the judicial opinions themselves, the Court in West elaborated at length on the time and effort expended by West in preparing these reports, revealing that the true rationale for its decision was the ''sweat of the brow'' theory. However, in 1991 the Supreme Court opinion in Feist destroyed the ''sweat of the brow'' theory.

In light of the foregoing, it is clear that West's claim of copyright in the interior page numbers lacks any continuing legitimacy, and is being used solely to strengthen its monopoly over the publication of decisions of the lower federal courts. Requiring West/Thomson to license these page numbers is not a solution to a problem; it is an

abdication of responsibility. If West/Thomson has a legitimate copyright in the interior page numbers, then they should be allowed to charge whatever they want and to license them to whomever they wish, without coercion from DOJ. If West/Thomson does not have a legitimate copyright in the page numbers, then competitors should be allowed to use them for free. DOJ should institute litigation for the purposes of deciding the legitimacy of the copyright claim, rather than 'duck'' the issue by requiring West/Thomson to license them at a specified price.

4. DOJ should comply with the Freedom of Information Act (''FOIA'') request made by Tax Analysts, Incorporated of Falls Church, Virginia, which seeks release of the public domain portions of tapes of federal cases contained in the now-defunct Juris database.

The Tax Analysis FOIA request is the subject of an appeal pending in the United States Court of Appeals for the District of Columbia. The decision on appeal was rendered by Judge Gladys Kessler of the Federal District Court for the District of Columbia, the same Court which is now reviewing this merger. In that appeal, DOJ is a Co-Appellee with West, taking the position that a large electronic archive of predominately public domain material should not be released to the Appellant. That position is at odds with DOJ's acknowledgment in the Complaint that the difficulty or impossibility of obtaining opinions is one of the barriers to entry in primary case law markets. DOJ's contrary positions on this issue should be reconciled, or in the alternative, a neutral party should be designated to represent the public interest in this matter.

Lest we forget: At issue in this proceeding is not some mean commercial commodity, not forest products, or steel, or computer programs. At issue is the Law; the fuel that fires the flame of freedom; the vehicle by which free people govern themselves. The Law belongs to no one, it belongs to all. It was purchased for us with patriot's blood; we have a sacred duty to hand it down, unshackled, to generations yet to come.

Thank you for your attention to our concerns. Please don't hesitate to contact me if you wish to discuss any of the points raised or would like additional information.

Sincerely,

O.R. Armstrong,

President.

Footnotes

[1] About Geronimo:

Virginia's open access to its primary law materials enabled Geronimo to enter the legal publishing business in 1991. The printed volumes of Virginia Supreme Court and (until recently), when West was awarded the publishing contract) Virginia Court of Appeals reports contain no claim of copyright whatsoever. Further, the contract for publication of the Virginia Code provides that the text of the statutes, along with catch lines and title, chapter and article headings are not copyrightable by the publisher.

Though we were the first to offer a stand-alone computerized research system for Virginia law, Michie (a subsidiary of Lexis-Nexis) and then West soon brought out competing products. Later, a small electronic, publisher, DiscSense, Inc. also entered the fray.

Since we were a new, small company, and we could not out-market the giants, our plan was to make our product easier to use, price it significantly lower than the competition, provide more databases and offer technical support. The plan worked. Our product was chosen, in head-to-head competition, for installation in all Commonwealths' Attorneys' offices throughout Virginia.

The real beneficiaries of this competition are all the attorneys, judges, prosecutors, government officials, law enforcement agencies, inmates, libraries, title companies, banks, and private citizens who are able to easily and economically access most of the law which applies to the citizens of the Commonwealth of Virginia.

[2] For example, the Complaint in West Publishing Company v. Mitchell Gross, Civil Action CV2071, Northern District, Georgia (1993) alleges, inter alia, that the Defendant violated West's copyrights by wholesale copying of its books. The Complaint states at pages 3–4.

Each Southern Reporter case report contains the following editorial enhancements created entirely by West: (a) West citation of the case; (b) case synopsis, including summary of the facts, the court's holding and the procedural history of the case; (c) numbered headnote(s) summarizing portions of the opinion relating to specific points of law, including the editorial designation of the statutes that relate to each headnote; (d) topic designations for each headnote; (e) topic designations for each headnote with individual ''Key Number System'' registered trademark symbols (keys) and numeric designations (key numbers) to which headnotes are referenced; (f) miscellaneous information prepared by West inserted within the text of the judicial opinion including parallel citations, corrections and cross-reference numbers relating back to corresponding headnote numbers; and (g) at the conclusion of each West case report, a West trademark, the symbol of a key enclosing the words ''West Key Number System.''

(Emphasis supplied)

[3] It should be noted that the House of Delegates of the American Bar Association passed a resolution at its recent Annual Convention urging all courts to adopt a public-domain citation system in which the court would assign the citation at the time a decision is issued and the paragraphs in the text would be numbered.

[4] In this regard, it is our understanding that the American Association of Legal Publishers has recently submitted to DOJ a study of the difficulties encountered in attempting to obtain original copies of opinions from the 1960's and 1970's from the federal courts. The study reveals that opinions are missing from files, that files are missing from filing cabinets, that opinions are mis-filed, that the courts limit the number of case files (to as little as three) which may be accessed, and that delay, confusion and expense hamper the process.

[5] West's domination of the federal market is so pervasive that most courts require attorneys to provide citations to West products (federal and state). Attorneys purchasing a competing product would still need to access West products for these citations. Thus, successful marketing of a competent product would require significantly lower pricing, reducing the return on the investment in the competing product, stifling competition.

Irell & Manella LLP

August 31, 1996

Via Federal Express

Craig W. Conratrh,

Chief, Merger Task Force, Antitrust Division, 1401 H Street, N.W., Suite 4000, Washington, D.C. 20530

Re: United States v. The Thomson Corporation and West Publishing Company, No. 96–1415 (D.D.C.)

Dear Mr. Conrath:

Introduction

Matthew Bender & Company, Inc. submits the following comments in opposition to the terms of the Proposed Final Judgment in the above-mentioned matter relating to ''star pagination.'' These comments are intended to supplement and amplify comments made by Lexis-Nexis in a letter dated August 30, 1996.

As the Department is well aware, defendant West Publishing Company claims that its copyright interests are infringed by competitors who use ''star pagination'' to West's reporters. The Complaint identifies this assertion of an intellectual property right as a significant barrier to entry into the relevant legal publishing markets. Moreover, the Department, acting as an amicus in copyright litigation between Matthew Bender and defendant West Publishing Company in the Southern District of New York, has recently expressed its views on behalf of the United States that West's copyright claim is without merit. Yet despite recognizing that West has imposed a barrier to entry through the erroneous assertion of a legally cognizable intellectual property interest, the Department has not sought to remove that barrier. Rather, the Proposed Final Judgment seeks to ameliorate the problem by mandating that West offer a license to its non-existent rights. Not only does this solution not remove the barrier to entry, it creates new anti-competitive effects through license terms that would cause harm both to licensees and to other potential competitors of the merged Thomson/West entity in the markets at issue. Matthew Bender accordingly urges that the proposed Final Judgment not be approved by the Department or the Court without modification to prohibit Thomson/West from enforcing any alleged rights with respect to star pagination.

The Importance of Star Pagination

Matthew Bender is one of this country's leading publishers of legal secondary literature, including such well known treaties as Moore's Federal Practice, Nimmer on Copyright, Collier On Bankruptcy, and *Weinstein's Evidence.* In recent years, Matthew Bender has offered many of its titles

on CD–ROM. In order to remain competitive in the legal secondary source market, Matthew Bender must offer its CD–ROM titles in conjunction with pertinent primary materials. By having primary materials available together with secondary sources, a person using Matthew Bender's legal secondary source product will be able to move, at the touch of a button, from a citation to a primary source to the primary source itself. Thus, for example, if Moore's Federal Practice cites a particular page of an appellate decision as stating a particular holding, a person using an integrated CD–ROM product will be able to go from citation to the cited portion of the opinion, and then go back to the treatise (or to another authority cited in the opinion). Consumers of legal products benefit from this integration of secondary and primary sources through improved secondary source products.

In order to integrate judicial opinions with the existing base of legal secondary literature, and to make them competitive primary sources in their own right, those judicial opinions must include information about the location of page breaks from the version of the opinion appearing in the National Reporter System published by defendant West Publishing Company. This page break information is typically provided via the efficient shorthand of ''star pagination.''[1]

It is necessary to provide information about the location of page breaks in West's reporters for three primary reasons: (1) to allow users of Matthew Bender products to cite cases in the form that is mandated by law, practice and necessity; (2) to allow users of Matthew Bender products to locate the portion of a judicial opinion that is cited in a secondary or primary source; and (3) to allow the integration of primary sources with secondary sources that contain pinpoint citations to West's reporters.

The necessity of providing information about the page breaks in West's reporters emerges from many factors. West's federal reporters (i.e., Federal Cases, Federal Reporter, Federal Reporter—Second Series, Federal Reporter—Third Series, Federal Supplement, Federal Rules Decisions and *Bankruptcy Reporter*) are the de facto official reporters of the U.S. district courts and courts of appeals and thus are the standard citation source for the bench and bar. Only West publishes in book form a comprehensive collection of the published decisions of the lower federal courts. Consequently, the rules adopted by many of the federal courts require that citations in briefs be to the appropriate volume and page number of West's federal reporters. See e.g., Third Cir. R. 28.3(a). The preeminent legal citation manual also requires citation to West's federal reporters, including pinpoint citation. See generally the Bluebook; A Uniform System of Citation at 34–36, 165–67 (15th ed. 1991) (the ''Bluebook''). The Bluebook citation form, which the legal community regards as setting the standards for citations in legal writing, has been formally adopted by the local rules of various courts, thereby further extending the official status of West's federal reporters. See, e.g., Eleventh Cir. 28–2(k).

The de facto official status of citations to the volume and page numbers of West's federal reporters is further reflected in their use as the standard citation form in the printed opinions of the United States Supreme Court and the printed slip opinions of the lower federal courts. In the United States Reports, for example, the government's official reporter of Supreme Court decisions, citations to lower federal court decisions almost invariably consist of a citation to the volume and appropriate page numbers, including the pinpoint citation, of the West federal reporter in which the decision and pertinent passages were published.

The primacy of citations to West state court judicial reports is also a condition dictated by the requisites of legal practice. The judicial decisions of at least nineteen state court systems are not currently published in any ''official'' reporter. See Robert C. Berring, On Not Throwing Out the the Baby: Planning the Future of Legal Information, 83 Cal. L. Rev. 615, 633 n.66 (1995). Citations to judicial authority in states such as Texas are by necessity to an unofficial reporter, such as the reporters in West's National Reporter System. In yet other states, West is the official reporter. For example, in Florida, West publishes the official Florida Cases, which is a collection of Florida judicial opinions reprinted—including volume and page numbers—from West's Southern Reporter. A citation to Florida's ''official'' reporter is thus identical to a citation to West's ''unofficial'' Southern Reporter.

Even in the remaining states, such as New York, where there are non-West ''official'' reporters of judicial opinions (owned, in this case, by Thomson's subsidiary, Lawyers Cooperative Publishing Co.), law and practice nonetheless require parallel citations to West's New York reporters. For example, the rules adopted by certain federal courts require citations to West's New York reporters. *See, e.g.*, D.C. Cir. R. 28(b). The *Bluebook* (which, as noted above, various local rules of court adopt by reference) also requires citation to West's New York reporters, including pinpoint citation, in documents submitted to federal and state courts. *See id.* at 195–97. In accord with the standards promulgated by the *Bluebook*, citation to West's National Reporter System volumes, including pinpoint citation, is considered by the legal community to be the proper method of citation in memoranda of law submitted to the federal and state courts. Indeed, the *Bluebook* requires citation to West's reports of state judicial opinions in the National Reporter System in documents submitted to federal and state courts in every single state. *See generally Bluebook* at 169–216.

In sum, the bench and bar must (and do) cite to West's reporters. Pinpoint citations to West's National Reporter System volumes are thus ubiquitous in the U.S. state and federal *corpus juris*, in submissions to the courts, as well as in the vast secondary literature about our laws. Information about the location of page breaks in West National Reporter System volumes has thus become a standard frame of reference for discussion, debate and advocacy about the law of this country. Primary sources that do not contain information about the location of page in West's National Reporter System volumes are cut-off from this ubiquitous frame of reference.

West's Use of Its Alleged Copyright To Destroy Competition

As the Complaint recognizes, a significant barrier preventing Matthew Bender and other potential competitors from using star pagination to create better secondary source products, and to create new enhanced primary source products, has been erected by West's assertion of claims that star pagination infringes West's purported copyright in the arrangement of its reporters. *See* Complaint ¶¶ 32, 43. West aggressively pursues litigation against competitors who use star pagination. It also relies on jurisdictional machinations to make that litigation more expensive for those competitors and to confine examination of its alleged copyright interest in star pagination to its home base.

West's first action of this type was its successful litigation against Mead Data Central to enjoin Mead's intended inclusion of star pagination in the Lexis database. That suit resulted in the much-criticized *West Publishing Co.* v. *Mead Data Central, Inc.*, 799 F.2d 1219, 1227 (8th Cir. 1986), *cert. denied*, 479 U.S. 1070 (1987) decision, in which a two-judge majority of an Eighth Circuit panel held, over a vigorous dissent, that the internal page numbers of opinions published in West reporters are subject to copyright, and that a competitor that provided star pagination to those internal page numbers was liable for copyright infringement.[2]

The *West* v. *Mead* decision has been roundly denounced by copyright scholars,[3] the U.S. Copyright Office,[4] and most recently

[1] The Compliant recognizes this business reality. *See* Complaint ¶ 43 (''Particularly for CD–ROM products, where it is possible to include both primary and secondary law products on the same CD–ROM, the ability to include star pagination is an important competitive factor.'').

[2] The matter came before the Eighth Circuit on interlocutory appeal of a grant of preliminary injunction. The case settled before a decision was rendered after trial on the merits.

[3] *See, e.g.*, William F. Patry, *Latman's The Copyright Law* 63, n.212 (1986) (case is ''a most extreme misreading'' of the Copyright Act); 1 *Nimmer on Copyright* § 3.03 (''this case extends compilation copyright too far''). Two scholars devoted a hundred-page article to criticizing the *West* v. *Mead* case and decrying the majority's position as disturbing ''a century-and-a-half of precedent dating from the Supreme Court's first copyright decision, *Wheaton v. Peters*, in 1834.'' L. Ray Patterson & Craig Joyce, *Monopolizing the Law; The Scope of Copyright Protection for Law Reports and Statutory Compilations*, 36 UCLA L. Rev. 719, 723 (1989). In *Feist Publications, Inc. v. Rural Tel. Service Co.*, 499 U.S. 340, 111 S. Ct. 1282 (1991), the Supreme Court cites repeatedly to the Patterson and Joyce article in reaching the conclusion that no compilation copyright protected the telephone book there at issue. *See Feist*, 499 U.S. at 347, 348–349, 351, 361–362, 111 S. Ct. at 1288, 1289 (twice), 1291, 1296 (twice).

[4] The Register of Copyrights (the senior official of the U.S. government charged with the formulation of copyright policy) testified before Congress regarding proposed legislation to amend the U.S. Copyright Act to clarify that there is no copyright in the volume and page numbers of judicial reporters that in the view of the Copyright Office,

by the U.S. Department of Justice,[5] as wrongly decided and clearly overruled by the subsequent U.S. Supreme Court decision in *Feist Publications, Inc.* v. *Rural Tel. Service Co.*, 499 U.S. 340, 111 S. Ct. 1282 (1991) which uprooted the ''sweat-of-the-brow'' copyright doctrine undergirding *West* v. *Mead*.

Nonetheless, the *West* v. *Mead* decision has not yet been explicitly overturned, and West has in fact continued its use of litigation to prevent competitors from using star pagination. *See, e.g., Matthew Bender & Co., Inc.* v. *West Publishing Co.*, 39 U.S.P.Q.2d 1079, 1082 (S.D.N.Y. 1996) (noting ''West's history of litigation against other legal publishers'' and its employees' testimony ''that they do not know of any companies that have used West's star pagination that West has not sued''); Susan Hansen, *Fending Off the Future,* American Lawyer 73, 73 (September, 1994) (''West's lawyers have earned a reputation for menacing letters and quick-strike lawsuits, hunting down infringers from coast to coast. One by one, 'copyists,' as [Vance] Opperman[, West's president,] likes to call them, have been marched into court and crushed.'').

Having succeeded before *Feist* in obtaining one favorable ruling in its home forum, West has attempted even past *Feist* to prevent courts outside the Eight Circuit for examining its ''scarecrow'' copyright. As Professor Craig Joyce, a strong critic of the *Mead* decision, explained to Congress:

The West Publishing Company is an able litigator. If it decides on a 'preemptive strike,'' it sues competitors asserting the right to use 'its' identifying matter—that is, the matter for which it claims protection by virtue of the *Mead* case—in the federal trial court for the District of Minnesota, the very jurisdiction in which it filed and won in *Mead*. For quite proper reasons, West likehood of success in that court, or anywhere in the Eight Circuit, is very high.

If, however, West is sued elsewhere *by* a potential competitor seeking to employ in its own works the identifying matter in which West claims ownership, West can in all likelihood get the case transferred to the District of Minnesota. Again, West's chances there are good.

Exclusion of Copyright Protection for Certain Legal Compilation: Hearings on H.R. 4426 Before the Subcomm. on Intellectual Prop, and Judicial Admin., 102nd Cong., 2d Sess., Serial No. 105 at 39–40 (1992) (footnotes omitted) (emphasis original).

Recently, West's project of confining examination of its pagination copyright to the Eight Circuit has been implemented through the attempted manipulation of federal jurisdiction. In two declaratory judgment actions brought by Matthew Bender against West in the Southern District of New York, *Matthew Bender & Co., Inc.* v. *West Publishing Co.*, 94 Civ. 0589 (JSM) (S.D.N.Y.) and *matthew Bender & Co., Inc.* v. *West Publishing Co.*, 95 Civ. 4496 (JSM) S.D.N.Y.) (seeking declarations that Matthew Bender's use of star pagination does not infringe any West copyright), West moved to dismiss for lack of subject matter jurisdiction on the ground that the actions allegedly do not involve actual controversies.[6] After extensive discovery, briefing and oral argument on the jurisdictional issue, the court denied West's motions, *see Matthew Bender & Co., Inc.* v. *West Publishing Co.*, 39 U.S.P. Q.2d 1079, 1082 (S.D.N.Y. 1996), as well as West's subsequent motion for reconsideration or interlocutory review. West's failed jurisdictional ploy delayed adjudication of the merits by at least two years and caused significant litigation costs.

The purposes animating West's attempts to evade the jurisdiction of the Southern District of New York become clear when evaluated in light of West's conduct in a concurrent proceeding now on appeal from the United States District Court for the District of Minnesota to the Eight Circuit—*Oasis Publishing* v. *West Publishing Co.*, CV3–95–563. In that action, West has taken a dramatically contrary stance regarding the conditions under which justiciability is established for the purpose of obtaining an advisory ruling in its forum-of-choice regarding a hypothetical product.

In *Oasis*, plaintiff Oasis Publishing, Inc., a CD–ROM publisher, initiated suit against West in the United States District Court for the District of Florida seeking a declaration that West does not have a copyright in the page numbers contained in Florida court decisions published in West's *Southern Reporter* and that Oasis' intended use of star pagination to West's *Southern Reporter* in Oasis' planned CD–ROM product will not infringe West's copyright. West responded to the *Oasis* complaint by moving to dismiss the declaratory judgment claim for lack of a justiciable controversy and alternatively to transfer the action from Florida to the District of Minnesota. Before ruling on West's motion to dismiss, the court granted West's motion to transfer the case to the District of Minnesota.

Once West succeeded in transferring the *Oasis* case to Minnesota, West withdrew its motion to dismiss for lack of a justiciable controversy. It did so even though there had been no intervening change in the facts or law. But West did not simply withdraw its motion. Rather, it entered a stipulation filed with the Minnesota court in which it dismissed ''with prejudice'' from its answer the affirmative defense that the case was not justiciable and all allegations in West's answer based upon that defense. In other words, once West successfully transferred the case to Minnesota, West not only withdrew its motion challenging justiciability, but actively attempted to expunge the issue from the record.

After West in effect stipulated to jurisdiction, the parties submitted cross-motions for summary judgment on Oasis' copyright declaratory judgment claim. Just four weeks after oral argument, West's jurisdictional strategy to obtain a favorable opinion from its forum-of-choice paid off. The Minnesota court followed the much-criticized *West* v. *Mead* and granted West's motion for summary judgment. *See Oasis Publishing Co.* v. *West Publishing Co.*, 924 F. Supp. 918, 925–926 (D. Minn. 1996). In rendering its opinion, the court below never examined the existence of subject matter jurisdiction.[7]

In sum, a comparison of West's actions in response to Matthew Bender's New York declaratory judgment actions with its stance in the *Oasis* case suggests that West's simultaneous assault on jurisdiction outside the Eighth Circuit and attempted stipulation to jurisdiction in the Eighth Circuit is based on a deliberate strategy to confine examination of its alleged copyright in star pagination to courts in the Eighth Circuit. This strategy decreases the likelihood that the *Mead* decision will be critically examined, and increases costs for potential challengers of West's copyrights who must engage in lengthy jurisdictional fights against a well-heeled and aggressive adversary.

In its recently filed opposition to Matthew Bender's motion for summary judgment in *Matthew Bender* v. *West*, West has taken its game playing to new heights—contending, despite numerous public statements to the contrary, that it has a copyright interest in the initial parallel citations (i.e., the cite to the first page of a case) in the National Reporter System that may be infringed when

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West v. Mead was a ''substantial departure'' from ''150 years of settled contrary precedent.'' Testimony of Ralph Oman, *Exclusion of Copyright Protection for Certain Legal Compilations: Hearings on H.R. 4426 Before the Subcomm. on Intellectual Prop. and Judicial Admin.*, 102nd Cong., 2d Sess., Serial No. 105 at 6, 12 (1992). He further elaborated that even if that ruling had been consistent with previous doctrine, its reliance on sweat-of-the-brow considerations means that *Feist* ''tolled the death knell'' for *West v. Mead*. *Id.* at 6. In fact, the Copyright Office labeled H.R. 4426 ''unnecessary legislation'' on the basis that the old Eighth Circuit ruling represented bad law post-*Feist*. *Id.* at 31.

[5] On August 20, 1996, the Department filed a memorandum *amicus curiae* on behalf of the United States in *Matthew Bender & Co., Inc. v. West Publishing Co.*, 94 Civ. 0589 (JSM) (S.D.N.Y.) arguing that *West v. Mead* ''rests on the discredited 'sweat-of-the-brow' theory of copyright and cannot be reconciled with *Feist*. * * * [T]o follow the *[West* v.] *Mead* analysis is to eviscerate *Feist*, with substantial, and undesirable, consequences for the progress of science and art in the modern technological era.'' Memorandum of United States of America as Amicus Curiae at 10–11 (filed August 20, 1996). The Department's brief is discussed in greater detail below.

[6] To underscore West's desperation to avoid a decision outside the Eight Circuit, West originally took the remarkable position in *Matthew Bender* v. *West* that the action should be dismissed, or transferred to Minnesota, on the ground of improper venue because West—the nation's largest legal publisher—purportedly ''does not do business in the Southern District of New York.'' *See* Report of parties' Planning Meeting dated March 8, 1994 at 6.

[7] On appeal, neither party in *Oasis* intends to discuss the threshold jurisdictional issue. West is attempting to cover up its attempted manipulation of the District of Minnesota's jurisdiction by refusing to consent to Matthew Bender briefing the issue to the Eighth Circuit. *See* Letter of Joseph Musilek to Elliot Brown, dated July 22, 1996 (''West Publishing Company, like Oasis, has no objection to Matthew Bender filing an *amicus curiae* brief in the Eighth Circuit on the merits of the appealed issues. However, West does not consent to an *amicus* brief on any jurisdictional or justiciability issue.'')

a competitor uses such citations.[8] *See* West Publishing Company's Memorandum of Law In Opposition To Plaintiff Matthew Bender & Company's Motion For Summary Judgement at 5 (''West has *not* conceded that copying of first page citations by Matthew Bender is non-infringing.'') (emphasis original). West apparently wishes to backtrack from its admissions and leave the door open to suing a competitor for infringement based on its use of initial parallel citations.

In the summary judgment proceedings in *Matthew Bender* v. *West,* the Department filed an *amicus curiae* brief in that suit on behalf of the United States arguing, that ''Bender's star pagination to West's National Reporter System does not infringe any copyright interest West may have in the arrangement of the National Reporter System.'' Explaining why the Department had taken the unusual step of filing an *amicus* brief at the district court level in a copyright action, the Department explained,

The United States has a substantial interest in the resolution of the issue discussed in this Memorandum. It has numerous responsibilities related to the proper administration of the intellectual property laws and to advancement of the public interest. The standards for copyright protection embody a balance struck between protecting private ownership of expression as an incentive for creativity and enabling the free use of basic building blocks for future creativity * * *. The United States therefore has an interest in properly maintaining the ''delicate equilibrium'' * * * Congress established through the copyright law.

The interest of the United States in ensuring the proper preservation of that balance also reflects the fact that it has primary responsibility for enforcing the antitrust laws, which establish a national policy favoring economic competition as a means to advance the public interest. Moreover, the United States is a substantial purchaser of legal research materials of the kind at issue in this case.

Finally, the United States has recently taken actions relating to the issue discussed. On June 19, 1996, the United States, together with seven states, filed an antitrust suit challenging the acquisition of West Publishing Co. by The Thomson Corp., together with a proposed settlement of that suit. Part of that settlement requires Thomson to license to other law publishers the right to star paginate to West's National Reporter System. *United States* v. *The Thomson Corp.,* No. 96–1415 (D.D.C. filed June 19, 1996), Proposed Final Judgment, 61 Fed. Reg. 35250, 35254 (July 5, 1996). In announcing the settlement, the U.S. Department of Justice stated:

Today's settlement, with its open licensing requirement, does not suggest * * * that the Department believes a license is required for use of such pagination. The Department expressly reserves its right to assert its views concerning the extent, validity, or significance of any intellectual property right claimed by the companies [West and Thomson]. The Department also said that the parties agree that the settlement shall have no impact whatsoever on any adjudication concerning such matters.

U.S. Dept. of Justice, Press Release No. 96–287, at 3–4, 1996 WL 337211 (DOJ) *2 (June 19, 1996). This memorandum asserts those views.

Memorandum of United States of America as Amicus Curiae, *Matthew Bender & Co., Inc.* v. *West Publishing Co.,* 95 Civ. 0589 (JSM) (S.D.N.Y.) at 1–2 (citations omitted) (''U.S. Amicus Memorandum'').

As a result of West's substantive positions and procedural game playing, potential competitors in the primary and secondary legal product markets, use star pagination at the risk that they will be sued by West for copyright infringement. The Department recognizes this reality. *See* Competitive Impact Statement, 61 Fed. Reg. 35250, 35261–62 (July 5, 1996) (''[E]xisting or potential participants in the markets for primary law products cannot offer products with star pagination without the threat of costly infringement litigation.''). As the former President and COO of Thomson Electronic Publishing, testified before Congress in 1992 on behalf of numerous Thomson legal publishing entities,[9] the *West* v. *Mead Data Central* ''decision has made it commercially impossible for Thomson or anyone else to publish, with page number citations, the decisions of the lower federal courts * * *.'' *Exclusion of Copyright Protection for Certain Legal Compilations: Hearings on H.R. 4426 Before the Subcomm. on Intellectual Prop. and Judicial Admin.,* 102nd Cong., 2d Sess., Serial No. 105 at 82 (1992) (testimony of Kathryn M. Downing); *see also* Gary Wolf, *Who Owns the Law?,* Wired 98, 138 (May 1994) (''West's provisional victory [in *West Publishing*] has kept other electronic publishers at bay.'').

From an antitrust perspective, West's repeated, even dogged, attempts to assert its baseless copyright have greatly reduced competition by erecting a huge barrier to entry in legal publishing markets.

Neither the Department Nor the Court Should Approve the Final Judgment Unless It Is Modified To Preclude The Merged Entity From Enforcing its Alleged Star Pagination Copyrights

In light of the foregoing, the deficiency in the Proposed Final Judgment's remedy to West's star pagination claims becomes apparent.[10] The Complaint recognizes that West's assertion of its claim that star pagination infringes its copyright has an anticompetitive effect by serving as a barrier to entry into the relevant markets. *See* Complaint ¶¶ 32, 43. The Department further recognizes that West's copyright claim is baseless. *See generally* U.S. Amicus Memorandum. Yet, the Department has not taken the obvious and desirable step of removing that barrier by forbidding West from asserting its baseless copyright interest as a tool to stifle competition. This failure flies in the face of the Department's recognition that West's copyright claim is baseless. It also deviates from the remedies the federal government has demanded in other merger cases. *See, e.g., Hoechst AG: Proposed Consent Agreement,* 60 Fed. Reg. 49609, 49611 (September 26, 1995) (filed by FTC); *United States* v. *Borland Int'l. Inc.,* 56 Fed. Reg. 56096 (October 31, 1991). In both *Hoechst AG* and *Borland, Int'l.,* the government conditioned approval of the merger on the consent of the merging entity not to enforce an intellectual property right. In neither of those instances did the government dispute the validity of the intellectual property at issue. One is therefore left to wonder why the government has chosen to settle for less where it believes that the intellectual property interest asserted is invalid.

Matthew Bender believes that the Department should not let Thomson/West consummate their merger unless Thomson/West agrees that it will not seek to enforce any star pagination copyrights.[11] In its

[8] West's counsel have repeatedly admitted that no such copyright interest exists. *See, e.g.,* Statement of West's outside counsel, James E. Schatz, Transcription of American Association of Law Libraries 1995 Annual Meeting at Pittsburgh, Pennsylvania, July 15–20, 1995 at 14 (''West has made it very clear it has no objection to, never has, doesn't now and never will to the use of initial West citations, the volume and first page number by other publishers or by anybody else.''; ''[T]he initial citations are in the public domain because West has no objection to anybody using them. West has said that for a long time. West has basically said that since 1876.''); Transcript of Hearing, *In the Matter of the Amendment of Supreme Court Rules: Electronic Archive of Appellate Opinions, Rules and Orders,* Case No. 95–01 (March 21, 1995) at 114:6–8, 118:13–14 (''The volume and first page number of every case report published by West is in the public domain.''; ''West's volume and initial page number are matters of public domain'') (testimony of West's counsel Brady Williamson); Supplemental Brief of West Publishing Co., *In the Matter of the Amendment of Supreme Court Rules: Electronic Archive of Appellate Opinions, Rules and Orders,* Supreme Court of Wisconsin, Case No. 95–01 (April 3, 1995), at 8 (''Since West has no objection to the use of initial citations to its case reports, even by its competitors, those initial citations are effectively 'in the public domain.' '').

[9] Ms. Kathryn M. Downing testified on behalf of Thomson Professional Publishing, Lawyers Cooperative Publishing Company, Clark Boardman Callaghan Company, Bancroft-Whitney Company, Research Institute of America Inc., Warren, Gorham and Lamont and Thomson Electronic Publishing. In 1995, Ms. Downing left Thomson to serve as Matthew Bender's CEO.

[10] Neither the Complaint, the Proposed Final Judgment nor the License addresses the use by competitors of initial parallel citations to West's National Reporter System. This is not surprising given West's public statements that initial parallel citations are in the ''public domain.'' Nevertheless, in light of the position that West has taken in *Matthew Bender* v. *West,* the Department should put an end to this game playing and not approve the merger unless Thomson/West agrees that it will never assert that any of its rights have been infringed by a competitor's use of initial parallel citations.

[11] Recent reports suggest that Thomson has done a complete flip-flop on this issue. Thomson previously backed legislation to amend the U.S. Copyright Act that would have removed the star pagination barrier by clarifying there is no copyright in the volume and page numbers of judicial reporters. *See generally Exclusion of Copyright Protection for Certain Legal Compilations: Hearings on H.R. 4426 Before the Subcomm. on Intellectual Prop. and Judicial Admin.,* 102nd Cong., 2d Sess., Serial No. 105 at 91 (1992) (Thomson supports legislation because it ''would overrule the *West [v. Mead]* decision and

Competitive Impact Statement, the Department recognizes that, in light of the proposed Thomson/West merger, it is critical to lower the barriers to entry in legal publishing markets to maintain the vigorous competition that currently exists. 61 Fed. Reg. at 35263. Moreover, Matthew Bender believes that the maintenance of vigorous competition after the consummation of the Thomson/West merger requires elimination of the barrier to entry caused by the erroneous assertion of the star pagination copyright for reason not mentioned by the Department in its Competitive Impact Statement. By merging West's virtual monopoly position in enhanced primary law products with Thomson's capability in secondary law products, the merged Thomson/West entity will be able to use its market power in the enhanced primary law product markets to gain an unfair competitive advantage in the secondary law product markets. No longer will West have to develop its own secondary law products. Instead, Thomson/West will be able to marry West's primary law products with Thomson's secondary law products to create products that competitors in the secondary law product markets cannot match without the right to use West's star pagination. The newly achieved strength of Thomson/West in the secondary law product markets will thus greatly increase the anticompetitive effects of continued attempts to enforce West's star pagination copyright.

For these reasons, the Thomson/West merger presents a compelling example of the need to condition government approval of a merger on an agreement not to enforce an alleged intellectual property right. The merger here, like the mergers in *Hoechst AG* and *Borland Int'l*, increases concentration in already concentrated markets. However, unlike those cases, the intellectual property right at issue is baseless, and the merger itself increases the harm from assertion of the intellectual property right.

The Department is apparently under the impression that the proposed mandatory license will fulfill the objective of removing the barrier to entry caused by West's assertion of the star pagination copyright. For several reasons, the Department is wrong. First, the terms of the license are so onerous that few, if any, competitors of West will be able to take advantage of it. As noted in the letter submitted to the Department by Lexis-Nexis, the pricing is very high (of course, any fee for what even the Department recognizes is a non-existent right is too high). Indeed, if the information cited by Lexis-Nexis is correct, the price is being set at a level that West negotiated as a settlement after its courtroom victory in *West* v. *Meed*.[12] In light of the Supreme Court's decision in *Feist*, it is inconceivable that West could insist on that high a royalty again.[13] The license is also not absolute. West apparently can still challenge a licensee's use of star pagination if West contends that the licensee has not made its own selection, coordination and arrangement of cases. *See* License at ¶ 1.03.[14] And, as discussed more fully below, the license contains at least two terms that will reduce, not enhance, a licensee's ability to compete with Thomson/West in the marketplace. *See* License ¶ 1.04 (which effectively requires a licensee to preview its products for Thomson/West) and ¶ 3.01 (requiring the licensee not to challenge West's copyright during the term of the license). Matthew Bender submits that, under these conditions, the Department cannot and should not rely upon the mandatory license feature of the Proposed Final Judgment as a vehicle for preserving vigorous competition in legal publishing markets following a Thomson/West merger.

Finally, Matthew Bender notes that the Proposed Final Judgment will actually result in positive injury to third parties who compete with the merged Thomson/West entity. The star pagination License Agreement mandated by Section IX of the Proposed Final Judgment effectively requires licensees to provide West with an advance description of the product or service in which they intend to include star pagination. *See* License ¶ 1.04. Thomson/West will thus be in a position to modify its products to address the enhancements offered by its competitor even before its competitor's product can be sold. Not only will this give Thomson/West a competitive advantage over the particular competitor seeking a license, but it will also give an advantage over other competitors in the market who will have to wait until the new product is sold to develop a competitive response.

The star pagination license also results in positive injury to third parties who compete with Thomson/West because it provides that ''[d]uring the term of this Agreement, Licensee (i) shall respect and not contest the validity of the copyrights claimed by Licensor in Licensor's arrangements of case reports in NRS Reporters as expressed by NRS Pagination; * * * .'' License § 3.01. This provision will effectively prevent a licensee form challenging West's copyright.[15] This not only harms the licensee by subjecting it to an expensive, highly restrictive license for a non-existent copyright, but it harms all competitors of Thomson/West and all consumers of legal research material because it reduces the likelihood that an effective court challenge will be mounted that invalidates West's copyright claims. Thus, the Proposed Final Judgment simultaneously fails to take the opportunity that now exists to remove the artificial barrier to entry caused by West's improper assertion of its star pagination copyright and diminishes the likelihood the problem will be solved later by private litigation.

For the reasons stated in this letter, Matthew Bender urges the Department not to approve the proposed Final Judgment without modification to prohibit Thomson/West from enforcing any alleged star pagination copyright. In the event that the Department does give its approval, Matthew Bender urges the Court to recognize the positive injury to third parties caused by the proposed final judgment and to refuse to approve it absent the same modification.

Sincerely,

James Imbriaco,

Associate General Counsel, and General Counsel, Professional Publishing, The Times Mirror Company, 780 Third Avenue, 40th Floor, New York, New York 10017.

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enable Thomson and others to publish . . . primary legal texts.'') (Testimony of Kathryn Downing). West's then outside counsel and later president, Vance K. Opperman, proving yet again the lengths to which West will go to protect its sham copyright, outrageously derided the bill as an attempt by Canadian Thomson to rob an American company's assets. *See, e.g.*, Prepared Statement of Vance Opperman, *id.* at 159 (''Perhaps more disturbing is the motive of the primary proponent of H.R. 4426, Lord Thomson and his foreign-based Thomson conglomerate. We have all witnessed past efforts by foreign firms, acting under the guise of the U.S. subsidiaries they have bought up, to alter or dismantle fundamental American laws for their own profit and at the expenses of American jobs and prosperity.''); *see also* Testimony of Minnesota Congressman James Ramstad, *id.* at 5 (''The legislation being considered today represents an effort by one of the largest and most powerful foreign conglomerates in the world, led by an English lord, to win in the U.S. Congress what it knows it cannot win in the courts.''). The prospect of merger appears to have caused Thomson to adopt West's views on star pagination. *See* Vera Titunik, *That Was Then, This Is Now,* American Lawyer 21 (April 1996) (quoting Thomson's general counsel Michael Harris as saying, ''We believe star pagination is copyrightable''). Accordingly, Matthew Bender expects that Thomson will continue West's aggressive assertion of claims that star pagination infringes West's copyrights.

[12] The problem is exacerbated by the term calling for a payment of fees for every ''format.'' License ¶ 2.03. This means that licensees will have to repay fees each time they make their content available in a new format, so that the CD–ROM, HDCD and Internet versions of a work each will require a repayment of fees for the same data. This provision will discourage licensees from servicing their installed base as it migrates to new formats and act as a barrier to providing products in all but the most popular formats.

[13] Nonetheless, West has already demonstrated, in a brief filed in the *Matthew Bender* v. *West* litigation, that it will attempt to use these License terms against adversaries by contending that the royalties are ''rates which the Antitrust Divisions approved as commercially reasonable,'' and that ''the negotiation of the Proposed Final Judgment *does resolve any possible antitrust concern regarding the availability of star pagination licenses to West competitors.*'' West Publishing Company's Memorandum Of Law In Opposition To The Memorandum Of The Antitrust Division Of the Department Of Justice As *Amicus Curiae* at 1 (filed August 26, 1996) (emphasis added).

[14] West has left the License intentionally ambiguous as to whether it applies if a licensee creates a compilation of cases that West contends mirrors West's selection of cases. For example, if a licensee created a compilation that contains the same selection of opinions as found in West's *Federal Reporter* (i.e., all published federal appellate opinions), West could contend that those opinions were not independently ''selected for reporting by Licensee,'' ¶ 1.03, and therefore are beyond the purview of the License.

[15] There is some question about whether this provision is enforceable. *Compare, Lear* v. *Adkins*, 395 U.S. 653 (1969) (a patent case invalidating on public policy grounds the doctrine of ''licensee estoppel,'' i.e., the doctrine that a licensee may not challenge the validity of the licensed patent), *with Saturday Evening Post Co.* v. *Rumbleseat Press, Inc.*, 816 F.2d 1191, 1200 (7th Cir. 1987)(allowing enforcement of a no contest clause in a copyright license). *Rumbleseat* in turn has been criticized by the leading copyright commentator. *See*, 3 Melville Nimmer & David Nimmer *Nimmer on Copyright* § 10.15[B]).

James Imbriaco,

Counsel for Matthew Bender & Company, Inc., a wholly-owned subsidiary of The Times Mirror Company.

Irell & Manella LLP,

Morgan Chu, Alex Wiles, Elliot Brown.

Morgan Chu,

Counsel for Matthew Bender & Company, Inc.

Alexander Wiles,

Counsel for Matthew Bender & Company, Inc.

Elliot Brown,

Counsel for Matthew Bender & Company, Inc.

CD Law

August 29, 1996.

Craig W. Conrath,

Chief, Merger Task Force, Antitrust Division, United States Department of Justice, Suite 4800, 1401 H. Street, N.W., Washington D.C. 20530

Re: Thomson Acquisition of West: Public Comment re Proposed Final Judgment

Dear Mr. Conrath: I have reviewed the Antitrust Division's July 5, 1996 filing in the Federal Register with respect to the above-referenced matter (61 Fed. Reg. 35250). Please consider this letter responsive to that request for public comment.

I founded CD Law, Inc., of Seattle, Washington, in 1989. We publish case law, statutes, administrative law, and other Washington State legal materials on CD–ROM and on the Internet. Our computer-assisted legal research products are exclusively digital, not print.

We compete directly with West Publishing in the Washington legal CD–ROM business. To a lesser extent, we compete with Michie Publishing, the Reed-Elsevier subsidiary, which publishes a CD–ROM for Washington. Additionally, we have a somewhat unusual short-term contract with Lawyers Cooperative Publishing (''LCP'') to produce headnotes that are used in their Official Washington Reports. Given these facts, I have been in a unique position to observe the state of the Washington legal publishing market. My comments are based on six years of first-hand experience competing with the largest legal publishers in the United States.

In a nutshell, I feel that the proposed final judgment not only will do nothing to preserve competition in Washington State, but that in fact it will reduce competition and do grave damage to the market for legal materials in Washington. This is true even though Washington was one of three states given the option to rebid their official court reports. The acquisition eliminates competition for enhanced case law reports in Washington, and will adversely impact the market for competing electronic products. I strongly urge the Department of Justice to withdraw its consent to the Proposed Final Judgment and deny the Thomson Corporation permission to acquire West Publishing. Failing that, the DOJ should at a minimum require Thomson to divest Lawyers Cooperative Publishing as a precondition of the purchase of West.

The following pages detail my objections to the Proposed Final Judgment and the proposed pagination licensing agreement. While my focus in this letter is primarily on Washington State, my objections also extend to matters of a more national scope.

I. Thomson and West Competed Vigorously for the Contract to Publish the Official Washington State Reports

As the Department of Justice's filing in the Federal Register on July 5, 1996 recognizes, Washington State is one of at least nine markets in which the HHI measure of market concentration presumptively raises antitrust concerns. The post-merger HHI increase in Washington (996) is substantially above the number (100) that raises the presumption. As I indicated in a previous letter to DOJ, the Washington State legal publishing market is pervaded with anti-competitive practices that include predatory pricing, exclusive contracts for certain legal materials, and tying agreements. The DOJ consent decree does little or nothing to prevent or ameliorate these practices. A brief review of recent developments in the Washington State legal publishing business made these facts clear.

a.) Washington Case Law Was Published by the State From 1982–1995

A Washington state agency known as the Commission on Supreme Court Reports published the printed Washington case law from 1982 to June 30, 1995. The printed advance sheet annual subscription to the Washington Reports were sold by the Commission at an ''an cost'' basis: $52.50 per year for the Supreme Court Reports and $52.50 per year for the Court of Appeals Reports in advance sheet form. Bound volumes cost $19.50 for ''current volumes'' (recently issued volumes) and $22.50 for older volumes.

b.) The Official Washington Reports Were Privatized in 1995

In early 1995, in response to funding cuts by the 1994 Legislature, the Washington Supreme Court decided to privatize the publication of the Washington case law. The Office of the Administrator for the Courts in Olympia, WA issued RFP #95055, which called for bids on a combined print and CD–ROM version of the Official Washington Reports. Both West Publishing and Lawyers Cooperative Publishing (''LCP''), a Thomson subsidiary, bid on the job.

c.) ''Cost Comparison'' Analysis by Court Reveals West/Thomson Competition

Lawyers Cooperative Publishing and West Publishing submitted the two lowest bids for the print version of the Washington case law. I enclose a sheet labelled ''Cost Comparison'' that breaks down each vendor's response to the RFP. The Cost Comparison information was compiled by the Office of the Administrator for the Courts. Their telephone number in Olympia, Washington is (360) 705–5239.

d.) West Cut Prices by Over $40.00 per Volume in Attempt To Win Washington Bid

At the time of the RFP, West published a competing set of printed Washington case law volumes titled ''Washington Reporter.'' The cost for West's volumes was and is $57.62 per bound volume and $97.38 for advance sheets. Compare that price with their bid of $17.50 plus $2.75 shipping for bound volumes in response to the RFP.

e.) Competition led to substantially lower consumer prices in Washington

The successful vendor on the RFP was Thomason subsidiary Lawyers Cooperative Publishing (''LCP''), who began publishing the Official Washington Reports effective July 1, 1995. As the Cost Comparison shows, there was significant competition between LCP and West. As a result of this competition, Washington lawyers and law firms are now paying $9.00 per year less for advance sheets and $5.50 less for bound volumes than they were when the Reports were published by the State.

II. The Acquisition Eliminates ''Enhanced Case Law'' Print Competition in Washington, and Thereby Significantly Undermines Competing Electronic Publications

a.) The Official Publisher May Claim Copyright in the Washington Headnotes

Under the terms of the contract to publish the Washington Reports, the official publisher is allowed to claim copyright in the headnotes produced for the State of Washington. The DOJ recognizes that ''. . . a sophisticated editorial staff would be needed to create the headnotes and summaries . . .'' (*See* Complaint, at ¶ 31.) From first-hand experience, I know that headnotes and case summaries are both useful and expensive to produce.

b.) The printed Official Reports control the electronic market

My company entered into a short-term contract with Lawyers Cooperative Publishing whereby we draft the official headnotes for the Washington case law and fax them to the Reporter of Decisions in Olympia, WA. The headnotes are then reviewed by the Washington Supreme Court and Court of Appeals, finalized, and returned to us. We then send the headnotes by e-mail to LCP. Under the terms of our contract with LCP, LCP retains the copyright to the headnotes, while we retain the right to use these headnotes in our electronic products during the term of the contract. LCP paid us a flat sum for the time period in question. The contract ends in mid-December, 1996. This will leave Thomson/West the only vendor of enhanced case law for Washington.

The upshot is that a competing publisher (my company, CD Law) is now authoring and using the official Washington headnotes in our *unofficial CD–ROM product,* while the copyright to the headnotes is held by LCP and used in their *official print product.* The presence of the official Washington headnotes in our product is a definite sales advantage for my company. We have been told by LCP executives that their company is in a dilemma as to how to market a competing CD–ROM product against us (as they are required to do by their contract with the State of Washington) given this factual situation.

I believe that Thomson/West will seek to gain a competitive advantage against us by not renewing our contract. We will be forced to attempt to compete with Thomson/West with an unenhanced case law product. As the

DOJ recognizes, ''[U]nenhanced case law publications . . . are not substitutes for enhanced case law.'' Complaint, at ¶ 24. The practical lesson is this: Whoever controls the right to publish the Official Washington Reports also controls the headnotes. Whoever controls the headnotes can, to a large degree, control the marketplace in the CD–ROM Market.

c. There are virtually no publishers capable of competing with West/Thomson

If the West/Thomson merger is approved, there will be no competition for enhanced case law in Washington. Should the Washington Supreme Court decide to exercise its option to rebid the Washington Reports, there is only one other publisher that has the expertise, printing presses, capital, trained staff, and know-how to produce an enhanced case law product for Washington: Michie Publishing Company.

However, Michie has met with very limited success in Washington with is CD–ROM case law product. And according to Kendall Svengalis' ''Legal Information Buyer's Guide & Reference Manual,'' Michie publishes enhanced print *case law* products in a tiny handful of states, far fewer than the combined West/Thomson entity. From what I can determine, I believe it is unlikely that Michie would bid on the Washington Reports should they be rebid, or be the successful vendor if they did bid. Similarly, the other company that bid on the Washington RFP, Darby Publishing of Georgia, publishes enhanced case law in only one state. Both Michie and Darby's bids were significantly higher than West and LCP's.

My company, CD Law, is certainly not a potential competitor with West/Thomson for the official printed Washington Reports. We simply do not have the ability to produce a competitively priced print product. While we were the lowest bidder on the CD–ROM side of the Washington RFP, we were far and away the highest bidder on the print side. It is not reasonable to assume that a company the size of mine can compete effectively with a company like West/Thomson for printed enhanced case law legal materials. Both West and Thomson enjoy enormous economies of scale in producing numerous print publications that cannot be duplicated by smaller publishers like CD Law. If the acquisition is permitted to go through, there would be no effective check on Thomson's ability to engage in below-cost pricing and eventually to charge monopoly prices for its products.

d. Print concentration will destroy competing digital products

Given these facts, it is a foregone conclusion that West/Thomson will control the market for enhanced case law materials in Washington. The only remaining competitor will be my company, CD Law, whose CD–ROM product will lack headnotes and case summaries, and Michie, who has to my knowledge sold very few, if any, of its CD–ROM product for Washington State. As the DOJ pointed out in ¶ 22 of its Complaint, ''Full-text searching of primary law on an online legal research service or a CD–ROM is a partial substitute for the enhanced primary law materials sold by each of the parties. It is not a good substitute, for most users and most uses, because full text searching does not provide users with the editorial analysis of the West or Thomson enhanced primary law products.'' (Emphasis added.)

III. Predatory Practices Will Continue Unabated With This Final Judgment

a. Exclusive Contracts

Since 1963, West Publishing has enjoyed an exclusive contract with the Washington Committee on Pattern Jury Instructions, which is charged with publishing our State's Jury Instructions. West used the threat of litigation to force the Washington State Bar Association (''WSBA'') to remove the Washington Pattern Jury Instructions from the WSBA's ''LAW BBS,'' a Bulletin Board Service run by the WSBA that contains miscellaneous Washington legal materials to the Bar and to the public. When my company approached West Publishing for a license to reproduce these materials, West offered the materials to my company for $7,000 plus $3,500 in ''annual fees.'' I enclose a letter from James Schatz, West's counsel, as Exhibit Two.

As Schatz's letter indicates, West would *not* agree to license the notes, comments or other materials written by the Committee. It is these analytical materials, none of which were written or enhanced by West, that make the Pattern Jury Instructions useful. Interestingly, West sales representatives have sent out mailings indicating that *they give* away the Washington Pattern Jury Instructions *without charge* to CD–ROM subscribers (see copy attached as Exhibit Three).

West's proposed $10,500 license for the Washington Pattern Jury Instruction contains about 800,000 bytes of data or about 400 pages, which easily fits on to one floppy disk. If this is indicative of the licensing agreements that we can expect from the new West/Thomson consortium, I think that ''higher prices and reduced product quality'' noted in the Competitive Impact Statement has been vastly understated.

West Publishing also paid $25,000 to purchase an exclusive contract to republish Washington Jury Verdicts. The sum was paid to a Washington company called Jury Verdicts Northwest. These are just two examples of exclusive contracts paid for by monopoly profits.

b. Predatory Pricing and Tying Practices

West charges $30 per month for updates to its Washington case law CD–ROM. I believe that this is one of the lowest charges in the United States by West and that this figure is below their cost of production. West also waives monthly access charges to its online service, Westlaw, for its Washington CD–ROM subscribers. Finally, West has recently announced that effective April 1, 1996, it will provide access to the latest Washington case law and statutes ''*at no extra charge*.'' To quote the direct mail piece. ''[T]he new online update service comes with no increase in your regular subscription charge.'' See copy of mailing, attached as Exhibit Four. Ordinarily, West charges on the order of $175 per hour to access these same materials. This is yet another indication of below-cost pricing.

The practice of tying print, CD–ROM, and online services together at or below cost make it very difficult for smaller publishers to compete in the market place. I have no reason to believe that the tying practices, below cost and/or predatory pricing now engaged in by West will be improved after the Thomson takeover.

The Department of Justice and the Attorney General of the State of Washington have done nothing in the Proposed Final Judgment to address these concerns, all of which were documented in previous filings with the Department of Justice.

c. Meaningless Divestiture Assets in Washington

Thomson was required to divest the ''Washington Trial Handbook'' as part of the consent decree. Evidently, this is a Bancroft Witney publication. Before I started CD Law, I practiced law in Seattle for six years. I never once heard of this publication or used it. In the nearly seven years I've been in the legal publishing business I have never seen this title on anyone's bookshelf. It is not in any sense a meaningful divestiture item and will do nothing to preserve competition in Washington State.

IV. Other Concerns

I have other concerns with the proposed consent decree that are less provincial. The fact that DOJ required West to license its pagination is fine, but the cost ($.09 per 1.000 characters in the first year) is prohibitive for all but the biggest publishers. The fact that the pagination license agreement prevents the licensee from disputing copyright claims held by West/Thomson is odious. The fact that arbitration is held in Minnesota if disputes arise under the proposed license gives Thomson an unfair home advantage.

The root of my objection to the proposed licensing agreement is that the fact remains that there is great uncertainty in the validity of the West pagination copyright. I believe that putting such an expensive premium on what the Department of Justice evidently does not itself believe to be a valid copyright will result in few, if any, pagination licenses being issued. It is therefore a meaningless gesture.

In my opinion, the Department of Justice should have litigated this proposed acquisition. The DOJ amicus brief filed in the *Bender v. West* action in the Southern District of New York is indicative that someone at DOJ wanted to litigate one or more of the issues presented in this merger/acquisition. As indicated in the DOJ filing in the Federal Register on July 5, 1996, the Antitrust Division is free to withdraw its consent to the proposed Final Judgment, and I urge it to do so now.

V. Conclusion

If I were to suggest one single action that would allay most if not all of my concerns, it would be to require the complete divestiture of Lawyers Cooperative Publishing from the proposed West/Thomson conglomerate. That would have the practical effect of requiring the two biggest state law publishers in the United States to continue

to do what they have done in the past: compete vigorously, to the great advantage of the American legal community and citizens.

Sincerely,

Scott Wetzel

Enclosures

This chart could not be reprinted in the Federal Register, however, they may be inspected in Suite 215, U.S. Department of Justice, Legal Procedures Unit, 325 7th St., N.W., Washington, D.C. at (202) 514–2481 and at the Office of the Clerk of the United States District Court for the District of Columbia.

Schatz Paquin

Lockridge Grindal & Holstein P.L.L.P.

May 10, 1996

VIA FACSIMILE #206/624–8458

Mr. Scott Wetzel,

CD Law, Inc., Suite 1610, 1900 Second Avenue, Seattle, WA 98104

Dear Scott: West has now had a chance to consider your request and is willing to grant CD Law a license to include the civil and criminal jury instructions contained in its *Washington Pattern Jury Instructions* publications on CD Law's Washington CD–ROM product. This would not include the notes, comments or any other contents of such publications. West would be willing to provide the jury instructions to CD Law in electronic form (800,000 plus characters), and to provide complete new electronic forms (i.e., all jury instructions whether or not changed) every time a pocket part (containing new or revised jury instructions) or a new edition of either publication is published. West would be willing to grant this license for an initial fee of $7,000 and annual fees of $3,500 over a reasonable term, all subject to reasonable mutually-agreed contract terms.

If you are interested in pursuing this matter, please get back to me with any other specific contract details you desire such as length of agreement, any timing details, etc. I look forward to hearing from you.

Very truly yours,

Schatz Paquin

Lockridge Grindal & Holstein P.L.L.P.

James E. Schatz.

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Broad and Cassel

Attorneys at Law

August 27, 1996

Mr. Craig W. Conrath,

Chief, Merger Task Force, Antitrust Division, United States Department of Justice, 1401 H Street, N.W., Suite 4000, Washington, DC 20530

Re: Proposed Consent Decree Between *United States of America v. The Thompson Corporation and West Publishing Company* Publication dated July 5, 1996, Our File No. 17666.0001

Dear Mr. Conrath: This firm represents Oasis Publishing Company, Inc. Oasis is a Nebraska corporation, whose business is the publication of court decisions and statutes on CD–ROM. Pursuant to Section V, Oasis notifies you of its opposition to the proposed Consent Decree for two (2) primary reasons. First, Oasis objects to the decree in that such decree would add legitimacy to West's assertion, contrary both to age-old precedent and to recent trends, that its copyrights extend to the pagination of its reports. Oasis submits to you, as it is currently arguing in the United States Eighth Circuit Court of Appeal, that West does not have such a copyright. Unfortunately, the proposed license agreement that is part of the settlement would inappropriately require a licensee to recognize West's claim of copyright to the pagination, as a condition of such license.

Second, the proposed licensing fee caps set forth in the Consent Decree are prohibitive to competitors like Oasis, whose market niche would primarily be the users of low-cost, unenhanced, primary law materials. For example, in Florida during 1995, West published Volumes 647 through 668 of *Florida Cases*. The approximate total number of pages for that year was 7,787, with each page containing roughly 3,710 characters. Assuming a similar number of pages and characters for each year since the beginning of *Florida Cases*, 1949, the *annual* license fee for this information could be as high as $2,566,247.00 (at $.09 per 1,000 characters) or $3,706,846.20 (at $.13 per 1,000 characters)—a ridiculously and prohibitively excessive amount. These estimates show, at a minimum, that entry into the market at a level which would permit competition with West/Thomson would be a monumental hurdle that few, if any, could overcome, based on the proposed maximum licensing fees set forth in the proposed consent decree.

On the basis set forth herein, Oasis urges withdrawal of the Consent Decree, and submits that such decree would create an improper guise of legitimacy for West's continued monopolistic conduct and an illusory solution to the significant barrier to market entry that currently exists as a result of West's claims. Oasis respectfully suggests that any settlement should require Thomson/West to stop asserting any claim of copyright to the pagination of its reporters, as a condition to the Merger.

Sincerely,

Jose I. Rojas, P.A.,

For the Firm, Attorneys for Oasis Publishing Company.

Broad and Cassel

Attorneys at Law

August 30, 1996.

Mr. Craig W. Conrath,

Chief, Merger Task Force, Antitrust Division, United States Department of Justice, 1401 H Street, N.W., Suite 4000, Washington, D.C. 20530.

Re: *Oasis Publishing Company* v. *West Publishing Company,* Our File No. 17666.0001

Dear Mr. Conrath: This letter is sent in follow-up to our letter dated August 27, 1996 for the purpose of clarifying the calculations set forth therein.

The Consent decree requires that the license fee be paid *each year.* Therefore, based again on 1995, wherein a total of 7,787 pages were published in *Florida Cases,* and which contained pages including an average of 3,710 characters per page, the license fee (for data needed from 1949 through 1995) would total approximately $119,603.22 (at $.09 per 1000 characters) or $172,760 per year (at $.13 per 1000 characters), each year. Moreover, this fee paid to West would increase every year as more and more volumes are added. As stated in our August 27, 1996 letter, this amount is prohibitive to a company like Oasis, and would not only discourage competition, but effectively prohibit it.

If you have any questions, or need additional information, please call.

Very truly yours,

Jose I. Rojas, P.A.,

For the Firm.

American Association of Legal Publishers

September 3, 1996.

Mr. Craig Conrath, Esq.,

Chief, Merger Task Force, Antitrust Division, U.S. Department of Justice, Suite 4800, 1401 H Street, NW, Washington, DC 20530

Re: Pending Settlement of West/Thomson Merger

Dear Mr. Conrath: The American Association of Legal Publishers (AALP) submits these comments in response to the July 5, 1996 announcement in the Federal Register for comments on the proposed settlement of the merger of West and Thomson Publishing Companies. We are limiting our comments to two barriers to competition of great concern to AALP members: (1) the unavailability of an archive of judicial decisions as discussed in paragraph 30 of the Department's complaint in this matter, and (2) the proposed license agreement to make West's internal pagination in an opinion available to other legal publishers.

AALP is a trade association of small legal publishers and creators of computer software used in electronic legal research materials. Our members produce products in print, CD and online. A copy of our Statement of Principles is attached.

Many of our members have submitted statements directly to your office. One member, International Compu Research, Inc. is submitting its statement herewith. It is Exhibit 1 hereto.

Access to an Archive of Judicial Opinions

To produce a meaningful and useful primary or secondary legal research product, a publisher must have access to an archive

of judicial decisions. Although there is no agreement as to how extensive the archive should be, most publishers seek as much depth as possible and consider 35 years to be a minimum. For state and federal supreme courts, a complete archive of all judicial opinions issued is considered desirable while a less complete archive of lower court opinions may be acceptable. However, as long as there is one publisher offering a complete archive of all opinions issued by a particular court, competitors offering less are at a severe disadvantage and must sell their product for a lower price.

It is widely believed that anyone can easily obtain judicial opinions. For example, Judge Gladys Kessler of the Federal District Court for the District of Columbia in her January 16, 1996 memorandum opinion in the case of *Tax Analysts* v. *U.S. Department of Justice*, 913 F. Supp 599 (D.D.C. 1996).

''And as Defendants properly point out, the public may still obtain public-domain material—i.e., non-West formatted material—from the government directly for nominal copying costs (e.g. through the clerk's office in a courthouse).'' 913 F. Supp 605.

In this quote, the ''Defendants'' to which Judge Kessler is referring are the Civil Division of the U.S. Department of Justice and defendant-intervenor West Publishing Company.

In paragraph 30 of its complaint in this matter, the Antitrust Division of the Department of Justice states that ''Past and/or current opinions simply are not available from many courts, and in many others, obtaining access is costly and time-consuming.'' Since reading this paragraph, AALP has spent considerable time, energy and funds trying to obtain a copy of an original decision issued by judges in a specific case in the following federal district courts:

Southern District of New York
District of New Jersey
District of Delaware
Eastern District of Pennsylvania
Middle District of Pennsylvania, Erie Division
Western District of Pennsylvania
District of Maryland
District of Columbia
Eastern District of Virginia, Richmond Division
Eastern District of Virginia, Newport News Division
Eastern District of South Carolina, Florence Division
Northern District of Illinois, Eastern Division
Southern District of Iowa, Central Division

There are three ways to obtain materials from closed cases. They are to purchase them from a commercial search service, have them sent to the federal district court in which the case was venued and go to the federal records center in which the file is stored. AALP tested all three methods.

Opinions from three closed files were ordered from Prentice-Hall's document location service on August 12, 1996. One of the opinions from a federal district court in Illinois was received in about 18 days at a cost of $65.50 for a 6 page opinion. The other two decisions requested from the federal district courts in South Carolina and Iowa were not received by September 3rd and AALP was advised it would take an additional one to three weeks to obtain these cases. See Affidavit A attached.

Five files were requested from the Federal District Court of Maryland in Baltimore. Only one file was ever available. AALP was not told until almost three weeks after the request was made that the other four files were in the archives in Philadelphia. See Affidavit B attached.

A total of 10 cases were reviewed at Federal Records Centers (FRC). Three cases reviewed at the FRC in New Jersey were from the Federal District Court of New Jersey and the desired opinions were available. However, the FRC in New Jersey also stores closed files from federal courts in New York and they constitute a significant portion of reported cases. This FRC only permits a visitor to review 3 closed files per day, so any effort to obtain many cases will take a very long time, perhaps years, or have to involve many persons working simultaneously. See Affidavit C attached. Seven closed files from federal district courts in Virginia, Delaware and Pennsylvania were reviewed at the FRC in Philadelphia and two of the files did not contain the desired opinion. In one case, none of the materials concerned the case except for a cover sheet. See Affidavit D attached.

Two cases had to be obtained from federal archives in New York and Philadelphia and those efforts were successful, see Affidavits B and E. The minimum charge is $6 per order and beyond that the cost is .25 per page copied.

Major impediments exist in obtaining the closed file numbers, called accession numbers, needed to access a case located in a federal records center. District Courts in Washington, DC, Pittsburgh and New York City only supply this information by mail or to visitors. In several cases the information from F. Supp was incorrect, so the court could not provide AALP with an accession number. See Affidavits F, G and H. The Eastern Division of the Federal Districe Court of Philadelphia took almost 3 weeks to provide an accession number and even then was not sure it was correct. See Affidavit I. It also can take several phone calls before the correct person is reached, is available and finds the required numbers.

Further, when first investigating how to obtain access to closed files, AALP received a wide variety of information, much of which was false or confusing. Affidavits L through T report on these efforts concerning nine other district courts not discussed nor listed above.

Proposed License Agreement

AALP is strongly opposed to the proposed licensing agreement for several reasons. First and foremost the license agreement only covers access to West's internal page numbers. However, given the difficulties described above in obtain judicial opinions and the failure of the Department to remedy this situation, page numbers are a secondary concern. A page number is meaningless if one does not have the text to put on the page.

If by some miracle a publisher obtained the text, one must then confront a licensing agreement which, as proposed, could serve as a textbook example of a contract of adhesion. The agreement in its entirety favors West and emasculates the licensee. Among the most onerous portions are the following:

Article 1 The purpose of the license—to lower barriers to competition—is totally undermined by only licensing original compilations and West's right to determine what is an original compilation. This would eliminate any possibility of a licensee's product competing with an existing West product, such as Oasis Publishing Company's attempt to create a Florida product of judicial decisions. Competition occurs between an existing product and a new version of it, but this agreement gives West the authority not to license a competing product.

The list of reporters subject to the license should include all West state reporters where it claims a proprietary right or does not. For each state reporter listed in the license agreement, West should state whether or not it claims a proprietary right.

A licensee should be required to disclose to West only the most general ideas about the proposed use of the licensed materials. As written, Section 1.03 requires the licensee to provide the largest legal publisher in the world with advance notice of a new product, just the type of information a company wants to keep secret. Given that West always wants to keep secret everything it does or signs, it can certainly understand another publisher's reluctance to tell West its new product plans. Instead, the agreement should provide that the license is for the use of the licensed materials in professional quality materials to be used by the legal profession and others doing research. Products lacking an appropriate professional approach will be subject to revocation of the license with an arbitration in the home state of the licensee or in Washington, DC if revocation is contested.

Section 2.03 *License Fees*—The fee is too high for a small publisher to afford. It is clear to AALP that this fee was developed without an understanding of the economics of legal publishing. Mr. Conrath called me in late June to discuss the proposed settlement and said ''the fee is less than Lexis pays West''. That may be true, but Lexis is a rich giant compared to 99 percent of all other legal publishers. If the proposed fees are not reduced by at least 75 percent, AALP members have told me that no publisher will be able to afford them.

Further, the fee should be paid by a publisher only once and not each year for each product, so if a publisher issues print and CD products with a case, he pays two license fees per year. There should be no license agreement for a publisher using fewer than 5,000 opinions. Royalty payments should be payable upon publication for all licensees.

Section 3.01 *Copyrights.* This section requires competing publishers to renounce their First Amendment right to express their opinions about the Licensor's alleged copyright during the term of the license. AALP cannot believe the U.S. Department of Justice would consent to or recommend such an onerous provision, particularly one which limits a person's constitutionally-protected

rights under any circumstances, much less in connection with a license agreement for page numbers to judicial opinions, even opinions which discuss and uphold the First Amendment. In the grand scheme of life in a democracy, access to West's internal page numbers are trivial compared to the First Amendment, so the quid pro quo proposed is all the more surreal.

Article 4 AALP opposes all efforts to make the agreement confidential. Since the basic terms are going to be approved by the federal court reviewing this matter, the agreement is already public except for the individual details concerning each licensee. Under no circumstances should a licensee who consents to a secret agreement receive a better deal than one who does not.

Section 6.07 *Arbitration.* This agreement is being issued under the supervision of the U.S. Department of Justice and is being reviewed and approved by the Federal Court for the District of Columbia, both entities located in Washington, D.C. Thus, all arbitration concerning this agreement should occur in Washington, D.C. under the auspices of the American Arbitration Association and should consist of a three person panel, one each selected by the Licensee and Licensor and one selected by the antitrust division of the Department. Under no circumstances should arbitration occur in Minnesota, West's home state and where it exerts a major influence over the business and legal community and the employment opportunities and financial security of thousands of families. If Washington, DC is not acceptable, arbitration should occur in the home state of the licensee.

For all of the reasons listed above, AALP requests the Department of Justice to change the terms of the proposed settlement to truly lower barriers to competition in the legal publishing industry.

Sincerely,

Eleanor J. Lewis.

Attachments

American Association of Legal Publishers

Statement of Principles

1. Our legal system depends on prompt, unrestricted publication and dissemination of the law.

2. The members of the American Association of Legal Publishers have joined together to support the common interests of legal publishers to promote and encourage publication and dissemination of the primary sources of the law upon which our legal system depends, as well as publication and dissemination of information and guidance about the law.

3. Publication and dissemination of the law should not favor one medium (such as print) over another (such as electronic).

4. The judicial opinions, statutes, regulations, and administrative rulings of the United States, and each of its states and subdivisions, are the property of the public. Notices relating to such documents, and all amendments to such documents, are also the property of the public.

5. All judicial opinions, statutes, regulations, and administrative rulings, and all notices and amendments relating thereto, should be made easily available to all, on an equal basis, by the originating court, legislature, or agency, with only such charges as are necessary to defray the actual costs of dissemination.

Steps To Carry Out the Principles

1. Judicial opinions, statutes, regulations, and administrative rulings should be identified by means of a vendor-neutral, public-domain citation system.

2. The official version of a judicial opinion, statute, regulation, or administrative ruling should be the version first released to the public by enrolling clerks and similar judicial and administrative officers, either in print or electronically. Changes should thereafter be made only by means of written orders filed with the same office as the original judicial opinion, statute, regulation, or ruling.

3. Courts and other agencies should number the paragraphs in the opinions, rulings, and similar legal documents that they issue, in accordance with an agreed set of rules, so as to facilitate pinpoint references to those opinions, rulings, and similar documents.

This letter could not be reprinted in the Federal Register, however, they may be inspected in Suite 215, U.S. Department of Justice, Legal Procedures Unit, 325 7th St., N.W., Washington, D.C. at (202) 514–2481 and at the Office of the Clerk of the United States District Court for the District of Columbia.

State of Maryland

County of Montgomery

I, Eleanor J. Lewis, upon my oath state

1. I am the Executive Secretary of the American Association of Legal Publishers.

2. On Monday, August 12, 1996, I called Prentice Hall Legal and Financial Services in Washington, DC, 292/408–3120, and spoke with Mr. Freddie Collins. I ordered a copy of the judge's original opinion from three closed federal district court cases which I had selected from various volumes of Federal Supplement. The three opinions I wanted were:

1. Opinion of December 19, 1961 in the case of Rakowsky v. U.S.A., case number 59 C 984 in the US District Court of Illinois, Northern District, Eastern Division.

2. Opinion of November 5, 1962 in the case of Layton James v. Atlantic Coast Line Railroad Company, Civ. A. No. 7854 in the US District Court of South Carolina, Eastern District, Florence Division.

3. Opinion of February 2, 1962 in the case of John Moeller et als, V. ICC, USA, et als, Civ. No. 4–1166 in the US District Court of Iowa, Southern District, Central Division.

3. On August 12th I received the attached 3 pages confirming my order and estimating I would receive the requested materials by August 14th.

4. On August 27, 1996 I recieved the requested Illinois decision and a bill for $65.50 (copy attached) for these materials.

5. During the last two weeks of August I called Mr. Collins periodically to determine the status of my order. I spoke to Mr. Collins or Ms. Gloria Barry and was told that in South Carolina, ''the correspondence traveled to Florence to get the decision but it wasn't there so she was going to Columbia, SC to obtain it.'' I was told on August 29th by Mr. Collins that the correspondent had determined the South Carolina case was in the archives in Atlanta and it would take another 7–10 days to obtain it.

I was told by Ms. Barry the Iowa opinion was unavailable as of August 30th; it would take another 3–4 weeks to obtain it.

6. I understand if any statements made by me are knowingly false, I am subject to punishment.

Eleanor J. Lewis,

Sworn to and subscribed before me this 3rd day of September 1996.

State of Maryland,

County of Montgomery.

Karen Klitsch,

Expires 7/1/97.

CSC Networks, Prentice Hall Legal and Financial Services

Status Report

Date: August 12, 1996.
To: Ms. Eleanor Lewis, American Association of Legal Publishers.
From: Freddie Collins/plb.
Fax No.: 301–652–2970.
Order #: 050280.
Client Ref: Not Provided.
Pages: 1.

Re: Interstate Commerce Commission USA, et al.

The following is a schedule of an estimated turn around for copy(s) ordered on the above named subject(s). Should you have any questions regarding these requests, please feel free to contact us.

IA U.S. District Court, August 14, 1996.

This fax is also to verify the spelling of the debtor(s) and the jurisdiction(s).

CSC Networks, Prentice Hall Legal and Financial Services

Status Report

Date: August 12, 1996.
To: Ms. Eleanor Lewis, American Association of Legal Publishers.
From: Freddie Collins/plb.
Fax No.: 301–652–2970.
Order #: 050280.
Client Ref: Not Provided.
Pages: 1.

Re: USA.

The following is a schedule of an estimated turn around for copy(s) ordered on the above named subject(s). Should you have any questions regarding these requests, please feel free to contact us.

IA U.S. District Court, August 14, 1996.

This fax is also to verify the spelling of the debtor(s) and the jurisdiction(s).

CSC Networks

Status Report

Date: August 12, 1996.
To: Ms. Eleanor Lewis, American Association Of Legal Publishers.
From: Freddie Collins/plb.
Fax No: 301–652–2970.
Order #: 050280.
Client Ref.: Not provided.

Pages: 1.

Re: Atlantic Coast Line Railroad

The following is a schedule of an estimated turn around for copy(s) ordered on the above named subject(s). Should you have any questions regarding these requests, please feel free to contact us.

SC U.S. District Court, August 14, 1996.

This fax is also to verify the spelling of the debtor(s) and the jurisdiction(s).

CSC Networks

Description	Amount
Client Reference: Not Provided Our Order Number: 050280 015 Order Date: 08/12/96	
ILUCOO UCC WORK IN ILLINOIS, U.S. DISTRICT COURT ...	$1.00
ILUDSC COUNTY FEE DISBURSEMENT	8.00
ILUC83 IN-HOUSE UCC COPIES—PER PAGE	1.50
ILU36S CORRESPONDENT FEE—COPY REQUEST	20.00
ILUC69 SERVICE FEE-COPY REQUEST	20.00
IL601 OVERNIGHT DELIVERY ...	16.00

Thank you for using CSC Networks.
Freddie Collins.

State of Maryland

County of Montgomery

I, Eleanor J. Lewis, upon my oath state:

1. I am the Executive Director of the American Association of Legal Publishers.

2. On August 9, 1996, I sent the attached letter and a check for $125 to the Federal District Court for the District of Maryland, requesting access to 5 closed cases which I had selected from various volumes of Federal Supplement.

3. On August 19th, I received a phone message from Laverne Haynes of the Court saying the ''case you want, number 77–1217, is at the Court for your review.''

4. On August 20, I called 410/962–2600 and asked to speak to Ms. Haynes; after several transfers I ended up in the Bankruptcy Court. The man there told me there is something wrong with the phone system and people on hold for the District Court frequently end up in the Bankruptcy Court. He told me to hang up and call again which I did. This time I reached Ms. Haynes' voice mail and I left a message explaining I requested 5 cases and wanted to review all of them during the same visit.

5. Ms. Haynes called me back on August 20th and left a message that she did not know when she called me that I had requested 5 cases, but now she had my letter in front of her. She said the ''other cases are very old and will take some time to get; they may not let them out of the archives because of their age; we will call you when we know more about this.'' I never again heard from Ms. Haynes or any one else concerning this matter.

6. On August 29, 1996 I went to the Clerk's Office of the Federal District Court in Baltimore to review the files I had requested. Only one case was there; the 1977 case of Warren Slater 6366 v. Ralph William. I reviewed the case and found the opinion in the file which I copied at a cost of .50 per page. I also paid $25 for having the file sent to the Court.

7. I asked the woman helping me, Ms. Evaleen Gibbons, when I could see the other 4 cases I had requested. She said they were very old cases and were in the archives; they will not come to the Court. She said the employee in the clerk's office dealing with the archives rotates weekly, but as far as she knew, the old cases will never be sent to the Court. She called and let me speak to the Archives about these cases and they told me I must provide them with the case name and file number and they will tell me the cost of the materials I want. I can then send them a check for minimum of $6.00 and receive the materials by mail.

I understand if any statements made by me are knowingly false, I am subject to punishment.

Eleanor J. Lewis,

Sworn to and Subscribed before me this 3rd day of September, 1996.

State of Maryland,

County of Montgomery.

Karen Klitsch,

Expires 7/1/97.

Eleanor J. Lewis, Esq.

August 9, 1996.

Clerk,

U.S. District Court, 101 West Lombard Street, Baltimore, MD 21201

Re: Obtaining Access To Old Cases

Dear Sir or Madam: Enclosed is a check for $125 to cover the cost of your obtaining from the Federal Records Center 5 closed case files which I will then review in your offices. The files I want to review are:

1. Englehardt v. United States of America et al., Civ. A. No. 3276, decided on January 18, 1947 in the Federal District Court of Maryland.

2. David Nathaniel Harris v. Warden Maryland Penitentiary, Civ. A. No. 13030, decided on January 17, 1962 by Judge Chesnut in the Federal District Court of Maryland, Civil Division.

3. Royal Indemnity Company v. Aetna Insurance Company, Civ. A. No. 13970, decided on July 15, 1964 by Judge Winter in the Federal District Court of Maryland.

4. Mercantile-Safe Deposit and Trust Co. v. United States of America, Civ. No. 15254, decided on June 1, 1966 by Judge Thomsen in the Federal District of Maryland.

5. Warren Slater 6366 v. Ralph William, Civ. No. T–77-1217, decided on November 3, 1977 by Senior Judge Thomsen in the Federal District Court of Maryland.

I am eager to review these files as soon as possible so your prompt cooperation in this matter is appreciated.

Sincerely,

Eleanor J. Lewis

State of Maryland

County of Montgomery

I, Eleanor J. Lewis, upon my oath state:

1. I am the Executive Secretary of the American Association of Legal Publishers.

2. On Wednesday, August 14, 1996, I called the Newark Office of the Federal District Court for New Jersey to request access to 3 closed case files. I was told to call the Court's Trenton Office at 609/989–2065.

3. I called Trenton and made my request to the woman who answered the phone. I request 3 cases in which opinions were rendered in 1965, 1979, and 1986. She said ''these are old cases and not on the computer.'' I asked her what were the earliest cases on the computer and she said ''1991.'' She took all identifying information, case name and docket number, about the cases and me and said she would call me back. When I had not heard from her in over 3 hours, I again called Trenton.

4. I spoke with Mark and told him I wanted accession numbers for 3 closed cases. He said just a minute and then started to find the information for the 1979 and 1986 cases on the computer. For the 1965 case, he left the phone to get a book and then returned and gave me the information. He said he was uncertain the information for the 1965 case was correct. He also warned me not to go to the Federal Records Center until they call and confirm they have the cases I want to review.

5. I called the Federal Records Center (FRC) in Bayonne, NJ at about 3:45 PM on August 14 to make an appointment to review the New Jersey cases. In an earlier call I had been told I could only review 3 files per visit. I provided them with the information Mark had given me for the cases.

6. On August 15th I received a call from Mrs. DePalma of the FRC informing me the FRC does not have the 1965 case. It has been sent to the Federal Archives office in New York City and I should call them, 202/337–1300.

7. On August 16th I called the Federal Archives in New York City and requested the judge's opinion in the 1965 case. I was told I either must go to their office in New York City or send them a letter with all the relevant information and a check for $6.00, their minimum charge per order. They charge for copying at the rate of .25 per page. I explained to the man that I might come in on Monday, August 19th, so he took the identifying information from me by phone and told me to call on Monday to confirm they have what I requested. If they do, I could come get it or obtain it by mail.

8. On August 16th I called Mark at the Trenton Office of the New Jersey Federal District Court and requested the identifying information for another closed NJ case so I will review 3 cases when I go to the FRC. He provided me with the information. I then called the FRC to request the case; they said it would be available to me on August 19th.

9. On August 19th, I drove to the FRC in Bayonne, NJ. It is a few miles from Exit 14A of the New Jersey Turnpike. I was shown to a table where the 3 cases I wanted were waiting for me. I went through each file and found the decision I wanted in each case and had copies made for .50 per page. The staff does the copying, one request at a time and then prepares a bill for each visitor. During the two hours I was there reviewing files, I observed there was always one employee, Mrs. DePalma, helping visitors who are

looking at files. This employee is also answering the phone, taking phone orders for records, copying files, preparing bills and obtaining payments. Very occasionally, a second staffer, Maureen, was helping Mrs. DePalma.

10. When I paid Maureen for my copies, I asked her again how many cases per visit I could review. She replied ''you are limited to 3 cases per day because we are so busy.'' I asked if I could see more cases per visit and she said ''No.''

11. On August 20th, I called the Federal Archives in New York City to obtain the decision of the 1965 case which was not at the FRC in Bayonne. I told the person who answered about my call on August 16th and that the decision would be at the desk waiting for me. The man, Greg Plunges, put me on hold and then returned to say it was not at the desk. He took the case information and said he would look for it and call me back. He called me back within an hour and told me he had the decision dated June 8, 1965. He instructed me how to send him the $6 check he must receive before he sends me the opinion. I mailed him the required letter and check on August 20th. I received a copy of the decision by mail on August 30th.

I understand if any statements made by me are knowingly false I am subject to punishment.

Eleanor J. Lewis.

Sworn to and Subscribed before me this 3rd day of September, 1996.

State of Maryland

County of Montgomery

I, Eleanor J. Lewis upon my oath state:

1. I am the Executive Director of the American Association of Legal Publishers.

2. On Wednesday, August 14, 1996, I called the Federal Records Center (FRC) in Philadelphia to make an appointment to see some closed files. I had selected these cases from various volumes of Federal Supplement and then called each federal district court in which they were filed to obtain the closed accession numbers. I was transferred to the phone of James Kent and I left a message on his voice mail. When I did not receive a return call within a few hours, I called twice more during the day and left a message asking how to make an appointment.

3. Late on August 14th, Mr. Kent left me a message explaining what I must do to obtain cases from the FRC and telling me to fax my response to the FRC. However, he did not provide me with the fax number.

4. I called Mr. Kent the evening of August 14th and left a message asking him to give me the fax number to which I should fax my response. He called me back on August 15th and provided the fax number. I faxed the list of cases I want to review to the FRC on August 15, 1996; a copy is attached. The cases I requested came from district courts in Delaware, Pennsylvania and Virginia.

5. I never received a response to my fax, so on August 20th, I called Mr. Kent. He said he had never received my fax and put me on hold. He then returned and said my fax had been received and the files were waiting for me at the FRC in Philadelphia. He said I should have been called and told they were available and would be available through August 30th. He gave me directions to get to the facility.

6. On August 29th I traveled to the FRC in Philadelphia. The building exterior does not have a street number or name, so I was not sure I was in the right place.

7. I was shown to a room where the 7 cases I had requested were in a pile. I examined each file, looking for the judge's opinion of the date specified in the Federal Supplement case I had selected. I found the opinions for case numbers 1, 3, 4, 5 and 7 in my memo.

For case number 2 in my memo, Wolkind v. Selph, filed in 1979 in the Federal District Court of Virginia, Eastern District, Richmond office I was given a file that contained 12 pages concerning the case, but did not include an opinion. Also in the file was a 26 page opinion from the Eastern District of Pennsylvania concerning a case related to the case of Brown v. Cameron-Brown, Civil Action #78–0838–R, venued in the Richmond Office of the Federal District Court of Virginia.

For case number 6 in my memo, Stewart Aviation Co. v. Piper Aircraft, filed in 1973 in the Federal District Court of Pennsylvania, Middle District, Scranton Office, the file I was given had the right name, but only contained a cover sheet concerning the case I wanted. All the other documents in the file were from a 1968 case between the same parties which was filed in the Federal District Court of West Virginia, Northern District. A copy of one of these documents is attached.

8. I then explained to David Weber, the FRC employee on duty, that I would probably need to look at thousands of old files and could they accommodate such a request. He said it would be easiest if I could group my requests in the order in which the cases were closed by each court, since they are closed in batches and each batch is filed together. By grouping them in such a manner, I would reduce the time needed to find the files. I explained that might not occur, since I am requesting cases from different courts in different states. He said they would try to accommodate my needs and I should start by requesting 50 cases at a time and provide them with as much advance notice as possible.

I understand if any statements made by me are knowingly false, I am subject to punishment.

Eleanor J. Lewis.

Sworn to and Subscribed before me this 3rd day of September 1996.

American Association of Legal Publishers

August 15, 1996.

To: James Kent, Federal Records Center, Philadelphia

From: Eleanor J. Lewis

Re: Obtaining Access To Closed Federal Court Files

I want to come to the Federal Records Center in Philadelphia and review and copy portions of the closed case files listed below. Please contact me by phone or fax to confirm you have these files available for my review, so I review them within the next 10 days. Thank you for your cooperation in this matter.

1. Case File Number 76–2961
   Case Name: William Heigler v. William Gatter et al.
   FRC Accession Number: 021–830091
   Location Number: D–11–025–5–1
   Box Number 144
2. Case File Number 79–0311–R
   Case Name: Henry L. Wolkind v. Willard P. Selph
   Accession Number: 021–81–0037
   Location Number: E 3808576
   Box Number 13
3. Case File Number 88–692
   Case Name: Young v. West Coast
   Accession Number: 021–94–0049
   Location Number: E 4004546
   Box Number 45
4. Case File Number 4720
   Case Name: Grossman v. Cable Funding Corp
   Accession Number: 021–84–0006
   Location Number: 87301311
   Box: 2 through 5 of total of 48
5. Case File Number 76–37–NN
   Case Name: Peggie Ann King v. Gemini Food Services
   Accession Number: 021–81–0011, subgroup NNV
   New Location: E–30–065–2–1
   Series Description—CIV CS FLS (closed 1980)
   Box Number 3
6. Case File Number 73–717
   Case Name: Stewart Aviation Co. v. Piper Aircraft
   Accession Number: 021–77–0001
   Location Number: C–26–027–2–1
   Boxes: 112 and 113 of 117 boxes
7. Case File Number 80–86
   Case Name: Metropolitan Life Insurance Co. v. Debra P. McCall et als
   Accession Number: 021–87–0097
   Location Number: A0905353
   Box: 7 of 17

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State of Maryland, County of Montgomery

I, Eleanor J. Lewis, upon my oath state:

1. I am the Executive Director of the American Association of Legal Publishers.

2. On Wednesday, August 14, 1996, I called the Pittsburgh Office of the Federal District Court of Pennsylvania, Western Division and spoke with Mr. Keith Anderson. I told him I wanted to obtain the closed case numbers for a case, so I could review the cases in the Federal Records Center in Philadelphia. He said that information could

not be given over the phone and he does not have a fax machine. I could only receive that information from him by mail.

3. I then provided him with the information for a case with a decision rendered on October 4, 1968. He immediately responded ''that decision is over 25 years old. The case is in the Federal Archives in Philadelphia, call 215/597–3000.'' I thanked him and hung up.

4. I promptly called the Federal Archives in Philadelphia and was connected to Dr. Plowman. I told him what case I wanted. He asked what I wanted and I said I want a copy of the judge's decision. He responded, ''opinions are not necessarily included in the case file. They are not required to be in the closed file.'' He took my name and number and said he would see what he could find.

5. Dr. Plowman called me back within an hour and reported he had found the case and had the decision. If I would send a check for $6 he would send me a xerox of the decision. I sent him the required check and letter on August 14th. I received a copy of the decision by mail on August 21st.

I understand if any statements made by me are knowingly false, I am subject to punishment.

Eleanor J. Lewis.

State of Maryland, County of Montgomery

I, Eleanor J. Lewis, upon my oath state:

1. I am the Executive Director of the American Association of Legal Publishers.

2. On Wednesday, August 14, 1996, I called the Federal District Court of New York, Southern District, in New York City and asked for the closed case numbers for some closed files, so I could go look at the files in the Federal Records Center. I was connected to a man who told me I must come to Room 370 at 500 Pearl Street in New York City to obtain the information or send a letter and they will respond in writing. When I said I needed to get the information quickly and I am in Maryland, I was told I must speak to the supervisor, Rosemarie Fugnetti. I was connected to her phone but was unable to leave a message because her voice mailbox was full.

2. I then called the clerk's office again and explained I could not leave a message for Ms. Fugnetti. They told me she was at lunch and I should call back in an hour.

3. I called an hour later and spoke with Ms. Fugnetti on August 14, 1996. She repeated that the court only provides closed file numbers to people coming to the court house or inquiring in writing. They do not accept faxes and they do not respond by fax because they do not have a fax machine in her office. She said I could send her a FED EX letter and she would respond by FED EX if I pay for the response or they would mail the response by regular mail the day they receive it.

4. On August 14th, I sent Ms. Fugnetti a Fed Ex letter requesting the closed file numbers for 4 opinions. She responded on August 15th, providing me with the information I requested.

5. I was unable to review these files from the Federal Records Center in New Jersey on August 19th because they only permit a visitor to look at 3 files per day and I had already requested 3 files from the New Jersey Federal District Court.

I understand if any statements made by me are knowingly false, I am subject to punishment.

Eleanor J. Lewis.

State of Maryland, County of Montgomery

I, Eleanor J. Lewis, upon my oath state:

1. I am the Executive Director of the American Association of Legal Publishers.

2. On August 15, 1996, I called the Federal District Court for the District of Columbia to obtain the closed file numbers for several closed cases from which I wanted to obtain a copy of the judge's original decision. I had selected these cases from various volumes of Federal Supplement. A telephone tape recording provides information about extension choices, but none of them concerned closed files, so I didn't talk to anyone.

3. On August 22nd, I traveled to the Court clerk's office and requested closed file numbers for 3 cases from Bryant. He asked me to wait and returned with the information I needed in about 10 minutes.

4. I explained to Bryant that when I called the court I could not find an extension that dealt with such requests. He said I should call 202/273–0520. I asked if I could obtain closed case numbers over the phone. He said, ''No, you must come in to get them or write.'' He told me the closed files for this court are stored in Suitland, MD.

I understand if any statements made by me are knowingly false, I am subject to punishment.

Eleanor J. Lewis.

State of Maryland, County of Montgomery

I, Eleanor J. Lewis upon my oath state:

1. I am the Executive Director of the American Association of Legal Publishers.

2. On Wednesday, August 14, 1996, I called the Wilmington Office of the Federal District Court of Delaware and requested the closed file numbers for 3 cases with opinions rendered in 1968, 1973 and 1991 from Ms. White. She took the information the case name and docket number from me and said she would call me back with the closed case numbers.

3. Ms. White called back about 2 hours later.

A. She provided me with the closed case numbers needed to obtain access to the 1991 case. I reviewed this case on August 29th at the Federal Records Center (FRC) in Philadelphia and found the opinion I wanted.

B. For the 1973 case, James Gerity, Jr. v. Cable Funding Corp., Civil Action #4720, decision rendered on November 6, 1973, according to 372 F. Supp. 64, she had a problem. The Court records showed that docket number corresponded to the case of Grossman v. Cable Funding Corp, decision rendered on June 30, 1978. She said her docket sheet showed there were many decisions made after November 6, 1973 and that ''this is a research project'' I took the information she had. On August 29th I reviewed this file at the Philadelphia FRC and found the opinion I wanted.

C. For the 1968 decision of McMilin v. USA, case #1906, decision rendered on September 26, 1968 by Judge Steele and amended on September 30, 1968, Ms. White said she had a problem. According to her records this is the case of Albright v. USA; it concerns a suite to refund taxes; the complaint was filed on July 1, 1957 and a stipulation and order was entered on May 15, 1958 by Judge Caleb Layton. She said the file was sent to the archives on December 1, 1987. She said this case was so old that its records were not automated and she had to go to another location to obtain this information. She could not provide me with any information concerning my originally requested case—McMilin v. USA—so I was unable to acquire a copy of the decision from any source.

I understand if any statements made by me are knowingly false I am subject to punishment.

Eleanor J. Lewis.

State of Maryland, County of Montgomery

I, Eleanor J. Lewis, upon my oath depose and state:

1. I am the Executive Director of the American Association of Legal Publishers.

2. On Wednesday, August 14, 1996, I called the Richmond Office of the Federal District Court of Virginia, Eastern District to obtain the closed case numbers for 3 cases.

3. I provided the woman with the information I had obtained on each case from the West's Federal Supplement, including the case name, case number, date of decision and name of the judge.

4. The woman put me on hold and then provided me with the following information:

A. For the case with a decision rendered in 1979, she went to the archive book and found the closed case information and gave it to me.

B. For the case of Frank A. Principe et al. v. McDonald's Corp et al., 463 F. Supp. 1149 (1979), Civ. Action #78–0606–R, decision rendered on January 16, 1979 by Judge Warriner, the Court records show that this is the case of Kennedy v. Stacy, a prisoner claim. She said she would investigate this matter and get back to me.

On August 15th and 16th I received a call from the court, from either Mrs. Grant or Mrs. Hatton, telling me they were looking for the information. On August 20th I called and spoke with Mrs. Grant; she said she would investigate if the information were found and call me. She called me back on August 20th and said the case I wanted, Principe v. McDonald's is Civil Action #78–601, not 606. She then provided me with the closed case numbers I need to obtain the case at the Federal Records Center in Philadelphia and the exact box in which I would find the opinion dated January 16, 1979.

C. For the case of Wolkind v. Selph, Case No. 79–0311–R, I was provided with the accession numbers. I sent them to the FRC on August 15th and went to the FRC on August 29th to review the file. The Wolkind v. Selph decision of July 10, 1979 amended on August 15, 1979 was not in the file but there was an opinion from a case from the Eastern District of Pennsylvania in the file. It appeared to be related to another case from the Richmond court, the case of Brown v. Cameron-Brown, Civil Action #78–0838.

I understand if any statement made by me are knowingly false I am subject to punishment.

Eleanor J. Lewis.

State of Maryland, County of Montgomery

I. Eleanor J. Lewis, upon my oath state:

1. I am the Executive Director of the American Association of Legal Publishers.

2. On Wednesday, August 14, 1996, I called the Philadelphia Office of the Federal District Court of Pennsylvania, Eastern District and requested the closed case numbers for several cases. I was transferred to the file room and told I must come in person to obtain that information. I explained I was far away and could not do that. I was told to call back and talk to the supervisor, Mr. Clewlie, who was not in the office at this time.

3. I called back about 90 minutes later and spoke with Mr. Clewlie who agreed to send me the information by fax. He said it was easier than calling. I provided him with the following case information.

USA v. William Henry Burdick, Criminal No. 22487, decision rendered on May 31, 1968 by Judge Weiner. I obtained this information from 284 F. Supp 685.

4. Mr. Clewlie called me back within two hours on August 14th and told me he was going to have to ''look up this information and it will take some time.''

5. On August 27th I called Mr. Clewlie about this matter because I had not heard from him. I was told he was out for the week; I should call back on September 3rd.

6. I called Mr. Clewlie on September 3rd, but no one answered his phone, so I called the court clerk and asked to leave a message for him. Since he does not have voice mail or a secretary, they took the message. About 2 hours later, Bill Jones called and asked what I wanted. I told him I needed the closed case number for a file. He took the information and called me about 30 minutes later with the closed case numbers. He said, the closed case numbers he gave me are very old and may not be correct, ''but this is all we have''.

I understand if any statements made by me are knowingly false, I am subject to punishment.

Eleanor J. Lewis.

State of Maryland, County of Montgomery

I. Eleanor J. Lewis, upon my oath state:

1. I am the Executive Director of the American Association of Legal Publishers.

2. On Wednesday, August 14, 1996, I called the Newport News Office of the Federal District Court of Virginia, Eastern District, and spoke with Mrs. Graham. I requested the closed case numbers for one case with a decision rendered in 1976. I had selected the case from a volume of F. Supp. Ms. Graham took the information, put me on hold and then returned in a few minutes with the identifying information, including information contained in a February 1996 letter providing the new location of the file in the Federal Records Center (FRC) in Philadelphia.

3. I requested the case from the FRC on August 15th.

4. I went to the FRC on August 29th and reviewed the file, finding the opinion I wanted.

I understand if any statements made by me are knowingly false, I am subject to punishment.

Eleanor J. Lewis.

State of Maryland, County of Montgomery

I. Eleanor J. Lewis, upon my oath state:

1. I am the Executive Director of the American Association of Legal Publishers.

2. On Wednesday, August 14, 1996, I called the Erie office of the Federal District Court of Pennsylvania, Western District and spoke with a woman.

3. I provided her with the case name and docket number for a case in which the judge rendered a decision on March 6, 1981, in the Erie court. I found this case in a volume of F. Supp. She put me on hold for a few minutes and then returned with the closed numbers I need to obtain the case at the Federal Records Center (FRC) in Philadelphia.

4. On August 15th I requested the case from the FRC.

5. On August 29th I went to the FRC and reviewed the file, finding the opinion I wanted.

I understand if any statements made by me are knowingly false I am subject to punishment.

Eleanor J. Lewis.

State of Virginia, County of Arlington

I, Allyson E. Manson, upon my oath state;

(1) I am a law student at the University of Virginia. In July and August of 1996 I am working part-time as a legal intern for the American Association of Legal Publishers.

(2) On August 9, 1996, at approximately 3:50 p.m., I called (903) 592–1212, the Clerk's office for the U.S. District Court for the Eastern District of Texas. I spoke with Mike Lantz.

(3) I asked Mr. Lantz how I could obtain opinions rendered in 1968 and 1978 in his district. He responded that his office retains original files for six months to one year. After one year, files are sent to the Federal Records Center for twenty years. Then the original file is destroyed. Mr. Lantz indicated that a case from 1968 may be difficult to obtain.

(4) Mr. Lantz said that the charge would be $15 per case without a case number. The Clerk's office looks at the docket sheet to see when that opinion was sent to the Records Center. Next the Clerk's office codes your request onto a sheet which is sent to the Records Center.

(5) Mr. Lantz indicated that it would take a while to research and find these cases. He offered to fax me information on search procedures.

I understand that if I made any knowingly false statements that I am subject to punishment.

Allyson E. Manson.

State of Virginia, County of Arlington

I, Allyson E. Manson, upon my oath state;

(1) I am a law student at the University of Virginia. In July and August of 1996 I am working part-time as a legal intern for the American Association of Legal Publishers.

(2) On August 9 at approximately 4:30 p.m. I called the Clerk's office for the U.S. District Court for the Western District of Texas at (210) 472–6550. I spoke with Wayne Garcia.

(3) I asked Mr. Garcia how I could obtain opinions rendered in 1968 and 1978 in his district. He responded that any search for the case numbers of documents older than five years would incur as $15 fee. He then explained that there would be a $25 retrieval fee incurred when the document was obtained from the Federal Records Center. Mr. Garcia made it clear that each case required a separate request and incurred a separate fee.

I understand that if I made any knowingly false statements that I am subject to punishment.

Allyson E. Manson.

State of Virginia, County of Arlington

I, Allyson E. Manson, upon my oath state;

(1) I am a law student at the University of Virginia. In July and August of 1996 I am working part-time as a legal intern for the American Association of Legal Publishers.

(2) On August 8, 1996 at approximately 2:45 p.m. I called (318) 676–4273, the Clerk's office of the U.S. District Court for the Western District of Louisiana. I spoke with Nancy Lundy.

(3) I asked Ms. Lundy what the procedures would be for obtaining a copy of Louisiana District Court decisions from 1968 and 1978. She responded that I would need a case number or the name of the case. She added that cases from 1978 would probably be on microfilm at the Clerk's office. All cases after 1977 have been put on microfilm there.

(4) Any cases rendered prior to 1977 would have to be retrieved from the Federal Records Center in Fort Worth, Texas.

(5) Ms. Lundy explained that I would need to send a written letter to the Clerk's office to request documents. The Clerk's office then retrieves documents from the Federal Record Center. A $25 retrieval fee would be charged for each case, and it would cost fifty cents a page to copy the documents.

(6) Ms. Lundy explained that if I called and requested an opinion, it would take a week to ten day before the Clerk's office received the document. I could expect the document within two weeks.

I understand that if I made any knowingly false statements that I am subject to punishment.

Allyson E. Manson.

State of Virginia, County of Arlington

I, Allyson E. Manson, upon my oath state;

(1) I am a law student at the University of Virginia. In July and August of 1996 I am working part-time as a legal intern for the American Association of Legal Publishers.

(2) On Thursday, August 8, 1996 at approximately 4:00 p.m. I called (503) 326–5412, the Clerk's office for the U.S. District Court of Oregon. I spoke with Kathy Wright.

(3) I asked Ms. Wright how I would go about getting a copy of two judicial opinions rendered in her District, one in 1968 and one in 1978. She responded that it would be difficult to locate the case without a case number. To locate a case number one must go through a list of them on microfilm to

ensure that the number matches a particular case. Case files more than two years old are moved to the Federal Archive in Seattle, Washington. Ms. Wright explained that I would need to fill out a form at the courthouse to request the record.

(4) Ms. Wright stated that she believed that judicial decisions are destroyed after twenty years.

(5) To retrieve a file, the clerk's office charges $25. Copying is an additional fifty cents a page or fifteen cents a page if the customer copies it herself.

(6) I then called the number Ms. Wright had given me for the Federal Archive, which actually turned out to be the number for the Federal Records Center. I spoke with a Mr. Rick Hall. Mr. Hall said that if I requested documents from the Records Center, they could be retrieved within one hour. However, there would be a retrieval fee of $35.

(7) I then asked Mr. Hall how long Federal District Court decisions were kept at the Records Center or the Archive. He responded that there is a national publication entitled *Schedule for the Disposition of U.S. District Court Documents.* I asked him if I could get a copy of pages from the book concerning the disposition of Federal District Court opinions. He talked for a while about the distinction between criminal and civil opinions and opinions of historical and non-historical value. He then explained that it is not his job to send out copies of those documents, and he explained that all District Court clerk's offices should have this volume, and I could obtain copies from them.

I understand that if I made any knowingly false statements that I am subject to punishment.

Allyson E. Manson.

State of Virginia, County of Arlington

I, Allyson E. Manson, upon my oath state;

(1) I am a law student at the University of Virginia. In July and August of 1996, I am working part-time as a legal intern for the American Association of Legal Publishers.

(2) On Thursday, August 8, 1996 at about 2:10 p.m. I called (303) 844–3433, the Clerk's Office of the U.S. District Court of Colorado. I spoke with Cathy Hasjord.

(3) I told Ms. Hasjord I wanted to get a copy of two judicial opinions, one rendered in 1978 and the other rendered in 1968 in Colorado's district court. She responded that if they are still in existence they are not in the Clerks' Office. Ms. Hasjord stated there are two ways to get a copy of these opinions:

A. She indicated that the Clerk's Office could get it for $25.00. She indicated that I could look on the docket sheet and determine what portions I wanted. Each page would cost fifty cents to copy. I asked if this could be done by mail. She said that it could with several mailings. She indicated it would be better to review the case by showing up at the office.

B. Ms. Hasjord indicated that I could also call the Federal Records Center directly.

I understand that if I made any knowingly false statements, I am subject to punishment.

Allyson E. Manson.

State of Virginia, County of Arlington

I, Allyson E. Manson, upon my oath state:

(1) I am a law student at the University of Virginia. In July and August of 1996, I am working as a legal intern for the American Association of Legal Publishers.

(2) On Thursday, August 8, 1996 at approximately 2:20 p.m., I called (208) 334–1361, the Clerk's office of the U.S. District Court of Idaho. I spoke with the Clerk's assistant.

(3) I told her I wanted to get a copy of original judicial decisions rendered in 1968 and 1978 in Idaho's Federal District Court. She responded that I would need to come to the office and go through the card index to determine the location of those files.

(4) She told me that it would cost $25 to review the file. Copying would cost an additional twenty-five cents a page.

(5) I asked her if we could do this by mail. She told me that I could send a letter to the clerk's office with my request. Upon receipt of my request, the clerk's office would need 7 to 10 days to retrieve the document.

I understand that if I made any knowingly false statements that I am subject to punishment.

Allyson E. Manson.

State of Virginia, County of Arlington

I, Allyson E. Manson, upon my oath state;

(1) I am a law student at the University of Virginia. In July and August of 1996 I am working part-time as a legal intern for the American Association of Legal Publishers.

(2) On Thursday, August 8, 1996 at about 1:00 p.m. I called (602) 514–7100, the Clerk's Office of the U.S. District Court of Arizona. I spoke with Cathy Gerchar.

(3) I told her I wanted to get a copy of two judicial opinions, one rendered in 1978 and the other rendered in 1968 in Arizona's district court. She asked me for the case number. I told her that I did not have a case number; I was trying to find out the procedures my supervisor would follow to locate an original file and specifically a judicial decision from the Arizona district court. She explained that the clerk's office only keeps decisions for three years. Earlier decisions:

A. Decisions between three and 1969 are kept at the records center. To get something from the Records Center, one would have to come to clerk's office to fill out a copy request. The Clerk's office would then get the file from the Federal Records Center, and I could obtain a copy from them.

B. Ms. Gerchar indicated that if the decision was rendered prior to 1969, the decision had probably been moved from the Records Center to the Federal Archive.

(4) I asked how much it would cost to retrieve this file. Ms. Gerchar explained that there is a $25 file fee, which covers expenses related to file retrieval.

(5) I asked Ms. Gerchar how long it would take to get a judicial opinion from the clerk's office if it was rendered in 1978. She responded that it would take between two and seven working days, depending on whether it was located in the Records Center or the Federal Archive.

(6) I requested the number of the Record Centers and the Federal Archive. Ms. Gerchar gave me both numbers: (714) 360–2631 for the Records Center, and (714) 360–2641 for the National Archive.

(7) I called the number Ms. Gerchar had given me for the National Archive at approximately 1:15 p.m. and found that it had been disconnected.

(8) Next, I called the Federal Records Center at approximately 1:15 p.m. on August 8, 1996 and spoke with Mr. Mike Kretch. I asked him how I could retrieve records directly from his office. Mr. Kretch suggested that I call in to request a file. He also said that to retrieve the file, I had to provide him with the:

Accession number, box number, location number, file number.

Mr. Kretch indicated that I needed to make a trip to look at the file and decide what portions I needed copied. The Center is located in Laguna Niguel, California. It costs fifty cents a page to copy the document.

I understand that if I made any knowingly false statements that I am subject to punishment.

Allyson E. Manson.

State of Virginia, County of Arlington

I, Allyson E. Manson, upon my oath state;

(1) I am a law student at the University of Virginia. In July and August of 1996 I am working part-time as a legal intern for the American Association of Legal Publishers.

(2) On Thursday, August 8, 1996 at approximately 3:30 p.m. I called the Clerk's office of the U.S. District Court for the Eastern District of California at (916) 498–5415. I spoke with Ms. Dung Duong.

(3) I asked Ms. Duong how I would go about obtaining opinions rendered in 1968 and 1978 in her district. She responded that I needed a case number, and that I would be required to pay a $25 retrieval fee.

(4) Ms. Duong added that I could either pay a fifty cent per page copying fee or pay an independent contractor to copy the material.

(5) Ms. Duong said that it would take ten mailing days for the documents to reach me.

(6) I called the independent contractor for a price comparison and I talked to a Kendall Allbright. He said that it would cost thirty-two cents a page to copy any documents I requested.

I understand that if I made any knowingly false statements that I am subject to punishment.

Allyson E. Manson.

State of Virginia, County of Arlington

I, Allyson E. Manson, upon my oath state;

(1) I am a law student at the University of Virginia. In July and August of 1996 I am working part-time as a legal intern for the American Association of Legal Publishers.

(2) On Thursday, August 8 at approximately 5:00 p.m. I called (415) 522–2000, the Clerk's office for the U.S. District Court for the Northern District of California. I spoke with Christee Scqueilia.

(3) I asked Ms. Scqueilia how I could obtain opinions rendered in 1968 and 1978 in her district. She responded that I would need to provide her with a case number and the judge's initials.

(4) She also said that it would cost $25 to retrieve an opinion. Opinions cannot be copied at the courthouse, but may be copied through an independent contractor. Ms. Scqueilia said that there was no way I could

get an opinion mailed to me from the courthouse.

(5) Mr. Scqueilia added that early opinions could be obtained through the Federal Archives in San Bruno, California.

(6) It would take three to four days for the clerk's office to get a document retrieved from San Bruno.

Allyson E. Manson.

This letter could not be reprinted in the Federal Register, however, they may be inspected in Suite 215, U.S. Department of Justice, Legal Procedures Unit, 325 7th St., N.W., Washington, D.C. at (202) 514–2481 and at the Office of the Clerk of the United States District Court for the District of Columbia.

Atty. Craig W. Conrath, Chief, Merger Task Force,
U.S.D.O.J., Antitrust Division, 1401 H. Street, Suite 4000 N.W., Washington, D.C.

Dear Mr. Conrath: I am a retired lawyer. I write this letter in regard to the proposed Thomson-West merger solely on my own behalf as a consumer and citizen.

I do not think the merger agreement should be approved. The Department's conditions are insufficient to protect competition.

My objections are these:

1. Failure To Create Viable Competition

Legal publishing has a synergy when a publisher produces law for multiple jurisdictions. Publishers attempt to address the market by creating ''systems'' that are consistent and easy to use for consumers, and allow the same methods to be used to find law from a variety of sources. In addition there are substantial economies of scale in the editing and production processes.

The consent decree envisions selling some of the products of Lawyer's Cooperative, but not the ''system'', and not the key products, AmJur and ALR that allow the creation of a system. The result is a series of isolated products that will not compete effectively with West's system and are of questionable viability in the marketplace.

2. Ineffective Remedies for Citations

The proposed license agreements has a price for use of West's citations that would foreclose its use by any small or new competitors. The only competitor who could afford the flat pricing would be a large one. But the merger eliminates the only large competitor who does not already license West's system. In effect, nothing is accomplished.

Though the prohibition against challenging the validity of West's dubious copyright claims are frequently found in licensing agreements, it traduces the purpose of the merger conditions and is inconsistent with the Department's stated position on copyright of citations.

3. Ineffective Remedies for Markets that Become Monopolies

Wisconsin currently has two competitive official reporters of Wisconsin case law, West and Lawyer's Cooperative. After the merger it will have one—there will be no competition. The consent decree's remedy is to allow the Wisconsin Supreme Court to renegotiate its contract. Since West will be the only serious publisher available in the market why would renegotiating the contract do anything? A cynic might comment that it would give West an earlier opportunity to exercise its monopoly power.

Indeed, the situation in Wisconsin is somewhat more acute. Lawyer's Cooperative has taken the position that its cites are public domain as is the text of the decisions. West takes a contrary opinion. So with the loss of Lawyer's Cooperative, we lose access to public domain law in Wisconsin for small peripheral publishers.

Finally, I must point out that West is a well known ''politically connected'' company. Its CEO was a key early supporter of Pres. Clinton's first campaign in Minnesota and recently Treasurer for Sen. Feinstein's reelection campaign. West has made many contributions to political campaigns.

The Department certainly should not treat differently a politically connected company—West has an absolute right to participate in politics. However, in such a case it is important that the Department explain fully and adequately its reasoning so that the Department's decisions can be understood to be free of political taint. This the Department has not done in this case. It fails to reveal or address the degree of concentration left after its proposed conditions. It fails to reveal its reasoning or motives for the conditions, It fails to reveal the course of negotiations.

On the face of it, this is a merger between major competitors in a highly concentrated industry. In appearance it is not a merger that should be approved. Failure to adequately address why the Department is approving it, and why the conditions adequately protect competition leaves the Department open to criticism.

Yours Sincerely,

John Lederer.

August 30, 1996.

Mr. Craig Conrath, Chief, Merger Task Force
U.S. Department of Justice, Antitrust Division, Merger Task Force, 1401 H Street NW, Suite 4000, Washington, DC 20530.

Dear Mr. Conrath: I write in response to the proposed Final Judgment And Competitive Impact Statement issued by the Justice Department in the case of United States of America vs. The Thomson Corporation and West Publishing Company.

The proposed Final Judgment is deficient on numerous counts and fails to provide any meaningful relief to consumers of legal information in the United States. In support of this contention, I wish to raise the following points:

(1) Divestiture of the fifty-one titles which comprise the major portion of this tentative agreement will have no appreciable or measurable impact upon the competitiveness of the legal publishing industry as a whole. At least thirty-five of the fifty-one titles are of little significance in the broader marketplace. Many of these titles are small, state specific titles with only local appeal. In fact, the presence of these thirty-five titles in the list leads one to suspect that they are Thomson-West cast-offs, jettisoned to make the list and its impact appear larger than it really is. Titles such as Kentucky Probate PSL and Louisiana Successions, for example, are insignificant even in their local markets, let alone when viewed from a national perspective. The cumulative impact of Thomson-West divesting thirty-five such titles will do virtually nothing to enhance the competitiveness of the market for legal information in the United States.

(2) The proposed Final Judgment also requires the divestiture of several major primary law or finding aids for those states in which Thomson-West would control all such existing titles. While one would expect any agreement to prevent these obvious examples of total market domination, it should be observed that the major impact of these divestitures will be limited to these particular states and those major law libraries with national collections of such primary law or finding aids. In addition, price inflation in both the initial and supplementation costs for these titles have been far less egregious than the price inflation which has characterized secondary materials. Viewed from the perspective of the average consumer of legal information, these titles will have little impact on the market as whole. For the New York attorney, for example, the proposed final judgment will impact only the market for enhanced statutory law and one minor title, New York Wills and Trusts. Once these titles have been acquired, the attorney will face a market largely dominated by Thomson-West (or what has now been named the West Legal Publishing Group).

(3) The agreement also forces the divestiture of several major primary law products, the most significant of which are the United States Code Service, U.S. Reports, L. Ed., and the U.S. Digest, L. Ed. Collectively, these titles have previously comprised major components of Lawyers Cooperative's Total Client-Service Library System, the only significant alternative to West's Key Number System of legal research. Divestiture of these titles will preserve virtually intact Thomson-West's future control of both systems of legal research. The Total-Client Service Library system will simply substitute the United States Code Annotated, West's Supreme Court Reporter and West's Supreme Court Digest in place of the three former Lawyer's Cooperative products.

Moreover, divorced from the system of which they were an integral part, the three Lawyers Cooperative titles will fade in importance, both as tools of legal research and in market position. The legal publishers who may consider buying these titles must be cognizant of the risks involved in purchasing titles whose subscriber lists will inevitably shrink when they become independent publications. While one could anticipate a potential publisher incorporating citations to these titles in its secondary law publications, this will still not result in the creation of a third legal research system to challenge the domination of Thomson-West. The only way to break this total domination of legal research systems would be to force Thomson-West to divest itself of Lawyers Cooperative Publishing Company in total.

(4) The proposed final judgment makes no serious attempt to address the impending

domination of the market in secondary law materials by Thomson-West. As a result of its steady stream of acquisitions over the past 17 years, the Thomson Corporation will control slightly more than 50% of the leading secondary law titles published in the United States. This statement is based on an analysis of the titles used for twenty years by Bettie Scott in her Price Index for Legal Publications, published, until recently, in the Law Library Journal, and an analysis of the 533 treatises included in my own Legal Information Buyer's Guide and Reference Manual 1996 (I should add, parenthetically, that the titles selected for inclusion in my book were made on their individual merits between March and July of 1995, prior to the announcement by West that it was putting itself up for sale). The percentage of secondary law titles to be controlled by Thomson-West will constitute approximately 51% of the titles in Scott's list and approximately 53% of the titles included in my list.

Only seven national secondary titles of any significance are included among those titles to be divested by Thomson-West, and only two of these are larger sets which command a significant market presence (Corbin on Contracts and Appleman, Insurance Law). These seven titles represent only 1.3% of the 533 treatises titles reviewed in my book, hardly enough to cause even a ripple in the overall control which Thomson-West will exercise over the secondary law marketplace.

A recent examination of the budget of our own Rhode Island State Law Library revealed that 47% of our current expenditures are earmarked for Thomson-West publications. However, because standing orders to approximately 75% of the secondary law materials published by Thomson have been suspended due to steeply rising supplementation costs (and now updated sporadically), this figure could easily exceed 65% of our budget were all titles on standing order.

The proposed Final Judgment leaves only six publishers of secondary law materials to challenge Thomson-West's hegemony: Anderson Publishing, Aspen Law & Business, Matthew Bender, Little Brown, Michie, and Wiley Law Publications; however, the revenues of Matthew Bender, the leading publisher in this group, probably exceed those of the remaining five publishers. Matthew Bender has increased prices so significantly in the past eight years that many attorneys in small law offices have sought alternative publications, most of which are published by Thomson or West. In other words, given that fact that most attorneys will seek to avoid the extraordinarily high costs associated with Matthew Bender treatises, Thomson-West's control of the market will be even greater than the 51–53% included in the above cited publications.

According to the Justice Department's Competitive Impact Statement, Section B. 2.:

Thomson and West compete vigorously on the basis of price for both enhanced primary law products and secondary law products. Thomson and West look almost exclusively to each other in making pricing decisions and promoting both their enhanced primary and secondary law products in the relevant markets, and consumers have benefited from this competition. Thomson and West also compete directly on the basis of quality. The quality of Thomson's and West's enhanced primary and secondary law products has improved as a result of such competition. Unless restrained, the proposed acquisition would allow the combined entity unilaterally to raise prices without the threat of a new entry into these markets by a third party (emphasis mine).

These statements notwithstanding, this proposed Final Judgment does little to restrain a merger which will almost certainly result in a unilateral raising of prices, particularly for secondary law materials. There are, quite simply, too few major national titles on the divestiture list to have any appreciable impact on this eventuality. I predict that, within 3–5 years, we will witness a significant increase in the supplementation cost of West's secondary law publications as they are increased to the level of the competing Thomson titles. When the effects of these price increases are felt throughout the law library community, we will witness even greater shrinkage of collections as library budgets are more completely consumed by supplementation costs of a smaller number of titles. West, which was the one major safe haven for those law libraries and other customers anxious to avoid the more aggressive pricing of Matthew Bender and the Thomson Companies will then have nowhere to turn. The past history of Thomson prices increases provides ample evidence to substantiate this belief (see Appendices to the American Association of Law Libraries letter from Patrick Kehoe previously submitted to your Division).

(5) The proposed Final Judgment also permits, but does not require, states to reopen bidding of the three state contracts to publish official state reporters. While this requirement is a necessary one, it is my view that such rebidding for the reports of only three states will have only marginal effect upon the market. Pricing of official reports has not been a significant problem for consumers of legal information in the past and it is unlikely that it will be in the future, particularly in light of the fact that these reports constitute only a small percentage of the average lawyer's expenditures for legal information. Consumers should be more concerned about future price increases for enhanced primary law or secondary law materials.

(6) Finally, the proposed Final Judgment also requires Thomson to license the use of star pagination in the National Reporter System to other legal publishers. In the absence of the ultimate resolution of the claim which West asserts over star pagination, this proposed Final Judgment cannot be said to provide any meaningful relief to consumers of legal information. The licensing fees are simply too high to permit any but the most well-financed publishers to use West star pagination.

Robert Oakley, Director of the Georgetown University Law Library, conducted preliminary calculations of the cost of licensing star pagination from the West Publishing Company. Based on the cost of $.09 per 1000 characters, he calculated that it would cost a potential licensee approximately $541.00 annually for each volume of the Federal Supplement, or approximately $495,000.00 annually for the entire Federal Supplement. New entrants who might arise to challenge Thomson-West by developing value-added secondary materials to either print or CD–ROM will simply find the entry costs too onerous. And existing publishers, such as Matthew Bender, will be forced to pay the high licensing fees to use star pagination in its own secondary materials or run the risk of litigation for copyright infringement. In the current environment, Thomson-West is not only well positioned in the print field, but is in a superior position to develop enhanced CD–ROM products which combine expert analysis with the relevant primary law cases and statutes. This agreement provides no relief in this regard.

In light of the above, I believe that the court can do no less than find that this proposed Final Judgment is not ''within the reaches of the public interest.'' In my view the Justice Department has failed to provide consumers with any meaningful relief in this proposed merger and leaves them little better off than if it had taken no action at all. Many of the titles on the divestiture list are obvious Thomson-West cast-offs and of little significance. Furthermore, Thomson-West have it within their power to negate the loss of the only three major national titles on the list (U.S.C., L.Ed. and U.S. Digest, L.Ed.) by incorporating its competing titles (U.S.C.A., S. Ct. Reporter, and U.S. Supreme Digest) into the Total Client-Service Library System. In my view, the divestiture of Lawyers Cooperative, in total, is the minimum acceptable solution ''within the reaches of the public interest.'' This would at least ensure that the only two major legal research systems remain in separate hands.

Thomson-West have agreed to this proposed Final Judgment because it leaves the fruits of their merger virtually intact and grants them dominant control of the marketplace. Consent decrees which do not protect the public interest, cannot, by definition, be effective tools of antitrust enforcement. I urge the court to reject this proposed Final Judgment.

Sincerely,

Kendall F. Svengalis,

State Law Librarian.

Inner City Press—Community on the Move

August 30, 1996.

U.S. Department of Justice,

Antitrust Division, Attn: Mr. Craig W. Conrath, Chief, Merger Task Force, 1401 H Street, N.W., Suite 4000, Washington, D.C. 20150

Re: Comments Opposing the Currently Proposed Final Judgment in *United States v. The Thomson Corporation and West Publishing Company*

Dear Mr. Craig W. Conrath and others: On behalf of Inner City Press/Community on the Move and its affiliates and members, including myself (collectively ''ICP''), I am submitting these comments in opposition to the currently Proposed Final Judgment in United States of America v. The Thomson

Corporation and West Publishing Company. The Proposed Final Judgment was published in the Federal Register of July 5, 1996 (61 FR 35250), along with a statement, pursuant to 15 U.S.C. § 16(b)–(h), that public comments received within sixty days will be considered, both by the Department of Justice (''DOJ'') and by the District Court Judge, before any final determination. These comments are timely.

There are serious questions of antitrust law here at stake, questions that go beyond the stunningly elevated Herfindahl-Hirschman Indices (''HHIs'') for numerous product markets, and the requirements that Thomson-West license their page citation system to competitors. The more fundamental issue, given that the anticompetitive effects (and effects that would fly in the face of the purpose(s) of the antitrust laws, see infra) that would clearly result from this merger, is why the Department appears to have accepted as a given that it must allow this combination, and has only, in ICP's view, played around the edges in securing relatively minimal divestiture and other purportedly mitigating actions, as a condition for settlement. The Proposed Final Judgment states, at XV, that its ''[e]ntry * * * is in the public interest.'' ICP dispute this, for the reasons set forth below.

Section 7 of the Clayton Act, 15 U.S.C. § 18, prohibits mergers where ''the effect may be to substantially lessen competition.'' The market for legal and legal-economic information and research resources is already hyper-concentrated and anticompetitive. ICP is submitting these comments from its perspective/position as a small scale not-for-profit ''consumer'' of legal and legal-economic information and research resources, a grassroots community and civil rights group with far from unlimited resources, which needs access to legal and legal-economic information in order to pursue its public interest mission of combatting redlining and other discriminatory practices by banks and other financial institutions. Of most concern to ICP is what the Proposed Final Judgment refers to as the ''comprehensive online legal research services'' (hereinafter, the ''COLRS'') product market.[1] West already monopolizes this product market, as well as a number of other product markets. There is simply no doubt that a combination of Thomson, which is a producer/compiler of much of the content of the (only two) ''comprehensive online legal research service'' providers, would substantially (further) lessen competition in this product market. Absent meaningful and sufficient mitigation, the proposed combination runs afoul of Section 7, and cannot be allowed.

The Competitive Impact Statement (the ''Statement'') appears to acknowledge that there are only two competitors in this product market: West and Lexis-Nexis. The Statement, 61 FR at 35262, recites some, but not all, of the harm that would result from this combination. What is most lacking in the Department's discussion (and perhaps analysis) is a recognition of how over-concentrated and anticompetitive this product market already is.[2] The Statement implies that if the Department and Thomson-West merely seek to ''maintain the level of competition that existed between WESTLAW and Lexis-Nexis before the acquisition.'' the minimally modified proposal can legitimately be said to be ''in the public interest.''

As a general matter, mitigation efforts such as these are, at best, only partially successful. Where even the goal of the mitigation effort is only to ''maintain the level of competition that existed * * * before the acquisition'' (see supra), and that level of competition was already insufficient, and the market already over-concentrated—the mitigation effort would not vindicate, or be consistent with, the pubic interest.

All that the Department proposes, to purportedly ''maintain the level of competition that existed * * * before the acquisition,'' is that Thomson ''divest itself of Auto-Cite and extend the terms of existing licences of [the] Investext. ASAP and Predicasts databases to Lexis-Nexis.'' 61 FR at 35263. This proposed mitigation is entirely insufficient. For example, it formalizes (or ensures) oligopoly in the COLRS product market. Whereas the Department has implied that the Consent Decree would give competitors alternative means of entry into the market, the proposed requirement that Thomson license only three databases, and only to Lexis-Nexis, would ensure anticompetitive duopoly deep into the 21st century. Additionally, the number of databases required to be licensed is absurdly low. Furthermore, the duration[3] of the option to extend is too short; nowhere is it explained why the Department apparently believes that there will be more than the current two competitors in the COLRS product market in five years time (in fact, the proposed Final Judgment makes continuing duopoly more likely).

Accepting, rejecting, or modifying this Proposal Final Judgment involves basic choices about the goal(s) of antitrust law. The Department's focus here, in the COLRS product market, appears to be on the rights of WESTLAW's (one) competitor, rather than on the interests of consumers of COLRS products. The interest of the public (said alternately, the public interest) must take precedence. Although protection and fostering of competition is a goal of antitrust law, this goal is a means to the wider objective of promoting (and protecting) the interests of the consuming public. *See, e.g., United States* v. *Western Electric Co.*, 578 F. Supp. 668 (D.D.C. 1983).

This Proposed Final Judgment reflects a trend in which the Department[4] appears to begin with the presumption that any merger, no matter how presumptively anticompetitive, can or must be approved, as long as a few concessions are obtained and can be announced. Many of the original goals of the Sherman and Clayton Acts, and of the 1950 Cellar-Kefauver Amendments, goals which are still vital and needed, appear to have been forgotten. Perhaps a combined Thomson-West would be more efficient[5]—but what showing (or requirement) is there that these efficiencies will be passed along to consumers? This is unlikely, given that, for example, in the COLRS product market, WESTLAW has only one competitor, and the Proposal Final Judgment would only more deeply imbed this anticompetitive duopoly. Madisonian concerns about the dangers of concentration of power are also particularly relevant here, given that the concentration would be not in some strictly consumer product, but in access to information, the lifeblood and prerequisite be to participatory democracy.[6]

As noted above, ICP is a non-profit consumers' and civil rights advocacy organization, which needs access to legal research services, including online, to perform its mission. Our society has become increasingly technological and fast-paced. Citizens groups such as ICP, which, under various statutory schemes, provide a counter-balance to the economic and political powers that increasingly dominate the policy making process, cannot meaningfully perform their functions without rapid access to legal precedent, scholarly and news articles, etc. Where the market for these is allowed to become ever more concentrated, driving prices to levels entirely unaffordable to any but the largest corporate litigants/lobbyists, the adverse effects extends beyond even those that flow from anticompetitive pricing in other consumer markets. Allowing a monopoly in toothpaste, or in pharmacies, may be one thing: such concentration may diminish both allocative efficiency and

[1] The Department's definition/delineation of the COLRS product market appears arbitrary. It is called the ''comprehensive online legal research services'' product market, and yet the primary mitigation proposed involves a option for Lexis-Nexis to extend its licenses for three ''non-legal'' data bases: Investext, ASAP and Predicasts. As further explained *infra,* WESTLAW and Lexis-Nexis have a duopoly for the provision of a number of not specifically ''legal'' resources, which are necessary for consumers/public interest groups to advocate. Requiring only that Thomson extend licenses on three data bases, and only to one competitor does not mitigate the foreseeable harm, even as described in the Department's own presentation. The current Proposed Final Judgment should be rejected.

[2] Interestingly, the Statement does not set forth the HHI for this comprehensive online legal research services product market. Exhibit C of the Statement provides HHIs for nine primary law product markets, all of which exceed, often by a power of five or more, the DOJ's own definition of an over-concentrated market. The HHI for the COLRS product market is even higher; ICP questions is that is not among the reasons for the omission of this HHI from the Statement. The HHI for the COLRS product market, as the DOJ defines it, must be entered into the record before the Court.

[3] *See* 15 U.S.C. § 16(e)(1).

[4] And other agencies with antitrust jurisdiction, including, for example, the Federal Reserve Board as to bank holding company mergers, *See infra.*

[5] Emphasis on ''[p]erhaps''—*see generally,* Robert Lande, Wealth Transfers as the Original and Primary Concern of Antitrust: The Efficiency Interpretation Challenged, 34 Hastings L.J. 65 (1982).

[6] ICP stands ready to brief these wider issues, in connection with the Section 16(f) proceedings it is urging the court to begin. Given the unique ''products'' this proposed merger and consent decree involve—the law, and information necessary for effective public participation—full consideration of the Proposed Final Judgment should involve more than mere technocratic (*e.g.* HHI) battle of the numbers. *See infra.*

consumer welfare. But the effect is limited in the first case, to a single personal hygiene product, and in the second, to a set of these. Where access to the law, and to the background sources which alone allow citizens groups to advance their (and the public's) interest, becomes monopolized and anticompetitive, the adverse effects reach even those who do not use these COLRS services, or are not even aware of them.

The Statement, at 7, argues that the Court must almost automatically accept this proposed Final Judgment, as long as it is ''within the range of acceptability or is within the reaches of public interest.'' 61 FR at 35264, citing *United States* v. *American Tel. and Tel. Co.*, 552 F. Supp. 131, 150 (D.D.C. 1982), affd sub nom. *Maryland* v. *United States*, 460 U.S. 1001 (1983), If that is the standard of review that the Court here adopts,[7] ICP formalizes its contention that this Proposed Final Judgment is beyond the range of acceptability, and is not within the reaches of the public interest. Not only would this Proposed Final Judgment allow and legitimize the current overconcentration and anticompetitive behavior in the COLRS product market—it would make such concentration worse, and thereby injure the public interest. This product market unique impinges on and directly affects the ''public interest,'' even the way(s) in which the ''public interest'' is determined.

The Antitrust Procedures and Penalties Act (the ''APPA'') 15 U.S.C. § 16(b)–(h), provides a convenient example of the way in which Congress defers or assigns many policy debates within our society to proceedings, subject to public notice and comment, in which consumers can assert their interests, and confront the arguments of large corporations which seek to maximize returns by (virtually) any means necessary. To illustrate the harms created by the current overconcentration in the COLRS product market, which overconcentration this Proposal Final Judgment would not only not address, but would make worse, consider the following:

As the Department's Statement notes, APPA authorizes the use of procedures beyond a mere review of the Statement and (written) Response to Comments to make the required ''public interest'' determination. *See* 61 FR at 35264, and 15 U.S.C. § 16(f). Imagine a citizens/consumers' group such as ICP seeking to participate in such proceedings, without access to COLRS (that is, without access to WESTLAW or Lexis-Nexis). Both Thomson-West, and the Department, have instantaneous access to online legal research; a single database search using key words will produce (most) all relevant precedents, and other supporting information. One might assume that the staff or members of the consumers group, priced out of the monopolized COLRS market, could simply visit a law library and conduct their research in books, by hand, using Shepards volumes, indices of law reviews, perhaps searching hard copy newspapers on microfilm. On personal knowledge, such a process is exceedingly time consuming, and is not realistic in connection with proceedings under the federal Community Reinvestment Act, Bank Merger Act, Clean Air Act (or APPA). The citizens/consumers group, priced out of the anticompetitive COLRS market, would not realistically be able to effectively present its view of the ''public interest;'' in all likelihood, the corporation's (and, surprisingly, the Department's) competing view of the public interest would prevail, and become a new precedent for applicants for further anticompetitive mergers. This ''incremental corp-ocracy'' prediction might seem too extreme—if it were not precisely what is happening in our society.

ICP urges the court, in order to make its determination under Section 16(e), to use the procedure(s) specified in Section 16(f), particularly those in Section 16(f)(3). ICP and its members, including its executive director, are ''interested persons or agencies;'' their participation would serve the public interest. ICP is aware that Judge Richey on July 31, 1996 denied a motion by Tax Analysts to participate in the proceedings, even as an amicus curiae. West's counsel stated that ''Tax Analysts is disingenuous to say they're intervening to protect the public interest. They're intervening because they lost the lawsuit, and now they're trying to get what they lost in the lawsuit through another means.'' [8] ICP wishes to emphasize that it is not a competitor with West or Lexis-Nexis, that it is in fact not even a for-profit entity. ICP has had experience in the COLRS product market, in the use of these products in order to advocate in public proceedings, and has had experience with the Department's antitrust reviews of proposed mergers beyond this one (*see infra* this letter). Summary disposition on this Proposed Final Judgment, considering only the Complaint, the Statement, comments thereon, Response to Comments and the (perhaps revised) Proposed Final Judgment—would be inappropriate, given the issues raised by this proposed transaction,[9] and the Proposed Final Judgment.

* * * * *

ICP wrote to the Department, attention Assistant Attorney General Bingaman, on June 3, 1996, setting forth its opposition to the proposed Thomson-West acquisition, and stating, *inter alia*, that

[I]n seeking * * * to advocate for the public interest, and for the interest of the predominantly low income and minority residents of the South Bronx and Harlem, ICP has become aware of the harmful effects of West's and Thomson's current oligopoly control of the market for legal and legal-economic information.

Thomson at present owns, *inter alia*, the American Banker, the Regulatory Compliance Newsletter, Lawyers' Cooperative Publishing, Sheshunoff Information Services, etc.; West, of course, is the ''proprietary'' publisher of most relevant case law, and owns the Westlaw data base, containing not only case law, but an extensive business and legal news date base, including the Dow Jones and Associated Press wire services. It is virtually impossible to effectively advocate without access to these resources; however, due to the hyper-concentration of this market, the price for such products is inordinately high. This proposed acquisition would further concentrate this already anticompetitive market. The adverse effect would not only be to further raise prices—the acquisition, without mitigation or divestiture, would effectively exclude such consumers as ICP from the market, and thus would serve to protect, preserve and exacerbate other injustices and anticompetitive behavior in the society.

ICP is a public interest advocate not only in the field of fair lending and civil rights, but also in the antitrust field. For example, ICP extensively documented the prospective anticompetitive effects of the ongoing Chase-Chemical merger, for consumers in the New York area, particularly in Bronx County. Such advocacy, including antitrust advocacy, by those most injured by the many mergers proposed these days—that is to say, small small business associations, community and consumers' groups—is virtually impossible without access to the legal and legal-economic information which West and Thomson control. Any further concentration in this market, any further raising of prices, would silence more voices in society, and thus set off a chain of adverse consequences.

For your information, I recently contacted West Publishing, [on behalf of ICP and of the New York State Reinvestment Alliance, to which ICP belongs], in order to inquire whether West has any program or provision for granting access to Westlaw and other West resources to non-profits, particularly grassroots civil rights and consumers' groups, at reduced or waived fees. I was told that West does not have any such program or provision; nor does West intend to implement such a program or provision. I attempted to explain why such a program would be both productive and in a sense incumbent upon West, both because of its central position in the legal field, and in view of its proposed acquisition and merger with one of its few competitors, Thomson. I was told that the idea would be ''passed along,'' but not to expect any changes, in the near future if at all, because West does not change anything without much study. This deliberativeness does not, however, appear to extend to pricing decisions.

With all due respect, I must also say that ICP is troubled by the DOJ's long standing inter-relation with West, particularly the selection of West as the DOJ'S legal-materials supplier after, largely due to West's anticompetitive behavior, the DOJ abandoned its ''Juris'' project.[10] *See generally*, Thomas

[7] In terms of the proper standard of review, ICP refers the court to, *e.g.*, *Esco Corp. v. United States*, 340 F.2d 1000, 1965 CCH Trade Cases ¶ 71365 (9th Cir. 1965), providing that proposed consent degrees must be scrutinized carefully and approved, both as to form and content, by the court before entry.

[8] Connecticut Law Tribune, August 5, 1996.

[9] *See, e.g.*, editorial in the New Jersey Law Journal of August 5, 1996, at 26: ''The antitrust implications of such an arrangement are so obvious that one might have wondered what courageous attorney gave the first opinion that the DOJ would permit the transaction.''

[10] August 30 note: ICP is aware that on August 5, 1996, the Department sought to intervene in the case of Matthew Bender & Co. Inc and HyperLaw

Continued

Scheffey, ''Too Close for Comfort? States Study West-Thomson Merger, '' Texas Lawyer, April 1, 1996.

ICP regrets submitting these comments (presumably) late in the DOJ's review of the the Thomson-West proposal. I telephoned a DOJ Antitrust staffer I have come to know in the course of ICP's bank merger advocacy work; after several days, this staffer informed me that the Thomson-West proposal was being review not by his unit, but by the ''Merger Task Force.'' Soon thereafter, I attempted to call, and did in fact leave a message for, the Merger Task Force lawyer to whom the staffer had referred me. I did not receive any response for more than a week. I left a second message, in response to which the lawyer informed me that he was not at liberty to tell me the status of the Department's review, but that we could submit our comments by mail to 1401 H Street (which we are hereby doing). While I understand that the DOJ's review is not as formalized as, for example, the reviews conducted by the Federal Reserve System in connection with bank or bank holding company proposed mergers, nevertheless I believe the DOJ should attempt to better inform the affected public, especially the ''retail'' and low and moderate income segment thereof, of pending DOJ merger reviews, such that the DOJ can receive, and consider, comments from those who stand to be most affected—not only to pay a higher price, but to be effectively priced OUT of the market.

Thomson's West proposal is particularly troubling, because of the ripple-effect a price raise / further concentration in the relevant product markets can have. It is one thing for the ''lower'' end of the consumer market for baby wipes, diapers, toothpaste, etc. to be affected by paying higher prices—and it is an entirely different thing for whole segments of our society to be further excluded from legal and legal-economic information, with which alone these segments of society can attempt to participate in public processes and advocate for their interests. This is a particularly important product market, because it involves the raw material which citizens need in order to participate in a Constitutional democracy.

For the Court's information, the Department did call ICP on the day the Proposed Final Judgment was released, and faxed ICP a copy of its six page June 19, 1996 press release. The difficulty of many of those affected by proposal that the DOJ must review in providing information to the DOJ does not appear to spring from any lack of civility on the part of DOJ staff—it is the result of the DOJ current implementation of APPA and other provisions, or perhaps of the drafting of these provisions themselves. With all due respect, however, ICP has noted, in connection with its advocacy efforts during bank merger applications proceedings, that corporate applicants are invariably represented by counsel who appear to have a high degree of familiarity with regulatory staff (including, for example, addressing their letters to DOJ staff on a first name basis, which leaves the public, with less ''access,'' with the sense that approval, perhaps with relatively minor mitigation, is a foregone conclusion). ICP has not been privy to Thomson's communications with the DOJ; [11] these observations are drawn from other DOJ antitrust reviews, including the recent review (which resulted in a finding of no likely anticompetitive effect) of the Chase Manhattan-Chemical merger. However, as I hope this comment has made clear, concentration on the legal research services product market threatens to have not only anticompetitive, but also anti-participatory and frankly undemocratic ramification, much more so than other consumer products industry mergers the Courts may review.

The Proposed Final Judgment is inadequate; despite the mitigation proposed, the combination of Thomson and West is not in the public interest. ICP urges the Court to use the procedures authorized in 15 U.S.C. § 16(f), and to conduct at least a hearing, and perhaps a full trial, on the Complaint filed by the Department on June 19, 1996, and the foreseeable effects of this proposed merger more generally.

If there are any questions about this comment, or any need for follow up (including further participation in this proceeding), please do not hesitate to contact the undersigned, by telephone at (718) 716–3540, by fax at (718) 716–3161, or by mail at 1919 Washington Avenue, Bronx, New York 10457.

Thank you for your attention.

Matthew Lee,

Executive Director.

September 3, 1996.

Craig S. Conrath, Esq.,

Chief, Merger Task Force, U.S. Department of Justice, Antitrust Division, 1401 H Street, Suite 4000, N.W., Washington, DC 20530

Via fax 202–307–5802

Re: *United States v. The Thomson Corporation and West Publishing Company* Case No. 1:96CV01415 (U.S. District Court for the District of Columbia)

Dear Mr. Conrath: This letter presents the comments of the Consumer Project on Technology (CPT) on the Proposed Final Judgment in the above referenced case. CPT is a project of the Center for Study of Responsive Law. CPT was created by Ralph Nader in 1995. We maintain a page of the World Wide Web which describes our activities, at: http://www.essential.org/cpt.

When the Proposed Final Judgment (PFJ) was first made public, CPT made comments to several news organizations expressing satisfaction with the proposed divestitures, while expressing reservations about the economic terms of the compulsory license agreement. After having the opportunity to more closely examine the PFJ, we reiterate our concerns about the onerous economic terms of the compulsory license, and we express our additional concerns about the proposed divestitures. It is our opinion that the PFJ does not adequately protect the public interest, and that the proposed merger should not be permitted.

Proposed Divestitures

CPT was pleased see that the divestiture would include the U.S. Code Service (USC), the U.S. Reports, Lawyers Edition (L.Ed.), and Auto-Cite, three important Thomson valued-added services which compete with products currently offered by West Publishing. However, legal publishers and law librarians have expressed persuasive concerns about omissions in the list of divested products, and raised questions about the viability of USC and L.Ed., if Thomson does not also divest its American Law Reports (ALRs) and American Jurisprudence 2d (Am Jur).

At the heart of the problems over the enhanced legal products that will be divested are the issues of economies of scope in publishing and the inter-related nature of the various value-added products. The USC, L.Ed., and Auto-Cite products rely upon access to research and analysis from ALRs in a fundamental way, and to exclude the ALRs from the products to be divested will greatly diminish the value of the products which are divested.

The economies of scope issue is also important. Other legal publishers do not believe that USC and L.ED. are economically viable, if they are spun off without the ALRs and Am Jur products, because of the lower cost of producing the products jointly, as compared to the stand alone cost of producing enhanced case analysis. These publishers believe the PFJ will create a set of ''product fragments'' which cannot succeed economically on their own.

CPT did not fully appreciate the importance of the ALRs and Am Jur publications at the time the PFJ was announced, and we would like the record to reflect our views after having the opportunity to more closely examine the agreement.

A third area of concern is the implementation of the divestitures. Reed-Elsevier, the owner of Lexis-Nexis, has held discussions with Thomson to determine what assets will actually be sold. While we do not have access to the confidential documents that have been shown to Reed-Elsevier, we do know that Reed-Elsevier believes that Thomson intends to retain the Auto-Cite trained staff and database, along with the exclusive rights to integrate Auto-Cite with the ALRs and other Thomson products. It is one thing to divest a trademark plus copies of the database and software, and yet another to divest a product as a going concern. If Thomson effectively guts the product and sells the service in name only, the purpose of the divestiture will be undermined. Potential bidders on these products have apparently raised these issues with DOJ.

The Compulsory License

In a June 19, 1996 press release, the DOJ emphasized the fact the PFJ would require Thomson to ''openly license'' West's page numbering system under a system of

Inc. v. West Publishing Co., in the U.S. District Court for the Southern District, apparently to argue against West's claim that its page citation system is protected by copyright law. *See* Connecticut Law Tribune, August 12, 1996. This is laudable, but does not resolve the issues in the COLRS product market discussed in this comment.

[11] Nor has ICP seen the defendants' filings required by 15 U.S.C. § 16(g).

''capped'' fees. In fact, the proposed compulsory licensing system seems to permit very little new entry into the market for primary source case law with the use of the West citation. Basically, publishers who seek licenses must agree to purchase the right to use the citation for each and every case that is cited, in each and every product that is published, in each and every year the product is sold. A publisher who licenses the citation to a single case for use in CD-ROM and online products would have to pay twice for the citation, and renew the payment year after year, with fees increasing each year. The costs for those licenses are very high.

According to publishers, typical federal circuit court opinions run from 20 to 40 thousand characters, and U.S. Supreme Court cases often exceed 150 thousand characters. The PFJ requires publishers to pay 9 cents per thousand characters in the first year, increasing to 13 cents after two years, with annual increases for inflation. Thus, for a 30 thousand character opinion, Thomson will receive $3.90, for each product where the opinion is published, in every year the product is sold. This is a very high price to pay simply to publish the law of the land.

These ''capped fees'' are also likely to be the minimum fees. This particular fee structure sets very high hurdles for entry into the market. The fee structure is strongly biased in favor of the largest competitors to Thomson, and strongly prejudiced against small businesses. Of course, the most important competitor to a foreign owned Thomson/West is foreign owned Lexis-Nexis. Lexis-Nexis will surely license the citations. But the proposed compulsory licensing system makes it nearly impossible for many of the innovative American small technology firms who are seeking entry into this market to obtain the citations and become effective competitors. This is a kind of reverse industrial policy that will hurt consumers and American small businesses.

These fees must be paid by anyone, including not-for-profit institutions. The license agreement is written in such a way that the subscribers must agree to the terms of the license, and Thomson must approve the license, making it extremely unlikely that the citations will ever be available for browsing on the Internet.

We are concerned that the compulsory license agreement will have the perverse effect of adding credibility to West's assertions of copyright to the text and citations of federal court opinions, without providing the public with any real improvements in access to legal information.

For these reasons, we urge DOJ and the court to reject the PFJ, and we urge the DOJ to bring and antitrust case against West Publishing which addresses the serious anticompetitive problems in the market for legal information.

Sincerely,

James P. Love,

Director, Consumer Project on Technology.

This letter could not be reprinted in the Federal Register, however, they may be inspected in Suite 215, U.S. Department of Justice, Legal Procedures Unit, 325 7th St., N.W., Washington, D.C. at (202) 514–2481 and at the Office of the Clerk of the United States District Court for the District of Columbia.

Bartlett F. Cole

September 3, 1996.

Ms. Janet Reno,

Attorney General of the United States of America, 10th and Constitution Avenue N.W., Washington, D.C.

Re: Attention to Monopoly in Legal Publishing

Dear Ms. Reno: The undersigned has been in private practice of Civil law since 1940 (except for overseas duty in the Navy in WW II). Law books have been a substantial part of my overhead. Currently I maintain in my office a complete set of CJS and Wests Oregon Digest Second. When I need additional information I go to the Multnomah County law library here in Portland Oregon. Ms. Jacque Jurkins, the Librarian there has written in the Oregon State Bar Bulletin that Thomson will control 100% of law encyclopedias and 100% of State Digests. She also writes that this will lead to increased prices. I enclose a copy of her article.

Please give serious consideration to blocking this monopoly.

I would say that the President of Thomson has tipped his hand in his letter of June 28, 1996. He says: ''Nothing will change in the *near* term''.

Over the years West has spent millions of dollars on art shows, and artists, and in sending annual calendars to its customers. Since my Federal income tax, my State income tax, and my Portland Oregon business tax all go to support art, artists, and art shows I don't think we need to have to pay more for our law books so West can support whom it feels like.

A few years back Multnomah County opened a brand new building with jail space and additional court rooms. West saw fit to send many of its original paintings to decorate the first and second floor with paintings which it had acquired. One of these paintings bore the title ''A Mugging''. The painting was in fact a murder going on by one individual with a sharp knife in which another individual was shown cut and bleeding. In my humble opinion a very poor subject for a building of Justice.

West does not have a very good reputation for accuracy. A few years back they came out with a paperback index to CJS. This was supposed to be put out on an annual basis so they could have reference to the pocket parts. I found a subject completely omitted and wrote to them about it. I also wrote to them about the extremely poor printing on the pages because ink from one side ran through the paper to the other side. They admitted the mistake in writing but brushed me off.

Please let me know if you are willing to block this monopoly or not, At this time we have a First Lady in the White House who has been a practicing lawyer also. If you are not going to do anything, I need to write to her.

The Bible is the inspired word of God. I enclose for your personal use a pamphlet entitled ''King of Kings'' which has helped me understand the Bible.

Sincerely,

Bartlett F. Cole,

Attorney at Law.

Bartlett F. Cole

September 3, 1996.

West Publishing Corporation,

Attn: Mr. Brian H. Hall, President, PO Box 64779, St. Paul MN 55164

Re: West Annual Calendar

Dear Mr. Hall: I have your form letter dated June 28, 1996 promising no change in the near term. Jacque Jurkins, librarian where I go when my office library is insufficient, predicts that you are likely to increase prices. I enclose a copy of her editorial published in a recent issue of the Oregon State Bar Bulletin.

If you think it is presumptive of me, a sole practitioner way out here in Portland Oregon, to write to you about your annual calendar please recall what scripture says:

Rebuke a wise man, and he will love thee
* * *
Teach a just man, and he will increase in learning.
Proverbs 9:8,9

Eliminate Nonessentials

Mr. Hall, one of the ways you could keep costs down is to eliminate your support of art, artists, art shows, and forever cancel your annual West calendar. I have written to your Mr. Orell G. Piper and frankly told him that I have never seen—in my over fifty years of law practice—a West art calendar hanging in any lawyers office. Frankly, Mr. Hall, I am *required* to support art, artists, and art shows by my income tax to the Federal, State and local governments. I really don't need to support every time I pay for one of your books.

The Bible is the inspired word of God. I enclose for your personal use a pamphlet entitled ''King of Kings'' which has helped me understand the Bible.

Sincerely,

Bartlett F. Cole,

Attorney at Law.

Where Have All the Publishers Gone?

By Jacque Jurkins

On February 26, 1996, we saw the end of a legendary, 124-year old U.S. publishing institution, with the news release, ''West Publishing to Join Thomson in $3.425 Billion Transaction.'' This sale, marked the latest and perhaps the greatest acquisition of an American legal publisher by Thomson Professional Publishing, a Canadian-British corporation. It is something akin to Ford and General Motors merging.

The Thomson Corporation consists of three major business units: travel companies in the UK; 140 newspapers in the United States and Canada; and an international publishing group. The latter in turn is split into six divisions, most notably the Thomson Professional Publishing Group, to whom the assorted American law book companies report.

Since 1979 Thomson has acquired at least 10 American legal publishers in addition to West, including: Callaghan & Company

(1979); Clark Boardman (1980); Warren, Gorham & Lamont (1980); Lawyers Cooperative (1989); Bancroft-Whitney (1989); Research Institute of America (1989); Maxwell Macmillian, formerly Prentice-Hall, (1991); Counterpoint Publishing (1994); Information Access (1994); Barclays (1995); and Shepard's/McGraw-Hill, treatises only (1995).

These acquisitions and the subsequent reorganization of traditional product lines have created no end of confusion for law book consumers as they struggle to keep up with the new lineup of publishers and products. Publications once received from Lawyers Cooperative Publishing (Lawyers Coop) may now come from Clark Boardman Callaghan (CBC) or any one of the publishers owned by Thomson; publications received from Shepard's have been transferred to Lawyers Coop or CBC.

If the sale is approved by the Department of Justice—and at this point in time no one believes it will not be approved—Thomson will control: 100 percent of the national legal encyclopedias (CJS and Am.Jur.2d); 100 percent of the annotated federal codes (USCA and USCS); 100 percent of the commercial U.S. Supreme reporters (Supreme Court Reporter and Lawyers Edition); 100 percent of the U.S. Supreme Court digests; 80 percent of the national legal forms sets (West Legal Forms, Am.Jur.Forms and Nichols Cyclopedia of Legal Forms); 76 percent of the state legal encyclopedias; 50 percent of the major American legal treatises and student case books; the entire National Reporter System; 100 percent of West state, regional, Decennial and topical case digests; 25 annotated state codes; and WESTLAW LawDesk and numerous CD–ROM products.

Prior to the sale, there was significant overlap in the publications of West and the Thomson Group, giving the customers a choice of titles from which to choose. The merger of the two companies will almost certainly reduce competition through the elimination of overlapping publications. Will the consumer have a choice of either CJS or Am.Jur.2d., USCA or USCS, Supreme Court Reporter or Law Edition? Doubtful.

The reduced competition is likely to lead to increased prices. Based upon the history of prior Thomson acquisitions, consumers of legal publications should be prepared for significant price adjustments to former West publications. The cost of the annual supplementation to Am.Jur.2d rose from $584 in 1987 to nearly $1,500 in 1994 following Thomson's acquisition of Lawyer's Coop in 1989. Shortly after Thomson created the new entity, Clark Boardman Callaghan in 1992, the supplementation frequency doubled for Couch on Insurance and Costs rose from $133 in 1992 to $695 in 1995. West charged $256 for the 1995 annual pocket parts to West's Legal Forms, while CBC charged $842 for the 1995 supplementation to Nichols Cyclopedia of Legal Forms, comparable form set. One can only speculate as to what the annual supplementation to West's Legal Forms is likely to cost in the future, particularly since it is well recognized in the publishing industry that Thomson paid as much as three times the going rate for its acquisitions and will need to recoup its investment.

The reduced competition also has resulted in less local customer services and fewer local sales representatives. (Perhaps some customers will not find this a loss.) No longer can one deal with a sales rep. No longer can one lean on the sales rep to straighten out a confused billing or take back an unwanted publication. Instead, there are the telemarket callers.

Lawyers, judges and law students cannot perform legal research or study law without reference to one or more of these publishers' research sources either on line or in hard copy format. Yet very few lawyers are aware of the Thomson acquisitions and even fewer have any understanding of the ramifications and profound effect they will have on everyone in the legal community.

West Publishing Corporation

July 18, 1996.

Mr. Bartlett F. Cole,
1201 S.W. 12th Avenue, Rm. 305, Portland, Oregon 97205–1705

Dear Mr. Cole: Mr. Hall wanted me to thank you for your greeting, and also asked me to respond to your letter of July 1 regarding the 1995 West Calendar.

Over the last twenty years West has encouraged the participation of American artists by supporting one of the nations major invitational art shows. Through ''WEST ART & THE LAW'' West has received much recognition, and was even presented the National Business in the Arts Award. The artwork which you enclosed was highlighted and selected by a panel of nationally recognized individuals from the arts community.

We recognize in art, as well as other subjects, taste, judgments, perceptions vary with each individual. We did receive several letters, such as yours, expressing displeasure with that particular picture. Our intentions were not to offend any group of individuals by this particular selection, but to support art. The artwork for our 1997 West Calendar is called ''City Hall''. It's more related to the legal profession, and I hope you won't mind if we send you one as it becomes available.

I also wanted to thank you for the literature you enclosed. I personally believe the Bible is the inspired word of God, but I had never seen or read it in the comic book format. It was interesting.

Thank you again for interest.

Sincerely,

Orell G. Pieper,

Marketing Department.

West Publishing

June 28, 1996.

Dear Customer: I'm very pleased to announce that The Thomson Corporation has acquired West Publishing. As a result of this acquisition, we have combined two Thomson companies, Thomson Legal Publishing, and West Publishing to form a new company, West Information Publishing Group. This merger has successfully passed review by the Department of Justice.

The new company is now unquestionably the preeminent provider in legal publishing and will offer great benefits to the industry. We now have the potential to provide more integrated products and services—products that will be easier to use, more timely, and will incorporate cutting-edge technologies. In addition, our licensing of Star Pagination to third parties will provide greater public access to primary case law by broadening the number of vendors who utilize the product.

In terms of the sales support, customer service, product enhancements, billings, and other services you expect from West Publishing Company, nothing will change in the near term. All operational details will remain the same for the remainder of 1996. If you have any questions, please don't hesitate to call your customer service representative.

You are a valued customer, and your satisfaction is at the top of our priority list. I look forward to our enhanced ability to serve you in the future.

Respectfully,

Brian H. Hall,

President, West Information Publishing Group.

[FR Doc. 96–25030 Filed 10–10–96; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention; Agency Information Collection Activities: Proposed collection; Comment Request

ACTION: Notice of information collection under review; State Juvenile Corrections Organization Survey.

The proposed information collection is published to obtain comments from the public and affected agencies. Emergency review and approval of this collection has been requested from OMB by November 1, 1996. The emergency approval is only valid for 90 days and during this period a regular review of this collection is also being undertaken. Comments are encouraged and will be accepted until December 10, 1996.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) 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;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) 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.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time should be directed to Joseph Moone (phone number and address listed below). If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Joseph Moone, 202–307–5929, Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice, Room 782, 633 Indiana Avenue, NW, Washington, DC 20531.

Overview of this information collection:

(1) Type of Information Collection: New collection.

(2) Title of the Form/Collection: State Juvenile Corrections Organization Survey.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form: None. Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: State juvenile corrections agencies. *Other:* None. This collection will gather specific information on the various State statutes and policies that affect the juvenile custody rates and juvenile custody populations of each state. This information will aid in the analysis of juvenile corrections data.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 51 respondents at an average 6 hours per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 306 burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: October 7, 1996.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96–26125 Filed 10–10–96; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB review; Comment Request

October 3, 1996.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Acting Departmental Clearance Office, Theresa M. O'Malley ((202) 219–5095). Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for Departmental Management, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the Federal Register.

The OMB is particularly interested in comments which:

- 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;
- 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;
- Enhance the quality, utility, and clarity of the information to be collected; and
- 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.

Agency: President's Committee on Employment of People with Disabilities.

Title: Job Accommodation Network (JAN).

OMB Number: 1225–0022.

Frequency: Other (call-in/followup).

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Number of Respondents: 500.

Estimated Time Per Respondent: 30 minutes.

Total Burden Hours: 250

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The Job Accommodation Network (JAN) provides information about making accommodations in the workplace and rights/responsibilities under the Americans with Disabilities Act (ADA) to employers and others. The information collected will consist of accommodation examples and will be used to provide solutions to other callers.

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 96–26177 Filed 10–10–96; 8:45 am]

BILLING CODE 4510–23–M

Submission for OMB review; Comment Request

October 8, 1996.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Acting Departmental Clearance Officer, Theresa M. O'Malley (202) 219–5095). Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Occupational Safety and Health Administration, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316), within 30 days from the date of this publication in the Federal Register.

The OMB is particularly interested in comments which:

• 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;

• 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;

• Enhance the quality, utility, and clarity of the information to be collected; and

• 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.

Agency: Occupational Safety and Health Administration.

Title: Temporary Labor Camps (1910.142).

OMB Number: 1218–0096.

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 7,161.

Estimated Time Per Respondent: 5 minutes.

Total Burden Hours: 75.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The purpose of this standard and its information collection is to request clearance for requiring camp superintendents to notify local health officials of incidence of communicable disease and of suspected food poisoning or an unusual prevalence of any illness in which fever, diarrhea, sore throat, vomiting, or jaundice is a prominent symptom among temporary labor camp residents. These reporting requirements are necessary to minimize the possibility of communicable disease epidemics spreading throughout the camps and endangering the health of the camp residents.

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 96–26178 Filed 10–10–96; 8:45 am]

BILLING CODE 4510–23–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.

Withdrawn General Wage Determination Decision

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, General Wage Determination Nos. LA960052 and LA960055 dated March 15, 1996.

Agencies with construction projects pending, to which this wage decision would have been applicable, should utilize Wage Decision LA960010. Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is less than ten (10) days from the date of this notice, this action shall be effective unless the agency finds that there is insufficient time to notify bidders of the change and the finding is documented in the contract file.

New General Wage Determination Decisions

The number of 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 States: Modifications to General Wage Determination Decisions.

Volume IV

Michigan

MI960065 (October 11, 1996)

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

Massachusetts
MA960001 (March 15, 1996)
MA960005 (March 15, 1996)
MA960007 (March 15, 1996)
MA960012 (March 15, 1996)
MA960017 (March 15, 1996)
MA960018 (March 15, 1996)
MA960019 (March 15, 1996)
New Hampshire
NH960001 (March 15, 1996)
NH960002 (March 15, 1996)
NH960003 (March 15, 1996)
NH960005 (March 15, 1996)
NH960007 (March 15, 1996)
NH960008 (March 15, 1996)
New Jersey
NJ960002 (March 15, 1996)
NJ960003 (March 15, 1996)
NJ960004 (March 15, 1996)
NJ960015 (March 15, 1996)

Volume II

None

Volume III

None

Volume IV

Illinois
IL960001 (March 15, 1996)
IL960002 (March 15, 1996)
IL960003 (March 15, 1996)
IL960005 (March 15, 1996)
IL960008 (March 15, 1996)
IL960016 (March 15, 1996)
Michigan
MI960001 (March 15, 1996)
MI960002 (March 15, 1996)
MI960003 (March 15, 1996)
MI960004 (March 15, 1996)
MI960005 (March 15, 1996)
MI960007 (March 15, 1996)
MI960012 (March 15, 1996)
MI960017 (March 15, 1996)
MI960030 (March 15, 1996)
MI960031 (March 15, 1996)
MI960034 (March 15, 1996)
MI960040 (March 15, 1996)
MI960047 (April 19, 1996)
MI960059 (March 15, 1996)
MI960060 (March 15, 1996)
MI960062 (March 15, 1996)
MI960063 (March 15, 1996)
MI960064 (March 15, 1996)

Volume V

Iowa
IA960013 (March 15, 1996)
Louisiana
LA960010 (March 15, 1996)

Volume VI

California
CA960033 (March 15, 1996)
Oregon
OR960001 (March 15, 1996)
OR960017 (March 15, 1996)
Wyoming
WY960008 (March 15, 1996)
WY960009 (March 15, 1996)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

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, D.C. 20402, (202) 512–1800.

When 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, DC, this 4th day of October 1996.

Philip J. Gloss,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 96–25926 Filed 10–10–96; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Establishment of New Membership on the NASA/Industry Process Action Team for Procurement Issues

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice.

SUMMARY: Notice is given of the establishment of the FY 1997 NASA/Industry Process Action Team. NASA is soliciting the names of NASA Contractor personnel who desire to serve on this team.

DATES: Requests for membership must be received on or before November 30, 1996.

FOR FURTHER INFORMATION CONTACT:

Tom O'Toole, NASA Headquarters, Code HC, 300 E Street, SW, Washington, DC 20546, telephone (202) 358–0478.

SUPPLEMENTARY INFORMATION: The Associate Administrator for Procurement has established a working group of NASA and industry representatives called the NASA/Industry Process Action Team (PAT). The PAT provides a forum for the examination and discussion of issues and concerns associated with improving the operational aspects of current procurement policies and procedures. Members are afforded the opportunity to identify issues and concerns to be addressed by NASA during the PAT's tenure and to provide their individual or organizational viewpoints on procurement policy and procedure changes developed by NASA. Based on the issues and concerns discussed during the PAT meetings, PAT members may be asked to assist in the presentation of an industry-wide conference on procurement issues. Membership is open to NASA contractors of any size willing to commit two people (primary/alternate) for a one year term. The planned PAT will consist of approximately 20 members from industry, both large and small businesses, four NASA representatives, and a member from a law firm with Government contracts experience. The PAT will meet quarterly, unless the number and complexity of policy issues under consideration merit more frequently meetings. NASA contractors and law firms that desire membership on the PAT should send their membership requests to the individual listed under the caption **FOR FURTHER INFORMATION CONTACT** not later than November 30, 1996. Each membership request should indicate the size status of the firm and the extent of its business base with NASA.

Thomas J. O'Toole,

NASA/Industry PAT Chairperson.

[FR Doc. 96–26175 Filed 10–10–96; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Nixon Presidential Historical Materials; Openings of Materials

AGENCY: National Archives and Records Administration.

ACTION: Notice of opening of materials.

SUMMARY: This notice announces the opening of additional Nixon presidential historical materials. Notice is hereby given that, in accordance with section 104 of Title I of the Presidential Recordings and Materials Preservation Act (''PRMPA'', 44 U.S.C. 2111 note) and 1275.42(b) of the PRMPA Regulations implementing the Act (36 CFR Part 1275), the agency has identified, inventoried, and prepared for public access abuse of governmental power portions of Nixon White House tapes among the Nixon Presidential historical materials.

DATES: The National Archives and Records Administration (NARA) intends to make the abuse of governmental power portions of the Nixon White House tapes described in this notice available to the public beginning November 18, 1996. In accordance with 36 CFR 1275.44, any person who believes it necessary to file a claim of legal right or privilege concerning access to these materials should notify the Archivist of the United States in writing of the claimed right, privilege, or defense before November 12, 1996.

ADDRESSES: The materials will be made available to the public at the National Archives at College Park, located at 8601 Adelphi Road, College Park, Maryland.

Petitions asserting a legal or constitutional right or privilege which would prevent or limit access must be sent to the Archivist of the United States, National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740–6001.

FOR FURTHER INFORMATION CONTACT: Karl Weissenbach, Acting Director, Nixon Presidential Materials Staff, 301–713–6950.

SUPPLEMENTARY INFORMATION: NARA is proposing to open 1,941 segments of Nixon White House tapes related to abuse of governmental power from 931 separate conversations recorded from February 1971—April 1972, and July 1972—July 1973. These segments total approximately 201 hours of listening time.

The first opening of Nixon White House tapes, on May 28, 1980, included 12 and ½ hours of conversations used as evidence in Watergate trials. The second opening, on June 4, 1991, included 47 and ½ additional hours of conversations obtained by the Watergate Special Prosecution Force but not played in court. The third opening, on May 17, 1993, included approximately 3 additional hours of abuse of governmental power segments for the months of May and June 1972.

There are no transcripts for these tapes. Tape logs, prepared by NARA, are offered for public access as a finding aid to the tape segments and a guide for the listener. There is a separate tape log entry for each segment of conversation released. Each tape log entry includes the names of participants; date, time, and location of the conversation; and an outline of the content of the conversation.

The tape recordings will be made available to the general public in the research room at 8601 Adelphi Road, College Park, Maryland, Monday through Friday between 8 a.m. and 4:30 p.m. Listening stations will be available for public use on a first come, first served basis. NARA reserves the right to limit listening time in response to heavy demand. No copies of the tape recordings will be sold or otherwise provided at this time. No sound recording devices will be allowed in the listening area. Researchers may take notes. Copies of the tape log will be available for purchase.

Dated: October 8, 1996.

John W. Carlin,

Archivist of the United States.

[FR Doc. 96–26174 Filed 10–10–96; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Wednesday, October 16, 1996.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

BOARD BRIEFING:

1. Insurance Fund Report.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. National Credit Union Share Insurance Fund (NCUSIF) Dividend for 1996 and NCUSIF Insurance Premium for 1997.
3. Request from Federal Credit Union to Expand its Field of Membership.
4. Request from the Asset Liquidation Management Center (ALMC) to Review its Mission.
5. Final Rule: Part 741.6(c), NCUA's Rules and Regulations, Administrative Assessments for Call Reports.
6. Appeal from Federal Credit Union of Field of Membership Determination.

RECESS: 10:45 a.m.

TIME AND DATE: 11:00 a.m., Wednesday, October 16, 1996.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Administrative Actions under Part 745, NCUA's Rules and Regulations. Closed pursuant to exemption (6).
3. Request from Federal Credit Union for a Waiver under Section 704.6, NCUA's Rules and Regulations. Closed pursuant to exemption (8).
4. Final Rule: Amendments to Section 791.6, NCUA's Rules and Regulations, Rules of NCUA Board procedure. Closed pursuant to exemption (8).
5. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 96–26367 Filed 10–9–96; 2:55 pm]

BILLING CODE 7535–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Performance Review Board

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: This notice announces membership in the Performance Review Board of the National Endowment for the Humanities.

FOR FURTHER INFORMATION CONTACT: Timothy G. Connelly, Director, Office of Human Resources, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW, Washington, DC 20506; telephone (202) 606–8415.

Effective January 1997, the new members of the National Endowment for the Humanities SES Performance Review Board who will serve a two year term of appointment are: James Herbert, Director, Research and Education Division—Board Chairman, George Farr, Director, Division of Preservation and Access, and Carole Watson, Special Advisor to the Chairman. Gary Krull, Director, Office of Publications and Public Affairs and Michael S. Shapiro,

General Counsel will serve until replaced.

Sheldon Hackney,

Chairman.

[FR Doc. 96–25675 Filed 10–10–96; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of October 7, 14, 21, and 28, 1996.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of October 7

Wednesday, October 9

11:30 a.m. Affirmation Session (Public Meeting)

a. Final Rulemaking—Revision to 10 CFR Part 20, Constraint for Airborne Radioactive Effluents to the Environment from NRC Licensees Other than Power Reactors and Agreement State Licensees; and Revision of the General Statement of Policy and Procedures for NRC Enforcement Actions (tentative)

(Contact: Andrew Bates, 301–415–1963)

Week of October 14—Tentative

Tuesday, October 15

1:00 p.m. Briefing by Executive Branch (Closed—Ex. 1)

Wednesday, October 16

9:00 a.m. Briefing on Containment Degradation (Public Meeting)

(Contact: Goutam Bagchi, 301–415–2733)

11:00 a.m. Briefing by Executive Branch (Closed—Ex. 1)

2:00 p.m. Briefing PRA Implementation Plan (Public Meeting)

(Contact: Gary Holahan, 301–415–2884)

3:30 p.m. Affirmation Session (Public Meeting) (if needed)

Thursday, October 17

10:30 a.m. and 1:30 p.m. All Employees Meetings (Public Meetings) on ''The Green'' Plaza Area between buildings at White Flint

Friday, October 18

9:00 a.m. Briefing on Integrated Safety Assessment Team Inspection (ISAT) at Maine Yankee (Public Meeting)

(Contact: Ed Jordan, 301–415–7472)

Week of October 21—Tentative

There are no meetings scheduled for the Week of October 21.

Week of October 28—Tentative

There are no meetings scheduled for the Week of October 28.

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

* * * * *

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 96–26303 Filed 10–9–96; 10:28 am]

BILLING CODE 7590–01–M

[Docket No. 50–302]

Florida Power Corporation; Crystal River Nuclear Generating Plant, Unit 3 Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation (NRR), has taken action on a Petition of March 28, 1996 (Petition), for action under § 2.206 of Title 10 of the Code of Federal Regulations (10 CFR 2.206) filed by Louis D. Putney, Esq., on behalf of Barry L. Bennett (Petitioner) concerning the Crystal River Nuclear Generating Plant (CR3) of the Florida Power Corporation (the licensee).

The Petition alleged a number of security-related deficiencies associated with the CR3 facility. The Petition requested, pursuant to 10 CFR 2.206, NRC to investigate security concerns at CR3 and, upon a determination of their validity, institute a proceeding to suspend or revoke the operating license of CR3 pursuant to 10 CFR 2.202 until such time as these concerns are corrected. The Notice of Receipt of Petition Under 10 CFR 2.206 was published in the Federal Register on June 20, 1996 (61 FR 31562).

The Director of NRR determined that the Petition should be denied for the reasons explained in the ''Director's Decision Under 10 CFR 2.206'' (DD–96–13), the complete text of which follows this notice and is available for public inspection at the Commission's Public Document Room at 2120 L Street, NW., Washington, D.C., and at the Local Public Document Room for the CR3 plant located at the Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida.

A copy of this Director's Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c).

As provided by this regulation, the Decision will constitute the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland, this 7th day of October 1996.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Director, Office of Nuclear Reactor Regulation.

DIRECTOR'S DECISION UNDER 10 CFR 2.206

I. Introduction

On March 28, 1996, Louis D. Putney, Esq., on behalf of Barry L. Bennett (Petitioner), filed a Petition pursuant to § 2.206 of Title 10 of the Code of Federal Regulations (10 CFR 2.206) and alleged a number of security deficiencies at Florida Power Corporation's (the licensee's) Crystal River Nuclear Generating Plant, Unit 3 (CR3). The Petitioner requested that the U.S. Nuclear Regulatory Commission (NRC or the staff) investigate the security deficiencies at CR3 and, upon determination of their validity, institute a proceeding to suspend or revoke the operating license of CR3, pursuant to 10 CFR 2.202, until such time as these concerns are corrected. The Petition was referred to the Office of Nuclear Reactor Regulation (NRR) for action in accordance with 10 CFR 2.206.

In a letter dated April 24, 1996, to the Petitioner, the Director of NRR acknowledged receipt of the Petition and informed the Petitioner that his request was being treated as a petition under 10 CFR 2.206. The April 24th letter also informed the Petitioner that as provided by 10 CFR 2.206, action will be taken on his request within a reasonable time. Receipt of the petition was noticed in the Federal Register (61 FR 31562). The staff has completed its review of the issues and has reached its conclusions, which are discussed herein.

II. Background

The Petitioner alleged security deficiencies at the CR3 plant and stated that they render the nuclear security program at CR3 ineffective. As the basis of his request, the Petitioner described examples of the security concerns,

which involved the following four areas: Compliance with licensing requirements and maintaining an effective security program; a pattern of lax security and failure to report security breaches; a practice of using only one guard to monitor several protected zones or entrances to the protected area; and a reduction of security force personnel.

The NRC staff has reviewed the Petition and the results of this review are discussed below.

A special inspection was conducted during the periods of March 13–22 and April 3–5, 1996, and is documented in NRC Inspection Report (IR) 50–302/96–02. This IR contains safeguards information as defined by 10 CFR 73.21 and its disclosure to unauthorized individuals is prohibited by Section 147 of the Atomic Energy Act of 1954, as amended and therefore, is not available for public review. However, the IR summary does not contain safeguards information and, therefore, is available for public review at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the local public document room located at Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629.

III. Discussion

The Petitioner alleged that CR3's compliance with one of its licensing requirements, that is, maintaining a security program that would be effective against terrorist attack, is inadequate. Specifically, the Petitioner alleges that an operational security response effectiveness drill conducted in 1995 was unsuccessful and the results were not formally documented and reported to the NRC. Further, the Petitioner claims that the deficiencies revealed by the drill have never been corrected, and thus the plant remains susceptible to terrorist attack.

Two types of security drills have been conducted at CR3: an Operational Safeguards Response Evaluation (OSRE) by the NRC and a Security Organization Response Exercise (SORX) by the licensee. The NRC staff conducted an OSRE on February 15–18, 1994, and its results are documented in a letter to the licensee dated August 11, 1994. The licensee conducted SORX drills during May and June 1995. The staff contacted Louis D. Putney, the attorney for the Petitioner, to clarify whether the Petitioner's concern is related to the licensee's SORX or the NRC's Operational Safeguards Response Evaluation. Mr. Putney confirmed that the issue is related to the licensee's SORX drill.

In the course of the March 18–22 and April 3–5, 1996 inspection, the inspector reviewed documentation, and interviewed licensed representatives to determine whether the licensee was meeting commitments specified in the Training and Qualification Plan (T&QP).

The inspector verified during these two inspection periods that the security force was being trained in accordance with the provisions outlined in the T&QP by reviewing 1995 records for 10 randomly selected security force members employed in the position of either response team member, alarm station operator/analyst, or access control officer. All members of the security force were appropriately equipped. The records reviewed indicate that the tasks, weapon requalification scores, and physical fitness requirements were documented satisfactorily. Interviews with security officers in various positions verified that they were knowledgeable for their duties and responsibilities. The inspector concluded that the licensee, at the time of these inspections, was meeting the commitments specified in the licensee's T&QP.

The inspector reviewed the licensee's documentation for SORX drills, which were conducted during May and June 1995. The licensee used attendance sheets to document each participant's attendance and performance. All participants for the seven SORX drills were documented as performing satisfactorily. In addition, these attendance sheets were signed and dated by the instructor/assessor, who on several occasions was the Petitioner. The licensee stated that the drills were successful, and inspection of the licensee's records and interviews with its employees did not show otherwise. Upon further discussion with licensee representatives, the inspector learned that licensee documented the 1993 and 1994 drills on Form TDP–307 and the 1995 drills on the attendance sheets as discussed above. Based on review of the documentation, interviews of the licensee representatives and security officers, and direct observations, the inspector concluded that there were no discovered vulnerabilities in the licensee's safeguards system or violations of licensed requirements during the licensee's SORX drills and that the licensee's training and qualification program meets the requirements in the T&QP.

The NRC inspector verified that the 1995 SORX drill results were not reported to the NRC, as alleged by the Petitioner. However, there is no regulatory requirement to report the results of drills unless certain safeguards system weaknesses are discovered during the drills that could allow unauthorized or undetected access to protected or vital areas of the reactor. If the above weaknesses are discovered they are required to be compensated, corrected and reported or documented in accordance with NRC regulations; 10 CFR 73.55 and 73.71. No such vulnerabilities in the 1995 SORX drills were identified. The staff did not find violations of regulatory requirements in the conduct or documentation of the 1995 drills, and the Petitioner's concerns are not substantiated.

The Petitioner states that ''there is a general laxity of security'' and ''a pattern of failure to report security breaches'' at Crystal River. As the basis for these claims, the Petitioner cites three separate incidents that occurred in 1995 for which security reports were not filed: (1) A guard was found asleep at a compensatory post, (2) a security lieutenant took his badge off site, and (3) a guard was found reading a book instead of watching three security zones as assigned.

Pursuant to 10 CFR 73.71, licensees are required to report certain safeguards events to the NRC within one hour of discovery and other events must be recorded within 24 hours in the Safeguards Event Logs that are maintained by each licensee. During the weeks of March 18–22 and April 3–5, 1996, the inspector reviewed the licensee's Safeguards Event Logs for the period January 1995 to March 1996 to verify that the criteria specified in 10 CFR 73.71 were being met. The inspector verified that the three safeguards events identified by the Petitioner were documented in Security Incident Reports and logged in the licensee's Safeguards Event Log as required by 10 CFR 73.71. The inspector also determined that these three events were not one hour reportable events pursuant to 10 CFR 73.71, Appendix G. All of the three events identified by the Petitioner were properly logged and compensated for in accordance with 10 CFR 73.71. Therefore, the staff substantiated that these incidents occurred, but did not substantiate the Petitioner's claim of ''failure to report security breaches.''

During the March and April inspections, the inspector identified four violations of regulatory requirements relating to failure to adhere to the licensee's Physical Security Plan but unrelated to the specific issues raised by the Petitioner. By letter dated May 1, 1996, the staff issued a Notice of Violation citing these violations.

Three of these violations are related to operability of the vehicle barrier gate,

protected area lighting and storage of safeguards material. In response, on May 31, 1996, the licensee submitted its corrective action plan to ensure that such violations would not recur.

The fourth violation related to certain compensatory measures that the licensee implemented as part of its security upgrade. Specifically, the violation cited that the licensee's compensatory actions decreased the effectiveness of the alarm stations and did not meet the provisions specified in 10 CFR 50.54(p). The NRC staff, in a letter dated March 29, 1996, informed the licensee to cease the compensatory measures. In a subsequent meeting with the NRC on April 2, 1996, the licensee informed the NRC of the actions that it would take to maintain compliance with regulatory requirements. During the inspection of April 3–5, 1996, the NRC staff verified that the licensee was adhering to its commitments. Although this violation was serious, the NRC staff believes the timely actions implemented by the licensee to correct these deficiencies were satisfactory and that no further action by the NRC is warranted. Further, the staff concludes that neither the incidents identified by the petitioner with respect to security personnel's performance, nor the violations identified by the staff constitute ''a general laxity of security.''

The Petitioner states that the licensee's current practice of using only one guard to monitor several protected zones or entrances to the protected area does not provide adequate security. The licensee has committed to monitoring multiple protected zones or entrances in its NRC-approved Physical Security Plan (hereinafter referred to as the Plan) which describes compensatory measures that must be implemented when equipment or other resources are not in service. During the weeks of March 18–22 and April 3–5, 1996, the inspector reviewed the licensee's security program at CR3 with respect to guard monitoring of protected zones and found it to be in compliance with the Plan. Additionally, the inspector reviewed the established compensatory posts and determined that they were in accordance with the licensee's Plan and also with the recommended NRC guidance developed in NUREG–1045, ''Guidance on the Application of Compensatory Safeguards Measures for Power Reactor Licensees,'' dated January 1984.

On the basis of its inspection, the staff finds that the licensee's current practice of monitoring multiple protected zones or entrances to the protected area is consistent with the Plan and provides adequate security. Therefore, the Petitioner's concern regarding the adequacy of having one guard monitor several protected zones or entrances to the protected area was not substantiated.

The Petitioner states that the licensee intends to reduce its security force at CR3, and on that basis, the Petitioner raises a concern that the reduction in the security force would compromise security at the plant. In a discussion with licensee representatives on April 4, 1996, the inspector confirmed that the licensee intends to implement cost-saving measures that would employ new technology and result in a slight reduction in the number of security officers. The mere reduction in force does not indicate that plant security will be compromised. The licensee must ensure that, notwithstanding its cost-saving measures, its plan and security staffing will meet NRC requirements and are adequate to protect public health and safety. The number of security officers the licensee intends to utilize is required to, and will, meet the current commitments specified in the licensee's Plan. If the licensee decides to change the Plan commitments, it must identify the changes and submit them to NRC in accordance with NRC regulations. Therefore, the staff finds that the Petitioner's concern regarding personnel reduction and its consequent effect on plant security is not substantiated.

IV. Conclusion

The Petitioner's allegations have been partly substantiated. However, the NRC staff concludes that these concerns do not warrant suspension or revocation of Florida Power's license to operate CR3. With respect to violations identified, the NRC is satisfied that the licensee has taken appropriate action to correct the deficiencies. No further action based on concerns raised by the Petitioner is warranted. See Consolidated Edison Company of New York (Indian Point Units 1, 2, and 3), CLI–75–8, 2 NRC 173, 175 (1975); Washington Public Power Supply System (WPPSS Nuclear Project No. 2), DD–84–7, 19 NRC 899, 924 (1984). Therefore, any further action on the issues addressed in this Director's Decision is not warranted and the Petitioner's request for suspension or revocation pursuant to 10 CFR 2.202 is denied. As provided in 10 CFR 2.206(c), a copy of this Director's Decision will be filed with the Secretary of the Commission for the Commission's review.

As provided by this regulation, the Decision will constitute the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland, this 7th day of October 1996.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 96–26160 Filed 10–10–96; 8:45 am]

BILLING CODE 7590–01–M

PENSION BENEFIT GUARANTY CORPORATION

Exemption From the Bond/Escrow Requirement Relating to the Sale of Assets by an Employer That Contributes to a Multiemployer Plan; St. Louis Cardinals, L.P.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has granted a request from the St. Louis Cardinals, L.P. for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended, with respect to the Major League Baseball Players Benefit Plan. A notice of the request for exemption from the requirement was published on July 24, 1996 (61 FR 38480). The effect of this notice is to advise the public of the decision on the exemption request.

ADDRESSES: The non-confidential portions of the request for an exemption and the PBGC response to the request are available for public inspection at the PBGC Communications and Public Affairs Department, Suite 240, 1200 K Street, NW., Washington, DC 20005–4026, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ralph L. Landy, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026; telephone 202–326–4127 (202–326–4179 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

Section 4204 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980 (''ERISA'' or ''the Act''), provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met.

These conditions, enumerated in section 4204(a)(1)(A)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan with respect to the operations for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred (the amount of the bond or escrow is doubled if the plan is in reorganization in the year in which the sale occurred); and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation (''PBGC'') to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) when warranted. The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. Senate Committee on Labor and Human Resources, 96th Cong., 2nd Sess., S. 1076, The Multiemployer Pension Plan Amendments Act of 1980: Summary and Analysis of Considerations 16 (Comm. Print, April 1980); 128 Cong. Rec. S10117 (July 29, 1980). The granting of an exemption or variance from the bond/escrow requirement does not constitute a finding by the PBGC that a particular transaction satisfies the other requirements of section 4204(a)(1).

Under the PBGC's regulation on variances for sales of assets (29 CFR Part 4204, available at 61 FR 34002, 34084 (July 1, 1996)), a request for a variance or waiver of the bond/escrow requirement under any of the tests established in the regulation (sections 4204.12–4204.13) is to be made to the plan in question. The PBGC will consider waiver requests only when the request is not based on satisfaction of one of the three regulatory tests or when the parties assert that the financial information necessary to show satisfaction of one of the regulatory tests is privileged or confidential financial information within the meaning of 5 U.S.C. 552(b)(4) (the Freedom of Information Act).

Under section 4204.22 of the regulation, the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and section 4204.22(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the Federal Register, and to provide interested parties with an opportunity to comment on the proposed variance or exemption. The PBGC received no comments on the request for exemption.

The Decision

On July 24, 1996 (61 FR 38480), the PBGC published a notice of the pendency of a request by the St. Louis Cardinals, L.P. (the ''Buyer'') for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) with respect to its purchase of the St. Louis Cardinals Baseball Team from the St. Louis Baseball Club, Inc. (the ''Seller''). According to the request, the Major League Baseball Players Benefit Plan (the ''Plan'') was established and is maintained pursuant to a collective bargaining agreement between the professional major league baseball teams (the ''Clubs'') and the Major League Baseball Players Association (the ''Players Association'').

According to the Buyer's representations, the Seller was obligated to contribute to the Plan for certain employees of the sold operations. Effective March 21, 1996, the Buyer and Seller entered into an agreement under which the Buyer agreed to purchase substantially all of the assets and assume substantially all of the liabilities of the Seller relating to the business of employing employees under the Plan. The Buyer agreed to contribute to the Plan for substantially the same number of contribution base units as the Seller. The Seller agreed to be secondarily liable for any withdrawal liability it would have had with respect to the sold operations (if not for section 4204) should the Buyer withdraw from the Plan within the five plan years following the sale and fail to pay its withdrawal liability. The amount of the bond/escrow required under section 4204(a)(1)(B) of ERISA is approximately $873,000. The estimated amount of the unfunded vested benefits allocable to the Seller with respect to the operations subject to the sale is $7,340,095. The transaction had to be approved by Major League Baseball, which required that the debt-equity ratio of the Buyer be no more than 60 percent. The Buyer's financial statements showed that its net tangible assets exceed the unfunded vested benefits allocable to the Seller with respect to the purchased operations. The Buyer requested confidential treatment of its financial statements on the ground that they are confidential within the meaning of 5 U.S.C. 552.

Based on the facts of this case and the representations and statements made in connection with the request for an exemption, the PBGC has determined that an exemption from the bond/escrow requirement is warranted, in that it would more effectively carry out the purposes of title IV of ERISA and would not significantly increase the risk of financial loss to the Plan. Moreover, the PBGC has determined that the Buyer satisfies the net tangible assets test contained in section 4204.13(a)(2) of the regulation, and would be entitled to a variance of the bond/escrow requirement from the Plan under section 4204.11 of the regulation.

Therefore, the PBGC hereby grants the request for an exemption for the bond/escrow requirement. The granting of an exemption or variance from the bond/escrow requirement of section 4204(a)(1)(B) does not constitute a finding by the PBGC that the transaction satisfies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is a determination to be made by the Plan sponsor.

Issued at Washington, DC, on this 7th day of October, 1996.

Martin Slate,

Executive Director.

[FR Doc. 96–26181 Filed 10–10–96; 8:45 am]

BILLING CODE 7708–01–P

Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer Who Contributes to a Multiemployer Plan; Tuscan Dairy Farms, Inc.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has granted a request from Tuscan Dairy Farms, Inc. for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended, with respect to the Local 584 Pension Trust Fund. A notice of the request for exemption from the requirement was published on July 24, 1996 (61 FR 38481). The effect of this notice is to advise the public of the decision on the exemption request.

ADDRESSES: The nonconfidential portions of the request for an exemption and the PBGC response to the request are available for public inspection at the PBGC Communications and Public Affairs Department, Suite 240, 1200 K Street, N.W., Washington, DC 20005–4026, between the hours of 9:00 a.m. and 4:00 p.m, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Karen L. Morris, Attorney, Office of General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, N.W., Washington, D.C. 20005; telephone 202–326–4127 (202–326–4179 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

Section 4204 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980, (''ERISA'' or ''the Act''), provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered to result in a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1)(A)–(C), are that—

(A) The purchaser has an obligation to contribute to the plan with respect to the operations for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred (the amount of the bond or escrow is doubled if the plan is in reorganization in the year in which the sale occurred); and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Additionally, section 4204(b)(1) provides that if a sale of assets is covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation (''PBGC'') to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) when warranted. The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. Senate Committee on Labor and Human Resources, 96th Cong., 2nd Sess., S. 1076, The Multiemployer Pension Plan Amendments Act of 1980: Summary and Analysis of Considerations 16 (Comm. Print, April 1980); 128 Cong. Rec. S10117 (July 29, 1980). The granting of an exemption or variance from the bond/escrow requirement does not constitute a finding by the PBGC that a particular transaction satisfies the other requirements of section 4204(a)(1). Such questions are to be decided by the plan sponsor in the first instance, and any disputes are to be resolved in arbitration. 29 U.S.C. 1382, 1399, 1401.

Under the PBGC's regulation on variances for sales of assets (29 CFR Part 4204, available at 61 FR 34002, 34084 (July 1, 1996)), a request for a variance or waiver of the bond/escrow requirement under any of the tests established in the regulation (29 CFR 4204.12–4204.14) is to be made to the plan in question. The PBGC will consider waiver requests only when the request is not based on satisfaction of one of the four regulatory tests or when the parties assert that the financial information necessary to show satisfaction of one of the regulatory tests is privileged or confidential financial information within the meaning of 5 U.S.C. 552(b)(4) (the Freedom of Information Act).

Under § 4204.22 of the regulation, the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and section 4204.22(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the Federal Register, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Decision

On July 24, 1996 (61 FR 38481), the PBGC published a request from Tuscan Dairy Farms, Inc. (the ''Purchaser'') for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) with respect to its August 18, 1995, purchase of certain assets of American Farms, Inc., Progressive Milk Co., Ltd., and 339 Milk, Inc. (the ''Sellers''). No comments were received in response to the notice.

According to the request, on August 18, 1995, the Purchaser acquired certain assets of the Sellers. The Sellers were obligated to contribute to the Local 584 Pension Trust Fund (the ''Plan'') for certain employees at operations subject to the sale. The Purchaser is required to contribute to the Plan for substantially the same number of contribution base units with respect to employees of the Sellers who work at operations subject to the sale. The Sellers have agreed to be secondarily liable for any withdrawal liability they would have had with respect to the sold operations (if not for section 4204) should the Purchaser withdraw from the Plan within five years of the sale and fail to pay its withdrawal liability.

The estimated amount of the unfunded vested benefits allocable to the Sellers with respect to the operations subject to the sale is $177,657. The Purchaser does not have an estimate of the unfunded vested benefits allocable to it for its other operations covered under the Plan. The amount of the bond/escrow that would be required under section 4204 (a)(1)(B) of ERISA is approximately $123,905.

The Purchaser submitted a financial statement showing the amount of its net tangible assets. The Purchaser asserted that even though it does not have an estimate of the unfunded vested benefits allocable to its other operations, even if the total unfunded vested benefits of the Plan were allocated to those other operations, Purchaser's net tangible assets exceed the sum of the unfunded vested benefits allocable to the Sellers and the maximum amount that could be allocable to its other operations. The Purchaser has requested confidential treatment of its financial statements on the ground that they are confidential within the meaning of 5 U.S.C. 552.

Based on the facts of this case and the representations and statements made in connection with the request for an exemption, the PBGC has determined that an exemption from the bond/escrow requirement is warranted, in that it would more effectively carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the Plan. Moreover, the PBGC has determined that the Buyer satisfies the net tangible assets test contained in section 4204.13(a)(2) of the regulation, and would be entitled to a variance of the bond/escrow requirement from the Plan under section 4204.11 of the regulation. Therefore, the PBGC hereby grants the request for an exemption from the bond/escrow requirement. The granting of an exemption or variance from the bond/escrow requirement of section 4204(a)(1)(B) does not constitute a finding by the PBGC that the transaction satisfies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is a determination to be made by the Plan sponsor.

Issued at Washington, D.C., on this 7th day of October, 1996.

Martin Slate,

Executive Director.

[FR Doc. 96–26182 Filed 10–10–96; 8:45 am]

BILLING CODE 7708–01–P

Privacy Act of 1974; System of Records

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of a new routine use of records for PBGC–6, Plan Participant and Beneficiary Data—PBGC.

SUMMARY: The Pension Benefit Guaranty Corporation is proposing a new routine use of records for a system of records maintained pursuant to the Privacy Act of 1974, as amended, entitled PBGC–6, Plan Participant and Beneficiary Data—PBGC. The new routine use will permit disclosure to the public of names and last known addresses of participants who are or may be entitled to benefits under terminated pension plans, and the names and last known addresses of their former employers, so that missing participants will know that they are being sought.

DATES: Comments on the new routine use must be received by November 12, 1996. The new routine use will become effective November 20, 1996, without further notice, unless comments result in a contrary determination and a notice is published to that effect.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, Suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or delivered to that address between 9 a.m. and 4 p.m. on business days. Written comments will be available for public inspection at the PBGC's Communications and Public Affairs Department, Suite 240 at the same address, between 9 a.m. and 4 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: D. Bruce Campbell, Attorney, Office of the General Counsel, Suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026; 202–326–4123 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: The PBGC maintains certain information about participants and beneficiaries in terminating and terminated pension plans covered by title IV of the Employee Retirement Income Security Act of 1974, as amended, in a Privacy Act system of records entitled PBGC–6, Plan Participant and Beneficiary Data—PBGC.

To assist the PBGC in locating missing participants and beneficiaries, including missing participants under section 4050 of ERISA, the PBGC previously established routine uses of records for PBGC–6 that permit disclosure of certain information to the Internal Revenue Service, the Social Security Administration, certain labor organizations, private locator services, the United States Postal Service, and to certain other participants and beneficiaries. To provide an additional tool for locating missing participants, PBGC is establishing a new routine use of records for PBGC–6, routine use 11, that will permit disclosure of certain information so that missing participants will know that they are being sought. Routine use 11 will permit disclosure to the public of names and last known addresses of participants and beneficiaries, and the names and addresses of participants' former employers. Such information will be disclosed only if the PBGC is unable to make benefit payments because the address it has does not appear to be current or correct.

For the convenience of the public, PBGC–6, as amended, is published in full below with new routine use 11 italicized.

Issued in Washington, DC, this 9th day of October 1996.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

PBGC–6

SYSTEM NAME:

Plan Participant and Beneficiary Data—PBGC.

SECURITY CLASSIFICATION:

Not applicable.

SYSTEM LOCATION:

Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026 and/or field benefit administrator, plan administrator, and paying agent worksites.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants and beneficiaries in terminating and terminated pension plans covered by Title IV of the Employee Retirement Income Security Act of 1974, as amended (''ERISA'').

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, telephone numbers, sex, social security numbers and other Social Security Administration information, dates of birth, dates of hire, salary, marital status (including domestic relations orders), time of plan participation, eligibility status, pay status, benefit data, health-related information, insurance information where plan benefits are guaranteed by private insurers, and initial and final PBGC determinations (29 CFR 2606.22 and 2606.60). The records listed herein are included only as pertinent or applicable to the individual plan participant or beneficiary.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

29 U.S.C. 1055, 1056(d)(3), 1302, 1321, 1322, 1322a, 1341, 1342 and 1350.

PURPOSE(S):

This system of records is maintained for use in determining eligibility for benefits under plans covered by Title IV of ERISA, including determinations as

to the participants and beneficiaries entitled to benefits and the amounts of such benefits to be paid, and in making benefit payments and collecting benefit overpayments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record from this system of records may be disclosed to third parties, such as banks, insurance companies, or trustees, to make benefit payments to plan participants and beneficiaries.

2. A record from this system of records may be disclosed, in furtherance of proceedings under Title IV of ERISA, to a contributing sponsor (or other employer who maintained the plan), including any predecessor or successor, and any member of the same controlled group.

3. A record from this system of records may be disclosed, upon request for a purpose authorized under Title IV of ERISA, to an official of a labor organization recognized as the collective bargaining representative of the individual about whom a request is made.

4. Names, addresses, and telephone numbers of participants and beneficiaries and information pertaining to debts owed by such participants and beneficiaries to the PBGC may be disclosed to a debt collection agency or firm to collect a claim. Disclosure shall be made only under a contract that binds any such contractor or employee of such contractor to the criminal penalties of the Privacy Act. The information so disclosed shall be used exclusively pursuant to the terms and conditions of such contract and shall be used solely for the purposes prescribed therein. The contract shall provide that the information so disclosed shall be returned at the conclusion of the debt collection effort.

5. The name and social security number of a participant employed or formerly employed as a pilot by a commercial airline may be disclosed to the Federal Aviation Administration (''FAA'') to obtain information relevant to the participant's eligibility or continued eligibility for disability benefits.

6. Names and social security numbers of plan participants and beneficiaries may be disclosed to the Internal Revenue Service (''IRS'') to obtain current addresses from tax return information and to the Social Security Administration (''SSA'') to obtain current addresses under the SSA's Letter Forwarding Service. Such information will be disclosed only if the PBGC has no address for an individual or if mail sent to the individual at the last known address is returned as undeliverable.

7. Names and last known addresses may be disclosed to an official of a labor organization recognized as the collective bargaining representative of participants for posting in union halls or for other means of publication to obtain current addresses of participants and beneficiaries. Such information will be disclosed only if the PBGC has no address for an individual or if mail sent to the individual at the last known address is returned as undeliverable.

8. Names, social security numbers, last known addresses, and dates of birth and death may be disclosed to private firms and agencies that provide locator services, including credit reporting agencies and debt collection firms or agencies, to locate participants and beneficiaries. Such information will be disclosed only if the PBGC has no address for an individual or if mail sent to the individual at the last known address is returned as undeliverable. Disclosure shall be made only under a contract that binds the firm or agency providing the service and its employees to the criminal penalties of the Privacy Act. The information so disclosed shall be used exclusively pursuant to the terms and conditions of such contract and shall be used solely for the purposes prescribed therein. The contract shall provide that the information so disclosed shall be returned at the conclusion of the locating effort.

9. Names and last known addresses may be disclosed to licensees of the United States Postal Service (''USPS'') to obtain current addresses under the USPS's National Change of Address Program. Such information will be disclosed only if the PBGC has no address for an individual or if mail sent to the individual at the last known address is returned as undeliverable. Disclosure shall be made only under a contract that binds the licensee of the Postal Service and its employees to the criminal penalties of the Privacy Act. The information so disclosed shall be used exclusively pursuant to the terms and conditions of such contract and shall be used solely for the purposes prescribed therein. The contract shall provide that the information so disclosed shall be returned at the conclusion of the locating effort.

10. Names and last known addresses may be disclosed to other participants in, and beneficiaries under, a pension plan to obtain the current addresses of individuals. Such information will be disclosed only if the PBGC has no address for an individual or if mail sent to the individual at the last known address is returned as undeliverable.

11. Names and last known addresses of participants and beneficiaries, and the names and addresses of participants' former employers, may be disclosed to the public to obtain current addresses of the individuals. Such information will be disclosed to the public only if the PBGC is unable to make benefit payments to the participants and beneficiaries because the address it has does not appear to be current or correct.

General Routine Uses G1 and G4 through G7 (see Prefatory Statement of General Routine Uses) apply to this system of records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Information may be disclosed to a consumer reporting agency in accordance with 31 U.S.C. 3711(f) (5 U.S.C. 552a(b)(12)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in file folders and/or in automated form.

RETRIEVABILITY:

Records are indexed by plan and participant and/or beneficiary name.

SAFEGUARDS:

Manual records are kept in areas of restricted access that are locked after office hours; access to automated records is restricted.

RETENTION AND DISPOSAL:

Records for plan participants are transferred to the Washington National Federal Records Center 6 months after either the final payment to a participant and/or beneficiary or the PBGC's final determination that a participant or beneficiary is not entitled to any benefits and are destroyed 7 years after such payment or determination.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Insurance Operations Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026.

NOTIFICATION PROCEDURE:

Procedures are detailed in PBGC regulations: 29 CFR Part 2607.

RECORD ACCESS PROCEDURES:

Same as notification procedure.

CONTESTING RECORDS PROCEDURE:

Same as notification procedure.

RECORD SOURCE CATEGORIES:

Plan administrators, participants and beneficiaries, the FAA, the SSA, labor organization officials, firms or agencies providing locator services, and USPS licensees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 96–26314 Filed 10–10–96; 8:45 am]

BILLING CODE 7708–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Emergency Clearance of the Revised Information Collections: OPM 2809–EZ1 & OPM 2809–EZ2

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management has submitted to the Office of Management and Budget a request for emergency clearance of the revised information collections: OPM 2809–EZ1 & OPM 2809–EZ2. OPM 2809 EZ1, Enrollment Change and Brochure Request & OPM 2809–EZ2, Open Season HB Enrollment Change, are used by annuitants, survivor annuitants, and former spouses of retirees during Open Season to request an enrollment change, insurance plan brochures, and other informational materials. If OPM Form 2809–EZ1 is used to request plan brochures, an OPM Form 2809–EZ2 is furnished to the enrollee for use if a plan change is desired.

Approximately 74,200 OPM Forms 2809–EZ1 are completed annually. Each form requires approximately 30 minutes to complete. The annual burden is 37,100 hours. Approximately 35,345 OPM Forms 2809–EZ2 are completed annually. Each form requires approximately 30 minutes to complete. The annual burden is 17,672 hours.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@mail.opm.gov

DATES: Comments on this proposal should be received on or before October 16, 1996. OMB will have 5 calendar days to act after the close of this Federal Register Notice.

ADDRESSES: Send or deliver comments to—

Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349, Washington, DC 20415 and

Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management & Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503

FOR FURTHER INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–26164 Filed 10–10–96; 8:45 am]

BILLING CODE 6325–01–M

POSTAL SERVICE

Information Based Indicia Program

AGENCY: Postal Service.

ACTION: Extension of time period for comments on IBIP draft specifications (PSD and Indicium).

SUMMARY: The Postal Service is extending the time period for comments on its draft IBIP specification documents. The time period will be extended to one month from publication of this Notice.

FOR FURTHER INFORMATION CONTACT: Terry Goss, (202) 268–3757.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 96–25673 Filed 10–10–96; 8:45 am]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 17a–19 and Form X–17A–19, SEC File No. 270–148, OMB Control No. 3235–0133

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for approval of extension on the following rule and form:

Rule 17a–19 requires National Securities Exchanges and Registered National Securities Associations to file Form X–17A–19 with the Commission whenever a change in membership status occurs in order to notify the Commission that a change in designated examining authority is necessary.

It is anticipated that approximately 8 National Securities Exchanges or Registered National Securities Associations will make 3,600 total annual responses pursuant to Rule 17a–19. The total annual burden is estimated to be 900 hours.

General comments regarding the estimated burden hours should be directed to the Desk Officer for the Securities and Exchange Commission at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: October 7, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–26172 Filed 10–10–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26587]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

October 4, 1996.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 28, 1996, to the Secretary, Securities and Exchange Commission, Washington, D.C. 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.

Northeast Utilities, et al. (70–8507)

Northeast Utilities (''NU''), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, a registered holding company, and its wholly owned subsidiary companies, Charter Oak Energy, Inc. (''Charter Oak'') and COE Development Corporation (''COE Development''), both located at 107 Seldon Street, Berlin, Connecticut 06037, (collectively, ''Applicants'') have filed a post-effective amendment to its application-declaration under sections 6(a), 7, 9(a), 10, 12(b), 13(b), 32 and 33 of the Act and rules 45, 53, 83, 86, 87, 90 and 91 thereunder.

By orders dated December 30, 1994 (HCAR No. 26213) and August 7, 1995 (HCAR No. 26345) (collectively, ''Orders''), the Commission authorized NU, among other things, to invest directly in Charter Oak and indirectly in COE Development up to an aggregate principal amount of $400 million through December 31, 1996. In addition, the Applicants were authorized: (1) to form intermediate subsidiary companies (''Intermediate Companies'') to acquire an interest in, finance the acquisition and hold the securities of exempt wholesale generators, as defined by section 32 of the Act (''EWGs''), and foreign utility companies, as defined by section 33 of the Act (''FUCOs''), through the issuance of equity securities and debt securities to third parties; (2) for Intermediate Companies to make partial sales of qualifying cogeneration and small power production facilities as defined in the Public Utility Regulatory Policies Act of 1978 (''QF''), independent power production facilities that would constitute a part of NU's ''integrated public utility system'' within the meaning of Section 2(a)(29)(A) of the Act, EWGs and FUCOs (''Exempt Projects''); (3) to participate in joint ventures engaged exclusively in Exempt Project activities and to dissolve Intermediate Companies under specified circumstances; and (4) for Charter Oak's employees and employees of other NU service companies to provide a *de minimis* amount of services to affiliated Intermediate Companies, EWGs (both foreign and domestic) and FUCOs. To date, NU has invested approximately $70 million in Charter Oak and expects to invest an additional $60 million through December 31, 1996.

The Applicants now propose to extend their period of authorization to invest the remaining $330 million of funding authority through December 31, 1999, substantially, under the terms and conditions set forth in the Orders. However, the Applicants request certain modifications to their existing authority as it relates to: (1) The number of service company and NU system employees engaged in rendering services to affiliated Intermediate Companies, and Exempt Projects; and (2) the provision of services at fair market prices to other Intermediate Companies and associated Exempt Projects under certain circumstances.

The Commission, pursuant to the Orders, authorized Charter Oak employees (who are employees of NU Service Company) or other NU Service Company employees (collectively, ''Service Company Employees'') to provide a *de minimis* amount of services to affiliated Intermediate Companies, EWGs (both foreign and domestic) and FUCOs, subject to certain limitations.[1] The Applicants now request that the total number of Service Company Employees engaged in rendering services to affiliated Intermediate Companies and Exempt Projects may not exceed, in the aggregate, 1% of the total NU system employees and no more than 2% of the total of Service Company Employees at any one time.

The Applicants were also authorized, under the Orders, to provide the above-mentioned service activities at market rates to affiliated foreign EWGs, foreign Intermediate Companies and FUCOs, which are companies that do not derive, directly or indirectly, any material part of their income from sources within the United States and are not public-utility companies operating in the United States. The Applicants now request an exemption from the ''at cost'' provisions of section 13(b) and the requirements of rules 90 and 91 under the following specific conditions: (1) Such associate is a FUCO or an EWG which derives no part of its income, directly or indirectly, from the generation, transmission, or distribution of electric energy for sale within the United States; (2) such associate is an EWG which sells electricity at market-based rates which have been approved by the FERC or the appropriate state public utility commission, provided the purchaser of such electricity is not an associate of NU within the NU system; (3) such associate is a QF that sells electricity to industrial or commercial customers, for their own use, at negotiated rates or to electric utility companies that are not associated with the NU system, at the purchasers avoided cost; (4) such associate is an EWG that sells electricity at rates based upon its cost of service, as approved by the FERC or any state public utility commission, provided that the purchaser of such electricity is not an associate of NU within the NU System; or (5) such associate is an Intermediate Company, the sole business of which is developing, owning and/or operating FUCOs or EWGs described in clauses 1, 2 or 4 above.

The Commission, pursuant to the Orders, further authorized the Intermediate Companies to issue equity securities and debt securities. The Applicants propose that the Intermediate Companies continue to issue equity securities and debt securities, with or without recourse to the Applicants, up to an aggregate principal amount of $600 million, to persons other than the Applicants including banks, insurance companies, and other financial institutions, exclusively for the purpose of financing investments in Exempt Projects. Within the $600 million authorization, the aggregate principal amount of recourse debt will not exceed $150 million at any one time outstanding. The resource to the Applicants will be in the form of guarantees and assumptions of liability and will be included within the Applicants overall investment authorization limit of $400 million.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–26130 Filed 10–10–96; 8:45 am]

BILLING CODE 8010–01–M

[1] The Orders provide that, unless otherwise authorized by the Commission or expressly permitted under the Act, the total number of Service Company Employees engaged in rendering services to affiliated Intermediate Companies and Exempt Projects may not exceed, in the aggregate, 0.5% of the total NU holding company system's employees and no more than 1% of the total of Service Company Employees at any one time.

[Rel. No. IC–22263; No. 812–10250]

Security First Life Insurance Company et al.; Exemption Application

October 4, 1996.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an exemption pursuant to the Investment Company Act of 1940 (the ''1940 Act'').

APPLICANTS: Security First Life Insurance Company (''Security First Life''), Security First Life Separate Account A (''Separate Account A''), Fidelity Standard Life Insurance Company (''Fidelity Standard Life''), Fidelity Standard Life Separate Account (''Fidelity Separate Account'') and Security First Financial, Inc.

RELEVANT 1940 ACT SECTIONS: Order requested pursuant to Section 17(b) granting an exemption from the provisions of Section 17(a).

SUMMARY OF APPLICATION: Applicants seek exemptive relief to permit the transfer of assets and liabilities from Fidelity Separate Account to Separate Account A (the ''Proposed Transaction'') in connection with the reinsurance by Security First Life of certain group flexible payment variable annuity contracts issued by Fidelity Separate Account (the ''Fidelity Life Contracts'').[1]

FILING DATE: The application was filed on July 12, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on October 29, 1996, and must be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, c/o Richard C. Pearson, Senior Vice President and General Counsel, Security First Life Insurance Company, 11365 West Olympic Boulevard, Los Angeles, California 90064.

FOR FURTHER INFORMATION CONTACT: Kevin M. Kirchoff, Senior Counsel, or Patrice M. Pitts, Special Counsel, Office of Insurance Products (Division of Investment Management), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from the Public Reference Branch of the Commission.

Applicants' Representations

1. Security First Life, a stock life insurance company organized pursuant to the laws of the State of Delaware, is licensed to conduct life and annuity insurance business in the District of Columbia and all states except New York. Security First Life is a wholly-owned subsidiary of Security First Group, Inc., which is wholly-owned by London Insurance Group, a Canadian insurance service corporation that owns and controls, directly or through subsidiary companies, Security First Financial, Inc.

2. Fidelity Standard Life, a stock life insurance company organized pursuant to the laws of the State of Delaware, is licensed to conduct life and annuity insurance business in 49 states and the District of Columbia. All of the outstanding shares of Fidelity Standard Life are owned by Security First Life.

3. Security First Life established Separate Account A pursuant to the laws of the State of Delaware to fund variable annuity contracts (the ''Security First Life Contracts,'' together with the Fidelity Life Contracts, the ''Contracts''). Separate Account A is registered pursuant to the 1940 Act as a unit investment trust, and various Security First Life Contracts are registered pursuant to the Securities Act of 1933 (the ''1933 Act'').

4. Fidelity Standard Life established the Fidelity Separate Account pursuant to the laws of the State of Delaware to fund variable annuity contracts. The Fidelity Separate Account is registered pursuant to the 1940 Act as a unit investment trust, and the Fidelity Life Contracts are registered pursuant to the 1933 Act.

5. The assets of Separate Account A and Fidelity Separate Account are owned by Security First Life and Fidelity Standard Life, respectively, but are held separately from all other assets of the respective insurer for the benefit of owners of, and the persons entitled to payments under, the Contracts (''Participants'').

6. The Fidelity Separate Account and Separate Account A are both divided into series, each of which invests in separate series of underlying open-end management investment companies (''Funds''). The Funds are registered pursuant to the 1940 Act as diversified open-end management investment companies, and the shares they have issued are registered pursuant to the 1933 Act.

7. Security First Financial, Inc. is the principal underwriter for both the Security First Life Contracts and the Fidelity Life Contracts. Security First Financial, Inc. is registered as a broker-dealer pursuant to the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc.

8. The Fidelity Life Contract is substantially identical and in most material contractual respects to one of the Security First Life Contracts, except that the Fidelity Life Contract is issued by Fidelity Separate Account. The Fidelity Life Contract is a group contract designed primarily for use by individuals in retirement plans which receive favorable tax treatment under section 403(b) of the Internal Revenue Code; each Participant is issued a certificate indicating his or her rights and benefits under the group contract. When used with respect to the Fidelity Life Contracts, ''Contract'' includes ''Certificates'' and ''Owner'' (defined below) refers to a Participant in the group contract.

9. The Proposed Transaction is one of a series of transactions involving Fidelity Standard Life and Security First Life, which will result in substantially all of the assets and liabilities of Fidelity Standard Life being transferred to Security First Life, and the remaining assets (consisting of the minimum capital necessary to maintain the insurance licenses of Fidelity Standard Life) being transferred to an unrelated third party through a sale of all of the voting securities of Fidelity Standard Life.

10. Security First Life and Fidelity Standard Life will enter into an assumption reinsurance agreement providing for the transfer to Security First Life of nearly all the assets and liabilities of Fidelity Standard Life. Security First Life will, pursuant to the assumption reinsurance agreement, assume legal ownership of the assets of Fidelity Separate Account and become responsible for the satisfaction of all liabilities and obligations arising under the Fidelity Life Contracts outstanding at the time of the transaction.

11. Under the Proposed Transaction, Security First Life will become the depositor of the separate account that funds the former Fidelity Life Contract. Those former Fidelity Life Contracts, when offered through a Security First

[1] The Applicants also requested exemptive relief, pursuant to Section 6(c) of the 1940 Act, from Sections 26(a)(2)(C) and 27(c)(2) thereof, to the extent necessary to deduct mortality and expense risk and distribution risk charges under the Fidelity Life Contracts to be issued through Separate Account A following the Proposed Transaction. The passage of H.R. 3005—the National Securities Markets Improved Act of 1996—obviates the Applicants' need for exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

Life separate account, will have the same principal underwriter and will invest in shares of the same Funds as the series of the Fidelity Separate Account presently do.

12. To avoid the administrative duplication that would result from maintaining two separate accounts—namely, Separate Account A and a newly formed Security First Life separate account funding the former Fidelity Separate Account contracts—Security First Life plans to merge Separate Account A and the Fidelity Separate Account. To this end, Security First Life will transfer the assets of Fidelity Separate Account into Separate Account A. After that transfer, Separate Account A will support: (a) the Security First Life Contracts; (b) the former Fidelity Life Contracts (*i.e.*, those originally issued by the Fidelity Separate Account); and (c) any Contracts issued by Security First Life subsequent to the effective date of the Proposed Transaction.

13. The Proposed Transaction will not result in a change in the value of the subaccount units (either accumulation or annuity units) involved or in the account values of Participants. The Proposed Transaction also will not affect the net asset value of any units of any series; the net asset values for the series of the newly created subaccount of Separate Account A immediately after the transaction will be identical to the net values for the series of the Fidelity Separate Account immediately prior to the transaction.

14. All costs of the Proposed Transaction will be borne by Security First Life and not by owners of Contracts (''Owners''). No charges will be imposed on Owners and no deductions from their account values will be made.

15. The Proposed Transaction and the other transactions related to the sale of Fidelity Standard Life will be approved in advance by the respective Boards of Directors of Security First Life and Fidelity Standard Life. Prior approval of the Proposed Transaction will be obtained from the Delaware Insurance Department and any other applicable regulatory authority. Delaware insurance law does not require approval of the Proposed Transaction by Owners. To the extent notification to Owners is required pursuant to generally applicable state insurance laws relating to assumption reinsurance, it will be provided.

16. Immediately following the Proposed Transaction, the assets and liabilities that comprise Separate Account A will remain physically and legally segregated from any other business of Security First Life. Separate Account A will continue to be a unit investment trust registered pursuant to the 1940 Act.

17. The Proposed Transaction will not affect the Funds or the relationship of any of the affected Owners to the Funds. The Funds will not be parties to the Proposed Transaction, except that when the transaction is completed the sales agreement between Fidelity Standard Life and the Funds will be terminated and replaced with the existing agreements between Security First Life and the Funds. The investment objectives, policies and restrictions of the Funds will not be changed by virtue of the Proposed Transaction. There will be no change in the investment advisers (or sub-advisers) for the Funds, nor any change in the assets of the Funds or the charges imposed on the Funds or on their shareholders, in connection with, or by virtue of, the Proposed Transaction or the other related transactions.

18. The succession of Security First Life to Fidelity Standard Life as the insurance company issuing the Contracts will not dilute or otherwise adversely affect the economic interests of the Owners. The only change discernible to an Owner as a result of the Proposed Transaction will be change in the identity of the depositor of the separate account.

19. Following the Proposed Transaction, the fixed guarantee obligations which are not allocated to Separate Account A (*e.g.*, minimum death benefit and fixed account accumulations) will be supported by the general assets of Security First Life which, based on financial information as of December 31, 1995, greatly exceed those of Fidelity Standard Life.

20. Security First Life will accept additional payments under the currently outstanding Fidelity Life Contracts. Security First Life also will continue to offer through Separate Account A other variable annuity contracts that are substantially similar to the Fidelity Life Contracts.

21. To reflect the transfer of assets supporting the Fidelity Life Contracts to Separate Account A, Security First Life will file a new registration statement for the Contracts pursuant to the 1933 Act and will amend the registration statement for Separate Account A pursuant to the 1940 Act. Once the new 1933 Act registration statement becomes effective, Security First Life will distribute copies of the prospectus contained therein to owners of the currently outstanding Fidelity Life Contracts.

22. In assumptively reinsuring the Fidelity Life Contracts, Security First Life will be bound by the terms of the reinsured Fidelity Life Contracts.

Applicants' Legal Analysis

1. Section 17(a)(1) of the 1940 Act, in relevant part, prohibits any affiliated person of a registered investment company, or any affiliated person of such a person, from knowingly selling any securities or other property to such registered investment company. Section 17(a)(2) of the 1940 Act generally prohibits such persons from knowingly purchasing any security or other property from the registered investment company.

2. Section 2(a)(3) of the 1940 Act defines an ''affiliated person'' of another person to include any person directly or indirectly controlling, controlled by, or under common control with such other person. Fidelity Separate Account and Separate Account A may be deemed to be under the common control of Security First Life, which is currently the depositor of Separate Account A.

3. Because of this relationship, the transfer of assets from Fidelity Separate Account to Separate Account A may be deemed to involve purchase and/or sale transactions between a registered investment company and an affiliate, in contravention of Section 17(a). Accordingly, applicants request an exemption from Section 17(a) of the 1940 Act, pursuant to Section 17(b) thereof, to permit the Proposed Transaction.

4. Section 17(b) of the 1940 Act provides that a person may apply for an exemption from the provisions of Section 17(a), and that the Commission shall grant such an application if evidence establishes that:

(a) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned;

(b) The proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed pursuant to the 1940 Act; and

(c) The proposed transaction is consistent with the general purposes of the 1940 Act.

5. Applicants assert that the terms of the Proposed Transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned. The purpose of the transfer is to consolidate into a single separate account two basically identical separate

accounts that issue substantially identical contracts, have the same principal underwriter, and invest in the same underlying mutual funds. The consolidation will allow Security First Life to realize administrative efficiencies and operational cost savings.

6. The transaction will also allow owners of Fidelity Life Contracts to participate in a separate account that has greater assets than Fidelity Separate Account and that Applicants expect to grow, since sales of Security First Life Contracts will continue. The general account assets supporting the fixed obligations arising under the Fidelity Life Contracts will also be significantly greater when they are the assets of Security First Life.

7. Because the assets underlying the Fidelity Life Contracts and the Security First Life Contracts will continue to be invested in shares of one or more of the Funds in the same manner as before the Proposed Transaction, the assets underlying the Fidelity Life Contracts and the Security First Life Contracts will continue to be invested according to the investment policies recited in their respective registration statements filed pursuant to the 1940 Act.

8. Applicants assert that the Proposed Transaction is consistent with the general policies and purposes of the 1940 Act. The transfer does not present any of the issues or abuses that Section 17(a) in particular, and the 1940 Act in general, were designed to prevent. Applicants will effect the proposed transfer in a manner that is appropriate in the public interest and consistent with the protection of investors.

Conclusion

For the reasons summarized above, Applicants assert that the terms of the Proposed Transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, are consistent with the investment policies of Separate Account A and Fidelity Separate Account as recited in their registration statements, are consistent with the general purposes of the 1940 Act, and therefore meet the conditions for exemptive relief established by Section 17(b).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–26131 Filed 10–10–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 22264; 811–7944]

Voyageur Florida Insured Municipal Income Fund II; Notice of Application

October 4, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Voyageur Florida Insured Municipal Income Fund II.

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 September 16, 1996.

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 October 29, 1996, and should be accompanied by proof of service on the 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 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 90 South Street, Suite 4400 Minneapolis, Minnesota 55402–4115.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, 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 from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a closed-end, diversified management investment company organized as a Massachusetts business trust. On August 5, 1993, applicant registered under the Act and filed a registration statement on Form N–2 under the Act and the Securities Act of 1933. Applicant's registration statement was not declared effective, and applicant made no public offering of its securities.

2. Applicant has no securityholders, debts, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

3. Applicant terminated its existence in Massachusetts in 1993.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–26129 Filed 10–10–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37787; File No. SR–CBOE–96–57]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to a Minor Rule Violation Plan Amendment To Create a Settlement Procedure for Position Limit Fines

October 4, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 25, 1996, the Chicago Board Options Exchange, Inc. (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE, pursuant to Rule 19b–4 of the Act, proposes to amend its minor rule violation plan to create an offer of settlement procedure for certain position limit violations.

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

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4.

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

Under the minor rule violation provisions of Exchange Rule 17.50, the CBOE currently processes position limit violations not exceeding $5,000 for any one trade date as summary fines. Exchange members whose fine for any one trade date does not exceed that threshold are summarily fined, including instances when consecutive trade dates violations occurred and significant fine amounts accumulated. If Exchange members wish to contest the summary fine(s), they are restricted to the contested fine procedures in the minor rule violation plan which permit either holding a hearing or presenting a written submission before the Business Conduct Committee (''Committee'').

Based upon past experience with contested position limit summary fine matters, as well as an internal regulatory focus study, the Exchange proposes a new procedure so that members with significant position limit violations meeting certain criteria will be afforded an opportunity within the minor rule violation plan process to present one settlement offer before the Committee. Members with significant position limit summary fines do not presently have access to the settlement resolution process available to respondents under Exchange Rule 17.2 et seq. for regular disciplinary matters pending before the Committee, including making offers of settlement without admitting or denying the violations and personal appearances. Some members who proceeded to a contested fine hearing admitted that the violations occurred, and used the hearing forum solely to request that the fines be reduced or removed.

The CBOE proposes to add language to Interpretation and Policy .01 under Exchange Rule 17.50 to define what levels of position limit summary fines will trigger access to the new settlement procedure. In general, the CBOE will treat (a) position limit violations resulting in any one-day fine in excess of $2,500, or (b) position limit violations resulting in an aggregate fine in excess of $10,000 and involving five or more consecutive trade dates, as appropriate for an offer of settlement opportunity before the Committee.

The CBOE proposes to make the new settlement procedure available only with respect to position limit summary fines until the CBOE can further review the effects on the minor rule violation plan process. In this regard, the CBOE notes that it has not experienced significant accumulations of fines by members for minor rule violations under Exchange Rule 17.50 other than position limit violations.

By providing an interim step to allow for settlement of position limit summary fines, the proposed rule change is expected to increase the efficiency of the minor rule violation plan process by saving the time and expense of both members and Exchange staff in preparing for summary fine hearings. According to the CBOE, the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act in that it is designed to refine and enhance the Exchange's minor rule violation plan as applied to position limit violations, thereby removing impediments to a free and open market and protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The self-regulatory organization does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received 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 publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 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–96–57 and should be submitted by November 1, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–26171 Filed 10–10–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37786; File No. SR–NYSE–96–21]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to the Entry of Limit-at-the-Close Orders

October 4, 1996.

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 31, 1996, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change and on October 2, 1996, filed Amendment No. 1 to the proposed rule change,[1] as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit

[3] 17 CFR 200.30–3(a)(12).

[1] *See* letter and Form 19b–4 from James E. Buck, Senior Vice President and Secretary, NYSE, to Ivette Lopez, Assistant Director, Division of Market Regulation, SEC, dated September 27, 1996. Amendment No. 1 expands the purpose section of the filing to provide a more detailed explanation of the reasons the Exchange is seeking to permit limit-at-the-close (''LOC'') orders to be entered in any stock at any time during the trading day up to 3:40 p.m. on expiration days and 3:50 p.m. on non-expiration days. Thereafter, as with market-on-close (''MOC'') orders, LOC orders could be entered only to offset published imbalances. This proposed revision of the LOC pilot would subject LOC orders to the same type of order entry and cancellation restrictions currently imposed on MOC orders.

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 proposed rule change would permit limit-at-the-close (''LOC'') orders to be entered in any stock at any time during the trading day up to 3:40 p.m. on expiration days, and 3:50 p.m. on non-expiration days.

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

A LOC order is one that is entered for execution at the closing price, provided that the closing price is at or within the limit specified. LOC orders are executed behind conventional limit orders at the same price and behind market-on-close (''MOC'')[2] orders. The Exchange had originally proposed to amend its policy regarding LOC order entry along with its request to extend the LOC pilot for one year.[3] At the request of Commission staff, the Exchange is hereby filing its proposal to amend its LOC order entry policy as a separate rule change to allow for a full notice and comment period. The Exchange proposes to amend its policy regarding LOCs to permit their entry at any time during the trading day up to 3:40 p.m. on expiration days, and 3:50 p.m. on non-expiration days. Thereafter, as with MOC orders, LOCs could be entered only to offset published imbalances.

Currently, LOC orders may be entered only to offset published imbalances of MOC orders. MOC imbalances of 50,000 shares or more must be published on the tape in the so-called ''pilot'' stocks[4] and in stocks being added to and dropped from an index and may be published in any other stock with the approval of a Floor Official as soon as practicable after 3:40 p.m. on expiration days[5] and as soon as practicable after 3:50 p.m. on non-expiration days. LOC orders must be entered between 3:40 and 3:55 p.m. on expiration days and between 3:50 and 3:55 p.m. on non-expiration days. On expiration days, LOC orders may not be cancelled after 3:40 p.m., except for legitimate errors. On non-expiration days, LOC orders may not be cancelled after 3:55 p.m., except for legitimate errors.

LOCs were expanded from five stocks to all stocks in June 1995 in the hope that this would stimulate use of this order type. LOCs have been approved by the SEC on a pilot basis.[6] To date, the use of LOCs have remained limited. LOCs are restricted by time of entry and by the fact that they must offset published MOC imbalances. It appears that the narrow order entry window, along with the requirement that LOCs offset published MOC imbalances, makes the opportunities for their entry too limited to justify for many member firms the programming necessary to support their use.

The expansion of the LOC pilot to allow such orders to be entered throughout the day (up until the cut-off time) would allow investors the possibility of using LOC orders as another investment strategy. This could attract additional LOC orders, thereby increasing liquidity and potentially reducing volatility at the close. In that regard, the Exchange believes that it is appropriate to amend its LOC pilot as described above to encourage the entry of LOC orders.

The Exchange believes that the LOC order type may prove to be a useful means to help address the prospect of excess market volatility that may be associated with an imbalance of MOC orders at the close.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The proposed rule change perfects the mechanism of a free and open market by providing investors with the ability to use LOC orders as a vehicle for managing risk at the close.

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, Participant, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

[2] An MOC order is a market order to be executed in its entirety at the closing price on the Exchange. *See* NYSE Rule 13.

[3] *See* Securities Exchange Act Release No. 37507 (July 31, 1996) (File No. SR–NYSE–96–18 and Amendment No. 1 thereto).

[4] The term ''pilot stocks'' refers to the Expiration Friday pilot stocks plus any additional QIX Expiration Day pilot stocks. Specifically, the Expiration Friday pilot stocks consist of the 50 most highly capitalized Standard & Poors (''S&P'') 500 stocks and any component stocks of the Major Market Index (''MMI'') not included therein. The QIX Expiration Day pilot stocks consist of the 50 most highly capitalized S&P 500 stocks, any component stocks of the MMI not included therein and the 10 highest weighted S&P Midcap 400 stocks.

[5] The term ''expiration days'' refers to both (1) the trading day, usually the third Friday of the month, when some stock index options, stock index futures and options on stock index futures expire or settle concurrently (''Expiration Fridays'') and (2) the trading day on which end of calendar quarter index options expire (''QIX Expiration Days'').

[6] The pilot program for LOC orders expires on July 31, 1997. *See* Securities Exchange Act Release No. 37507, *supra* note 2.

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–NYSE–96–21 and should be submitted by November 1, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–26173 Filed 10–10–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37792; File No. SR–OCC–96–11]

Self-Regulatory Organization; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Membership Standards

October 7, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 30, 1996, The Options Clearing Corporation (''OCC'') 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 primarily by OCC. 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 proposed rule change will amend OCC's by-laws and rules regarding OCC's initial membership standards and the ongoing duties of clearing members.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] These statements have been modified by the Commission.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The principal purpose of the proposed rule change is to amend certain initial membership standards and certain ongoing duties of clearing members. OCC has a three tiered system of safeguards against a clearing member failure or default, and this system is reviewed each year. The initial membership standards and ongoing duties comprise the system's first tier of safeguards. The other two tiers are margin requirements and clearing fund deposits. OCC's membership standards are designed to assure OCC of an applicant's initial creditworthiness, operational capability and experience, and competence to clear option transactions.

OCC is proposing to make several enhancements to its initial membership standards and ongoing duties of clearing members. The proposed changes and the purposes thereof are described below.

1. Article V, Section 1 of the By-Laws

A number of changes are being proposed to the Interpretations and Policies (''Interpretations'') under Article V, Section 1 of OCC's by-laws. Interpretation 2 will be amended to add clause d, which will provide that the Membership/Margin Committee (''Committee'') of the Board of Directors (''Board'') will not recommend approval of an application for clearing membership unless the applicant's Designated Examining Authority (''DEA'') has stated that it has no objections to the application for clearing membership. If requested in writing by the applicant, the Committee will be permitted to waive the requirement in exceptional cases and where good cause is shown. Under OCC's current membership review procedures, an applicant's DEA is contacted for information regarding the applicant and is requested to provide advice or any objections with respect to the applicant's ability to self-clear option transactions. OCC believes that input from an applicant's DEA provides critical information regarding the firm's compliance with all applicable requirements with respect to the maintenance of books and records as well as the firm's ability operationally and financially to self-clear. The proposed addition of clause d to Interpretation 2 will codify OCC's existing procedures.

Interpretation 3 will be amended to require that if an applicant elects to use an associated person to satisfy the applicable requirements of clauses a through c thereof the designated associate person must be a full time employee of the applicant.[3] The purpose of the requirements contained in clauses a through c is to ensure that an applicant has at least one person with sufficient competence and experience to supervise the preparation of financial reports and the back office operations of the applicant. Interpretation 3 also will be amended to require that the key operations employees required to have attended applicable OCC operations readiness review sessions and successfully completed any applicable OCC operational and financial examinations for operations employees be full time employees and attend all such review sessions. OCC believes that the preparation of financial reports and the proper operation of back office responsibilities are such critical functions that it is appropriate that there be full time supervision of these functions.

Interpretation 4 will be amended to eliminate the ability of an applicant for clearing membership to enter into a facilities management arrangement with a non-clearing member. There are no current limitations on who might act as a non-clearing member facilities manager, and OCC is limited in its ability to obtain financial and other information relating to the creditworthiness and operational capability of such a non-clearing member facilities manager. As a result, OCC believes it is prudent to permit only OCC clearing members to act as facilities managers for applicants because OCC has existing systems in place to monitor their creditworthiness and operational capabilities. Although OCC currently has two clearing members that use the same non-clearing member facilities manager, OCC believes that each of these clearing members will be able to enter into a facilities management arrangement with a clearing member.

Interpretation 5 will be added to authorize the Committee to recommend

[3] Clauses a through c require that an applicant that is a registered broker-dealer must be registered as a ''Limited Principal—Financial Operations'' with the National Association of Securities Dealers; an applicant that is applying for clearing membership as an exempt Canadian clearing member must be registered as a principal/director/officer and as a designated registered options principal with the Investment Dealers Association of Canada; and an applicant that is a non-U.S. securities firm must have completed any applicable OCC financial and operational examination for employees who are responsible for supervising the preparation of applicant's financial reports.

to the Board that additional financial requirements be imposed on an applicant for clearing membership (*e.g.*, an increase in net capital or a requirement to make and maintain initial margin deposits) or that restrictions be imposed on the applicant's clearance of option transactions if the Committee has determined that the applicant's financial or operational condition in relation to the business that the applicant has proposed to transact through OCC makes such action necessary or advisable for the protection of OCC, clearing members, or the general public. The Board will be required to review independently such a recommendation to determine whether it should be imposed on an applicant. Any requirements or restrictions so imposed would remain in force for the period determined by the Board but in any event no longer than the end of the first three calendar months commencing after the applicant's admission to clearing membership.

OCC believes that it is important for the Committee to have the means to address situations where an applicant might otherwise technically meet OCC's membership standards but might present special risks to OCC and its clearing membership because of the type and volume of business the applicant proposes to transact relative to its financial or operational capability. This authority is similar to the authority found in OCC Rule 305, under which the Chairman or President may impose certain restrictions on the activities of a clearing member if such officer believes that the financial or operational condition of a clearing member warrants such action for the protection of OCC, other clearing members, and the general public. The three month time limitation would ensure that the requirements or restrictions imposed under this initial authority would not have an unlimited duration and, therefore, would not be unduly burdensome on an applicant. However, the restriction would permit OCC to gain experience with the ability of the applicant to meet the responsibilities of clearing membership before having to consider acting under Rule 305.

2. Article V, Section 3 of the By-Laws

Section 3 of Article V will be amended to add Interpretation 1. Such interpretation will require an applicant, which is approved for clearing membership subject to the satisfaction of specified conditions, to meet those specified conditions within six months from the date on which its application is approved unless the Board prescribes a shorter time period at the time of approval. If an applicant failed to meet the specified conditions within the applicable time period, the approval of the application will be deemed withdrawn, and the application will be deemed to have lapsed unless the period to satisfy those conditions is extended by OCC. Any applicant seeking such an extension will be required to make a written request specifying any material changes that have occurred in its ability to transact business with OCC. The Chairman or the President will be vested with the authority to approve or disapprove the extension request. No deadline could be extended beyond one year from the date the application originally was approved.

This interpretation is intended to ensure that an approved applicant meets in a timely fashion all conditions associated with its application for clearing membership and to protect OCC against material but unknown changes in such applicant's financial and operational condition. In addition, it will ensure that an applicant remains current with respect to the operational requirements for transacting business with OCC.

3. Chapter II of the Rules

Rule 201 will be amended (i) to delete the requirement that each clearing member maintain an office in the vicinity of the office of OCC designated by the clearing member pursuant to Rule 204 and (ii) to ensure that every clearing member provides OCC with prompt written notice of the relocation of either its principal office or the office maintained by the clearing member to comply with the requirements of Rule 201(a) or of a material change in a non-U.S. clearing member's arrangements under Rule 201(b) with OCC as an alternative to an office under Rule 201(a).

Rule 214(a) will be amended to require that only associated persons who are full time employees of a clearing member may satisfy the applicable requirements of that rule.[4] The interpretations thereunder will be amended (i) to shorten the time period to three months within which a clearing member must replace an associated person through whom a clearing member has been meeting the requirements of the rule and (ii) to require notice of any separation between the clearing member and such associated person.

Rule 215 will be added to require each clearing member to provide OCC with prompt prior written notice of material changes to its operations including: (i) Its involvement in any merger, combination, or consolidation; (ii) the acquisition of another entity; (iii) the sale of a significant portion of its assets; (iv) a change in its form of business organization or the name under which it does business; and (v) a change in the direct or indirect beneficial ownership of 10% or more of the equity of the clearing member. Clearing members will be required to provide OCC with such documents as OCC might require with respect to such events as well as a list of persons or entities that are the beneficial owners directly or indirectly of 10% or more of the equity of the clearing member.

The purpose of these proposed changes is to modify OCC's rules regarding location of clearing member offices. OCC no longer believes that it is necessary for clearing members to maintain an office in the actual vicinity of an office of OCC because electronic and other capabilities exist that reduce the importance of physical proximity in ensuring that a clearing member is able to transact promptly all necessary business with OCC. The other changes are designed to ensure (i) that OCC is advised of material changes to a clearing member's business so that applicable agreements, documentation, and collateral can be amended in a timelys and efficient manner; (ii) that OCC is advised of changes that might affect the financial or operational capability of clearing members; and (iii) that the clearing member's full capabilities are promptly restored in the case of key employee departures. Rule 214 will be amended for the reasons described above in relation to Interpretation 3 of Section 1, Article V of the by-laws.

* * * * *

The proposed rule change is consistent with Section 17A of the Act[5] it that it augments OCC's initial and ongoing membership standards which are designed to ensure a participant's creditworthiness, operational capability and experience, and competency in clearing options transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

Any membership standard has the potential to exclude certain persons from clearing membership and thereby technically to reduce the number of competing clearing members. However,

[4] Rule 214(a) contains provisions similar to Interpretation 3 of Article V, Section 1 of the by-laws.

[5] 15 U.S.C. 78q–1 (1988).

OCC believes that the proposed changes in membership standards and procedures appropriately balances such potential effects against the important need to ensure that new OCC clearing members do not expose OCC, its members, the national clearing system, or the investing public to undue risk.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety 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 OCC consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 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 OCC. All submissions should refer to the File No. SR–OCC–96–11 and should be submitted by November 1, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–26169 Filed 10–10–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37793; File No. SR–OCC–96–13]

Self-Regulatory Organization; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Unit Investment Trusts as Margin Collateral

October 7, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on September 6, 1996, The Options Clearing Corporation (''OCC'') 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 primarily by OCC. 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 proposed rule change will permit OCC to accept certain publicly traded units of beneficial interest in unit investment trusts as a form of margin collateral.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The principal purpose of the proposed rule change is to permit clearing members to deposit as margin with OCC publicly traded units of beneficial interest (''trust units'') in unit investment trusts that hold portfolios or baskets of common stocks. These classes of trust units are traded and cleared like shares of common stock and are typically held in book entry form at a securities depository. As a result, OCC will be able readily to perfect a security interest in deposited trust units and to liquidate them if necessary. Accordingly, OCC believes it is appropriate to accept trust units as a form of margin collateral under the conditions specified in new subparagraph (4) to Rule 604(d).

Subparagraph (4) will permit OCC to accept trust units as a form of margin collateral. It will provide that the term ''stock'' as used in Rule 604(d) includes trust units in unit investment trust holding portfolios or baskets of common stocks. In order to be eligible for deposit, the trust units will also have to meet the requirements applicable to stock under Rule 604(d) and be of a class approved by OCC for deposit as margin.[3] Pursuant to Rule 604(d)(1), trust units will be valued on a daily basis at 60% of current market value.

Section 11 will be added to the Interpretations and Policies of Rule 604 to vest OCC's Membership/Margin Committee (the ''Committee'') with the authority to approve classes of trust units for deposit as margin. At the present time, the Committee has approved Standard & Poor's (''S&P'') depository receipts on the S&P 500 Index and S&P MidCap 400 Index as being classes approved for deposit as margin. In addition, the proposed rule change will replace the term ''stocks'' with the term ''securities'' in subparagraphs (2) and (3) to Rule 604(d). Subparagraphs (2) and (3) of Rule 604(d) limit the use of customer securities as margin and prescribe the method of depositing margin securities. The amendment will clarify that such sections apply not only to stocks but also corporate bonds eligible as margin deposits under Rule 604(d)(1).

The proposed rule change is consistent with Section 17A of the Act because it expands the forms of margin collateral that may be deposited with OCC in a prudent and safe manner

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] These statements have been modified by the Commission.

[3] Rule 604(d) requires that to be eligible as margin deposits, stock must have a market value greater than $10 per share and must be traded either on a national securities exchange and have last sale reports collected and disseminated pursuant to a consolidated transaction reporting plan or traded in the over-the-counter market and designated as a national market system security pursuant to the Commission's Rule 11Aa2–1.

designed to assure the safeguarding of securities in OCC's custody and control[4]

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC 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

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety 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 OCC consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 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 OCC. All submissions should refer to the File No. SR–OCC–96–13 and should be submitted by November 1, 1996.

[4] 15 U.S.C. 78q–1 (1988).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–26170 Filed 10–10–96; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Collection Request

The Social Security Administration publishes a list of information collection packages that will require submission to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 104–13 effective October 1, 1995, the Paperwork Reduction Act of 1995. The information collection(s) listed below requires extension of the current OMB approval.

(Call the SSA Reports Clearance Officer on (410) 965–4125 for a copy of the form(s) or package(s), or write to her at the address listed below the information collection(s).)

1. Psychiatric Review Technique—0960–0413. The information collected on form SSA–2506 by the Social Security Administration is needed to assist in the adjudication of claims involving mental impairments. The information is used to identify the need for additional evidence for the determination of impairment severity; to consider aspects of the mental impairment relevant to the individual's ability to work; and to organize and present the findings in a clear, concise manner. The respondents are State Disability Determination Services administering title II and title XVI disability programs.

Number of Responses: 796,346.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 199,087.

2. Letter to Employer Requesting Information About Wages Earned—0960–0034. The information collected on form SSA–L725 will be used by the Social Security Administration (SSA) to establish the exact amount of wages earned by a beneficiary. The data is requested only in cases where the information in SSA's records is incomplete or has been questioned. The respondents are employers who provide the wage information necessary to resolve wage discrepancies.

Number of Respondents: 150,000.

Frequency of Response: 1.

Average Burden Per Response: 30–50 minutes.

Estimated Annual Burden: 100,000.

Written comments and recommendations regarding the information collection(s) should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Judith T. Hasche, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the Agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Agency Information Collection Activities: Submission for OMB Review; Comment Request.

The information collection listed below, which was published in the Federal Register on August 12, 1996, has been submitted to OMB.

OMB Desk Officer: Laura Oliven.

SSA Reports Clearance Officer: Judith T. Hasche.

Black Lung Student's Statement Regarding Resumption of School Attendance and Report of Black Lung Student Beneficiary at End of School Year—0960–0314. The information on forms SSA–2602 and SSA–2613 is used by the Social Security Administration to determine whether or not a student beneficiary will resume (or has resumed) full-time school attendance at an approved educational institution. If so, he or she will be continuously entitled to benefits. The respondents are children of disabled or deceased coal miners and officials of the schools they attend.

Number of Respondents: SSA–2602—8,000. SSA–2613—8,000.

Frequency of Response: 1.

Average Burden Per Response: SSA–2602—5 minutes. SSA–2613—7.5 minutes.

Estimated Annual Burden: 1,667 hours.

Written comments and recommendations regarding this information collection should be sent within 30 days of the date of this publication. Comments may be directed to OMB and SSA at the following addresses:

(OMB)

Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, 725 17th St., NW., Washington, D.C. 20503

(SSA)

Social Security Administration, DCFAM, Attn: Judith T. Hasche, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235

Dated: October 3, 1996.

Judith T. Hasche,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 96–25934 Filed 10–10–96; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 96–050]

National Boating Safety Advisory Council

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The National Boating Safety Advisory Council (NBSAC) and its subcommittees on boat occupant protection, prevention through people, and navigation lights will meet to discuss various issues relating to recreational boating safety. All meetings will be open to the public.

DATES: The meeting of NBSAC will be held on Monday and Tuesday, November 11 and 12, 1996, from 8:30 a.m. to 5 p.m. Meetings of the Boat Occupant Protection and Prevention Through People Subcommittees will be held on Saturday, November 9, 1996, from 1:30 p.m. to 5 p.m. A meeting of the Navigation Light Subcommittee will be held on Sunday, November 10, 1996, from 9 a.m. to 12 noon. Written material and requests to make oral presentations should reach the Coast Guard on or before October 23, 1996.

ADDRESSES: The meeting of NBSAC will be held at the Pittsburg Hilton Hotel, Gateway Center, Pittsburgh, Pennsylvania. The meetings of the Subcommittees will be held at the same address. Written material and requests to make oral presentations should be sent to Mr. Albert J. Marmo, Commandant (G–OPB–1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Mr. Albert J. Marmo, Executive Director of NBSAC, telephopne (202) 267–0950, fax (202) 267–4285.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agendas of Meetings

National Boating Safety Advisory Council (NBSAC). The agenda includes the following:

(1) Executive Director's report.

(2) Chairman's session.

(3) Boat Occupant Protection Subcommittee report.

(4) Navigation Light Subcommittee report.

(5) Prevention Through People Subcommittee report.

(6) Coast Guard Auxiliary report.

(7) National Association of State Boating Law Administrators report.

(8) Development overview of new research tools to evaluate personal flotation devices.

(9) Discussion of the development of the Life-Saving Index.

(10) Discussion of waterways management issues developed by NBSAC and the Navigation Safety Advisory Council (NAVSAC).

(11) Discussion of the penalty for alteration of marine safety equipment under Section 310 of the ''Coast Guard Authorization Act of 1996.''

(12) Presentation on boating safety outreach.

(13) Report on the Personal Watercraft Visibility Study.

Boat Occupant Protection Subcommittee. The agenda includes the following:

(1) Review and discuss comments on propeller injury avoidance in response to an advance notice of proposed rulemaking.

(2) Discuss boat occupant protection research, completed and planned.

(3) Discuss risk avoidance alternatives.

Prevention Through People Subcommittee. The agenda includes the following:

(1) Review Prevention Through People program status.

(2) Develop a Prevention Through People action plan.

Navigation Light Subcommittee. The agenda includes the following:

(1) Review and discuss the interchange between NBSAC and NAVSAC concerning the proper display and installation of navigation lights and the resulting joint Council resolution.

(2) Determine if there are any aspects of display and installation of navigation lights that need to be addressed through safety program intervention and recommend courses of corrective actions.

Procedural

All meetings are open to the public. At the Chairpersons' discretion, members of the public may make oral presentations during the meetings. Persons wishing to make oral presentations at the meetings should notify the Executive Director no later than October 18, 1996. Written material for distribution at a meeting should reach the Coast Guard no later than October 23, 1996. If a person submitting material would like a copy distributed to each member of the committee or subcommittee in advance of a meeting, that person should submit 25 copies to the Executive Director no later than October 16, 1996.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: October 3, 1996.

M.F. McCormack,

Captain, U.S. Coast Guard, Acting Director, Operations Policy.

[FR Doc. 96–26145 Filed 10–10–96; 8:45 am]

BILLING CODE 4910–14–M

[CGD 96–051]

Omega Radionavigation System Termination

AGENCY: Coast Guard, DOT.

ACTION: Notice of intent.

SUMMARY: The Coast Guard intends to terminate its involvement in the worldwide Omega Radionavigation System on September 30, 1997. This will include closure of the two stations located in the U.S. (Lamoure, ND and Haiku, HI) and termination of the existing bilateral agreements with the six partner nations (Argentina, Australia, France, Japan, Liberia, and Norway.

The Omega navigation system primarily serves aviation and weather users. The Department of Transportation recently completed its review of Omega navigation requirements and notified the U.S. Coast Guard that most users will complete their conversion to Global Positioning System technology by September 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Stewart Shoulta, Radio Aids Division (G–OPN–3), U.S. Coast Guard Headquarters, 2100 Second St., SW, Washington, DC 20593–0001, phone (202) 267–6052.

SUPPLEMENTARY INFORMATION:

Background

The Omega navigation system was approved for full implementation in

1968 and promised a true worldwide coverage capability. With the Global Positioning System (GPS) being declared fully operational, the use of Omega has dwindled to a point that continued operation is not economically justified. The 1994 edition of the Federal Radionavigation Plan (FRP), which delineates policies and plans for federally provided radionavigation services, stated ''the U.S. expects to continue Omega operations until September 30, 1997, to accommodate the transition of civil aviation users to GPS. Continued operation after that date will depend upon validating requirements for Omega that cannot be met by GPS or another system.'' The Federal Aviation Administration (FAA) completed its review of Omega navigation requirements for the U.S. aviation industry and notified the U.S. Coast Guard that most users will complete their conversion to GPS technology by September 1997.

Determination

Based on the completed studies, the FAA concurred with the proposed FRP termination date of September 30, 1997, for the Omega system.

N.T. Saunders,

Rear Admiral, U.S. Coast Guard, Chief, Operations.

[FR Doc. 96–26144 Filed 10–10–96; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Commercial Space Transportation Advisory Committee—Open Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Commercial Space Transportation Advisory Committee Open Meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 2), notice is hereby given of a meeting of the Commercial Space Transportation Advisory Committee (COMSTAC). The meeting will take place on Thursday, October 31, 1996, from 8:30 a.m. to 1:00 p.m. in Room 6244 of the Department of Transportation's Headquarters building at 400 Seventh Street, SW, in Washington, D.C. This will be the twenty-fourth meeting of the COMSTAC.

The agenda for the meeting will include reports from the respective COMSTAC Working Groups; a legislative update on Congressional activities involving commercial space transportation; an activities report from FAA's Associate Administrator for Commercial Space Transportation (formerly the Office of Commercial Space Transportation [60 FR 62762, December 7, 1995]); and other related topics.

The meeting is open to the public; however, space may be limited.

FOR FURTHER INFORMATION CONTACT: Brenda Parker, (AST–200), Office of the Associate Administrator for Commercial Space Transportation, 400 7th Street SW, Room 5415, Washington, DC 20590, telephone (202) 366–2932.

Dated: September 27, 1996.

Patti Grace Smith,

Deputy Associate Administrator for Commercial Space Transportation.

[FR Doc. 96–26167 Filed 10–10–96; 8:45 am]

BILLING CODE 4910–13–P

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly notice of PFC approvals and disapprovals. In September 1996, there were 13 applications approved.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of 49 U.S.C. 40117 (Pub. L. 103–272) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC APPLICATIONS APPROVED

Public Agency: County of Humboldt, Arcata, California.

Application Number: 96–03–C–00–ACV.

Application Type: Impose and use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue in This Decision: $225,258.

Estimated Charge Effective Date: November 1, 1996.

Estimated Charge Expiration Date: November 1, 1997.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection at ARCATA Airport (ACV) and Use at ACV: Taxiway system rehabilitation, Emergency generator (fire hall), Emergency generator (terminal), Safety area improvements, Terminal apron drainage improvements, Emergency storm drain repair, Security gate, Clear zone land purchase.

Brief Description of Project Approved for Collection at ACV and Use at Rohnerville Airport: Runway protection zone property purchase.

Brief Description of Disapproved Project: Future property purchase reserve account.

Determination: Disapproved. Even though the proposed parcels to be acquired are within the runway protection zones, the acquisition depends on the current property owners volunteering to sell their properties. The County of Humboldt did not provide information as to the likelihood of these current property owners deciding to sell their parcels within 5 years of the decision date for this application. Therefore the FAA does not have reasonable assurance that the County of Humboldt will be able to comply with the regulatory timeframes as outlined in § 158.33. Furthermore, the County of Humboldt did not provide sufficient detailed information regarding the project financing to provide reasonable assurance to the FAA that excess PFC revenues would not be collected if this project were approved.

Decision Date: September 10, 1996.

FOR FURTHER INFORMATION CONTACT: Joseph Rodriguez, San Francisco Airports District Office, (415) 876–2805.

Public Agency: Wichita Airport Authority, Wichita, Kansas.

Application Number: 96–02–C–00–ICT.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Approved Net PFC Revenue in This Decision: $1,518,409.

Estimated Charge Effective Date: November 1, 1997.

Estimated Charge Expiration Date: October 1, 1999.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use: Airfield pavement reconstruction, Airfield safety improvements—phase II.

Decision Date: September 10, 1996.

FOR FURTHER INFORMATION CONTACT: Lorna Sandridge, Central Region Airports Division, (816) 426–4730.

Public Agency: Delta County, Escanaba, Michigan.

Application Number: 96–04–C–00–ESC.

Application Type: Impose and use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue in This Decision: $15,870.

Estimated Charge Effective Date: December 1, 1997.

Estimated Charge Expiration Date: April 1, 1998.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/charter operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Delta County Airport.

Brief Description of Project Approved for Collection and Use of PFC Revenue: Relocate airport entrance road and security fencing.

Decision Date: September 10, 1996.

FOR FURTHER INFORMATION CONTACT: Jon B. Gilbert, Detroit Airports District Office, (313) 487–7281.

Public Agency: Telluride Regional Airport Authority, Telluride, Colorado.

Application Number: 96–02–C–00–TEX.

Application Type: Impose and use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue in This Decision: $786,773.

Charge Effective Date: February 1, 1993.

Estimated Charge Expiration Date: June 1, 2001.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Project Approved for Collection and Use of PFC Revenue: General aviation apron improvements, Taxiway and commercial service apron improvements, Snow removal equipment acquisition, Aircraft rescue and firefighting equipment acquisition, Taxiway improvements.

Brief Description of Project Partially Approved for Collection and Use of PFC Revenue: Acquire existing terminal building and upgrade.

Determination: Partially approved. The approved amount is less than the amount requested in the application due to changes in project financing and actual cost figures, and has been prorated to account for ineligible areas. Ineligible areas will be funded locally.

Brief Description of Disapproved Project: Terminal building plans and specifications.

Determination: Since the proposed new terminal was supplanted by the acquisition of the existing privately-owned terminal building, the FAA is unable to conclude that the preparation of plans and specifications for a new terminal meet the objective criteria of § 158.15(a).

Decision Date: September 17, 1996.

FOR FURTHER INFORMATION CONTACT: Christopher Schaffer, Denver Airports District Office, (303) 286–5525.

Public Agency: Salt Lake City Airport Authority, Salt Lake City, Utah.

Application Number: 96–02–C–00–SLC.

Application Type: Impose and use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue in This Decision: $66,291,558.

Estimated Charge Effective Date: March 1, 1999.

Estimated Charge Expiration Date: September 1, 2001.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Salt Lake City International Airport (SLC).

Brief Description of Projects Approved for Collection of a PFC at SLC and Use of PFC Revenue at SLC: Expand taxiway F4 and realign taxiway E, Runway 16L/34R and taxiway resurfacing/safety upgrade, Old burn pit remediation, Terminal road realignment, North bound access road deceleration land, Landside people mover scoping study, Airfield and terminal drainage upgrade, Runways 14/32 and 17/35 resurface, High speed exit on runway 35, Runways 16L and 34R bypass taxiways, Taxiway G extension—north end, Taxiway B extension, Concourses B, C, and D taxilane expansion.

Brief Description of Project Approved for Collection of a PFC at SLC and Use of PFC Revenue at Salt Lake City Airport #2: Airport #2 land acquisition.

Brief Description of Project Approved in Part for Collection of a PFC at SLC and Use of PFC Revenue at SLC: Airfield equipment replacement.

Determination: Partially approved. Some emergency command center equipment costs may not be PFC-eligible and must be prorated out of the total cost for the project and funded locally. In addition, the approved amount has been reduced from that requested due to the inclusion of ineligible equipment. Several items listed were determined to be maintenance equipment and, thus, were not eligible for PFC funding.

Decision Date: September 17, 1996.

FOR FURTHER INFORMATION CONTACT: Christopher Schaffer, Denver Airports District Office, (303) 286–5525.

Public Agency: Virgin Islands Port Authority, St. Croix, U.S. Virgin Islands.

Application Number: 96–03–C–00–STX.

Application Type: Impose and use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue in This Decision: $4,408,000.

Estimated Charge Effective Date: December 1, 1996.

Estimated Charge Expiration Date: April 1, 2004.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection of a PFC at Alexander Hamilton Airport (STX) and Use of PFC Revenue at STX: Passenger terminal renovation and expansion.

Decision Date: September 17, 1996.

FOR FURTHER INFORMATION CONTACT: Pablo G. Auffant, Orlando Airports District Office, (407) 648–6586, ext. 30.

Public Agency: Virgin Islands Port Authority, St. Thomas, U.S. Virgin Islands.

Application Number: 96–05–U–00–STT.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue To Be Used: $3,342,000.

Charge Effective Date: December 1, 1995.

Estimated Charge Expiration Date: December 1, 1997.

Class of Air Carriers Not Required To Collect PFC's: No change from previous decision.

Brief Description of Project (Previously Approved for Collection of PFC Revenue at Cyril E. King Airport) Approved for Use of PFC Revenue at STX: Passenger terminal renovation and expansion.

Decision Date: September 17, 1996.

FOR FURTHER INFORMATION CONTACT: Pablo G. Auffant, Orlando Airports District Office, (407) 648–6586, ext. 30.

Public Agency: City of Fresno, Department of Airports, Fresno, California.

Application Number: 96–01–C–00–FAT.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Approved Net PFC Revenue: $1,405,482.

Earliest Charge Effective Date: December 1, 1996.

Estimated Charge Expiration Date: December 1, 1997.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Fresno Air Terminal.

Brief Description of Projects Approved for Collection and Use:

Part 150 noise compatibility program phases I and II—sound mitigation acoustical remedy treatment program,

Construction of concrete parking aprons at three air carriers gate positions,

Replacement of an airport rescue and firefighting (ARFF) vehicle, purchase of 20 sets of firefighting protective clothing, and purchase of five hand-held radios with multiple channel selection,

Airport sign system installation, modification, and replacement,

Air operations area access control and security improvements,

Airline terminal complex master plan,

National pollutant discharge elimination system permitting requirements,

ARFF station improvements: concrete apron reconstruction and replacement of vehicle fueling systems,

Americans with Disabilities Act requirement improvements,

Airport rotating beacon,

Airport concourse upgrade schematic design, design development, and construction documents,

Reconstruction of taxiway A crossings and taxiway N runup area,

Airfield lighting, electrical improvements, and replacement of the emergency generator system design,

Airfield, tower, and terminal power system replacement (design).

Decision Date: September 18, 1996.

FOR FURTHER INFORMATION CONTACT: Joseph R. Rodriguez, San Francisco Airports District Office, (415) 876–2805.

Public Agency: City of Manchester, New Hampshire.

Application Number: 96–03–U–00–MHT.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue To Be Used: $177,000.

Charge Effective Date: January 1, 1993.

Estimated Charge Expiration Date: September 1, 1997.

Class of Air Carriers Not Required To Collect PFC's: No change from previous decision.

Brief Description of Project Approved for Use of PFC Revenue: Acquire avigation easements for the runway 17 instrument landing system.

Decision Date: September 24, 1996.

FOR FURTHER INFORMATION CONTACT: Priscilla A. Scott, New England Region Airports Division, (617) 238–7614.

Public Agency: Lexington-Fayette Urban County Airport Board, Lexington, Kentucky.

Application Number: 96–03–U–00–LEX.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total Approved Net PFC Revenue To Be Used: $945,836.

Charge Effective Date: November 1, 1993.

Estimated Charge Expiration Date: September 1, 2005.

Class of Air Carriers Not Required To Collect PFC's: No change from previous decision.

Brief Description of Projects Approved for Use of PFC Revenue: Assess environmental impacts of proposed parallel runway (and alternatives, to enhance operational safety), Implement noise abatement program phase II.

Decision Date: September 27, 1996.

FOR FURTHER INFORMATION CONTACT: Cynthia K. Wills, Memphis Airports District Office, (901) 544–3495.

Public Agency: Grand Forks Regional Airport Authority, Grand Forks, North Dakota.

Application Number: 96–03–C–00–GFK.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Approved Net PFC Revenue in This Decision: $86,463.

Charge Effective Date: February 1, 1993.

Charge Expiration Date: August 1, 1996.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use of PFC Revenue: Extension of ramp A.

Decision Date: September 27, 1996.

FOR FURTHER INFORMATION CONTACT: Irene R. Porter, Bismarck Airports District Office, (701) 250–4385.

Public Agency: County of Albany, Albany, New York.

Application Number: 96–03–C–00–ALB.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Approved Net PFC Revenue in This Decision: $11,888,847.

Estimated Charge Effective Date: March 1, 2020.

Estimated Charge Expiration Date: January 1, 2023.

Class of Air Carriers Not Required To Collect PFC's: Air tax/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Albany County Airport.

Brief Description of Projects Approved for Use of PFC Revenue: Terminal building renovation and expansion, Air traffic control tower, New interior roadways, Airport equipment, New storage building.

Brief Description of Projects Approved for Collection and Use of PFC Revenue: Federal inspection facility, Passenger access lift equipment acquisition, Airport master plan study, Part 150 run up study, Glycol collection system.

Brief Description of Projects Approved in Part for Collection and Use of PFC Revenue: Terminal ramp improvements, Emergency generator installation.

Determination: Approved in part. The ditch dredging is considered to be periodic maintenance and as such has been determined to be ineligible under PFC criteria.

Decision Date: September 27, 1996.

FOR FURTHER INFORMATION CONTACT: Philip Brito, New York Airports District Office, (516) 227–3803.

Public Agency: Duluth Airport Authority, Duluth, Minnesota.

Application Number: 96–02–C–00–DLH.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Approved Net PFC Revenue in This Decision: $775,332.

Estimated Charge Effective Date: October 1, 1996.

Estimated Charge Expiration Date: May 1, 1999.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Duluth International Airport (DLH).

Brief Description of Projects Approved for Collection of a PFC at DLH and Use of PFC Revenue at DLH: Complete phase I of taxiway K construction, Rehabilitate runway 9/27 and portion of runway 3/21 lighting, Extend taxiway B, Rehabilitate runway 3/21, Consultation to preparation and provide assistance with PFC administration.

Brief Description of Project Approved for Collection of PFC at DLH and Use of PFC Revenue at Sky Harbor Airport: Rehabilitate runway 14/32.

Brief Description of Projects Approved in Part for Collection of a PFC at DLH and Use of PFC Revenue at DLH: Purchase high speed runway broom.

Determination: Approved in part. The amount requested in the PFC application was for the local share of an Airport Improvement Program grant which included elements in addition to the runway broom. The PFC approved amount was limited to the local share of the cost of the runway broom.

Update airport master plan.

Determination: Approved in part. The PFC approved amount has been reduced from the amount requested to reflect a revised project cost estimate received from the Duluth Airport Authority.

Decision Date: September 30, 1996.

FOR FURTHER INFORMATION CONTACT: Gordon Nelson, Minneapolis Airports District Office, (612) 725–4358.

Issued in Washington, D.C. on October 4, 1996.

Sheryl Scarborough,

Acting Manager, Passenger Facility Charge Branch.

[FR Doc. 96–26166 Filed 10–10–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Broome County, New York

AGENCY: Federal Highway Administration (FHWA), New York State Department of Transportation (NYDOT).

ACTION: Retract notice of intent to prepare an Environmental Impact Statement (EIS), Susquehanna River Crossing.

SUMMARY: The FHWA is issuing this notice to advise the public that an EIS will not be prepared for a proposed bridge that crosses the Susquehanna River connecting Route 17C with Route 17 and Route 434 in eastern Tioga/western Broome Counties, New York as advertised in the Federal Register.

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 Richard R. Church, Regional Director, New York State Department of Transportation, Binghamton State Office Building, 44 Hawley Street, Binghamton, New York 13901–3200, Telephone (607) 721–8116.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the NYSDOT, has determined that an EIS will not be prepared for the proposal to construct a bridge and associated approach roadway and interchange ramps for a new crossing of the Susquehanna River. The NYSDOT evaluated four corridors connecting NYS Route 17C with NYS Route 17 and NYS Route 17 and 434 located between Hiawatha Boulevard in the town of Owego, Tioga County and NYS Route 26 in the town of Vestal and village of Endicott, Broome County. NYSDOT initiated the preparation of a Draft EIS. A public hearing was held in July 1996 to present the project information to the public and solicit comments.

Upon reevaluation of the project alternatives with regard to goals, economics, environmental impacts and public input, it was determined that Alternative ''A'' has a project objective different from the other alternatives and will be pursued independently. This corridor spans the Susquehanna River at the Route 17 (Exit 66) interchange connecting the hamlets of Apalachin/Campville in the town of Owego, Tioga County. The existing bridges span Route 17 carrying the Exit 66 on and off ramps. They are identified as BINs 1054771 and 1054772. This alternative meets the requirements for a Categorical Exclusion with FHWA concurrence. A Final Design Report will be prepared that evaluates two locations for Alternative ''A'' crossing and the no action alternative.

The benefits with Alternative ''A'' include the potential for increased economic development, increased access between Routes 17C, 434 and 17 in the project area, and improved delivery of public services in the town of Owego which is split by the Susquehanna River.

The environmental impacts associated with Alternative ''A'' are minor and include: noise impacts at nine locations, disturbance of approximately a 0.3 acre wetland and/or stream in the project area, and a 3% increase in energy consumption.

Issued on: September 30, 1996.

Harold J. Brown,

Division Administrator, Federal Highway Administration, Albany, New York.

[FR Doc. 96–25681 Filed 10–10–96; 8:45 am]

BILLING CODE 4910–22–M

Maritime Administration

Maritime Security Program; Request For Applications for FY 1997

SUMMARY: This notice solicits applications from eligible candidates for possible participation in the Maritime Security Program (MSP) pursuant to the Maritime Security Act of 1996 (MSA).

DATES: The MSA requires applications be received no later than November 7, 1996. However, to expedite processing of applications, all applicants are encouraged to submit their applications within 15 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Raymond R. Barberesi, Director, Office of Sealift Support. Telephone 202–366–2323.

SUPPLEMENTARY INFORMATION:

Overview

The MSA establishes a new 10-year MSP commencing in Fiscal Year 1996. The MSP will support the operation of U.S.-flag vessels in the foreign commerce of the United States through assistance payments. Participating vessel operators are required to make their ships and other commercial transportation resources available upon request of Secretary of Defense during times of war or national emergency.

ADDRESSES: To be considered, applications must be mailed, delivered in person or telefaxed (in which case an original must subsequently be received within the statutory 30-day period) to the Secretary, Maritime Administration, Room 7210, Department of Transportation, 400 Seventh St., S.W., Washington, DC 20590. Telefax number (202) 366–9206. Applicants wishing MARAD to acknowledge receipt should enclose a stamped, self-addressed envelope or postcard.

Application Procedure

Applicants must submit:

(1) An ''Application For Participation Under Section 651, Subtitle B, Merchant Marine Act, 1936, as Amended'', and,

(2) An audited financial statement or a Form MA–172 as described at 46 CFR Part 232.

These forms have been approved by OMB, number 2133–0525 and number 2133–0005, respectively, and are available from the Office of Sealift Support, MAR–630, Room 7300, Department of Transportation, 400 Seventh Street, S.W., Washington, DC 20590. Applicants must submit one original, signed by a person authorized to receive funds for the applicant, and one copy (double-sided copies are encouraged).

By Order of the Maritime Administrator:

Dated: October 8, 1996.

Joel C. Richard,

Secretary.

[FR Doc. 96–26334 Filed 10–10–96; 8:45 am]

BILLING CODE 4910–81–P

Research and Special Programs Administration

[Docket HM–223; Notice No. 96–21]

RIN 2137–AC68

Applicability of the Hazardous Materials Regulations to Loading, Unloading and Storage

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of meeting; issues to be discussed in Philadelphia.

SUMMARY: On July 29, 1996, RSPA published an Advance Notice of Proposed Rulemaking and notice of meeting in the Federal Register. In that document, RSPA announced three public meetings at which it would seek ideas, proposals and recommendations regarding the applicability of the Hazardous Materials Regulations to particular hazardous materials transportation activities. The first of the three public meetings was held in Atlanta, Georgia, on September 13, 1996. The second public meeting was held in Sacramento, California, on September 25, 1996. Based on information gathered at those public meetings and information in the docket, RSPA is announcing the topics to be discussed at the October 30, 1996 meeting in Philadelphia, Pennsylvania, by two working groups comprised of interested members of the public. Those two topics are (1) the loading of hazardous materials at shipper and consignee facilities and (2) the loading, unloading and storage of hazardous materials at transfer and other mid-transportation facilities. Also, commenters to date have identified several factors which could provide a framework for possible regulation in these areas. These factors are set forth in this notice and will serve as a starting point for discussion for each working group in Philadelphia.

DATES: *Public meeting:* A public meeting will be held October 30, 1996, from 9:00 a.m. to 4:00 p.m. in Philadelphia, Pennsylvania. Any person wishing to participate in the Philadelphia working-group session should notify Nancy E. Machado by telephone or in writing on or before October 23, 1996. Notice is not a prerequisite to participation in the Philadelphia working groups, but will facilitate the agency's planning efforts.

Written comments: Written comments must be received on or before November 30, 1996.

ADDRESSES: *Public meeting:* Penn Tower Hotel, Civic Center Boulevard at 34th St., Philadelphia, PA 19104.

Written comments: Address comments to Dockets Unit (DHM–30), Office of Hazardous Materials Safety, Research and Special Programs Administration, U.S. Department of Transportation, Washington, D.C. 20590–0001. Comments should identify the docket and notice number and be submitted, when possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped postcard. The Dockets Unit is located in Room 8421 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590–0001. Office hours are 8:30 a.m. to 5:00 p.m., Monday through Friday, except on public holidays when the office is closed.

FOR FURTHER INFORMATION CONTACT: Nancy E. Machado, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington D.C. 20590–0001, telephone 202–366–4400.

SUPPLEMENTARY INFORMATION: On July 29, 1996, RSPA published an Advance Notice of Proposed Rulemaking (ANPRM) and notice of meeting in the Federal Register (61 FR 39522). In that document, RSPA announced three public meetings at which it would seek ideas, proposals and recommendations regarding the applicability of the Hazardous Materials Regulations (HMR) (49 CFR Parts 171–180) to particular hazardous materials transportation activities. In the ANPRM, RSPA asked that participants in the first meeting, held in Atlanta, Georgia, comment on issues identified and respond to questions raised in the July 29, 1996 ANPRM. RSPA proposed to begin the Sacramento and Philadelphia meetings with an overview of the issues of greatest concern to commenters in Atlanta, and then have participants break out into working groups to discuss those issues and to generate further ideas, proposals and recommendations. At the conclusion of the working-group sessions, RSPA proposed to have each working group present its ideas, proposals and recommendations to all meeting participants for further discussion.

The Atlanta meeting was held on September 13, 1996, and was attended by members of the regulated community, local government interests, and Department of Transportation (DOT), Environmental Protection Agency (EPA) and Occupational Safety and Health Administration (OSHA) representatives.

After considering the oral statements made by participants, and information already in the public docket, RSPA announced at the conclusion of the Atlanta meeting that the two topics for working-group discussions in Sacramento would be the unloading of hazardous materials and the storage of hazardous materials. RSPA also published a notice in the Federal Register, (61 FR 49723; Sept. 3, 1996) identifying the issues, as well as several criteria which commenters have suggested as a framework for determining the applicability or non-applicability of the HMR. Those criteria are:

(1) The nature of the activity;

(2) The intent of the activity;

(3) The time-frame involved in the activity;

(4) The physical location where the activity takes place;

(5) The priority of interests of each agency in regulating the activity;

(6) The nature of the shipping papers (*e.g.*, ''active'') at the time the activity is taking place; and

(7) The type of packaging involved in each activity.

The Sacramento meeting was held on September 25, 1996, and was attended by members of the regulated community, State and local government interests, and Department of Transportation (DOT) and Environmental Protection Agency (EPA) representatives. After considering the information, ideas, proposals and recommendations gathered during the two working-group sessions, and information already in the public docket, RSPA announced at the conclusion of the Sacramento meeting that the two topics for working-group discussion in Philadelphia would be (1) the loading of hazardous materials at shipper and consignee facilities and (2) the loading, unloading and storage of hazardous materials at transfer and other mid-transportation facilities. RSPA intends to use the same criteria which were announced in the September 23, 1996 Federal Register notice, and discussed during the Sacramento meeting, as a starting point for discussions in Philadelphia.

RSPA is publishing this information in the Federal Register to allow participants at the Philadelphia meeting to prepare in advance for the working-group discussions.

Issued in Washington, DC on October 7, 1996.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 96–26168 Filed 10–10–96; 8:45 am]

BILLING CODE 4910–60–P

[Contract DTRS–56–96–C–0010]

Quarterly Performance Review Meeting on the Contract ''Detection of Mechanical Damage in Pipelines''

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of meeting.

SUMMARY: RSPA invites the pipeline industry, in-line inspection (''smart

pig'') vendors, and the general public to a quarterly performance review meeting of progress pursuant to the contract ''Detection of Mechanical Damage in Pipelines.'' RSPA wants the pipeline industry, particularly that segment of the industry involved with in-line inspection, including in-line inspection vendors, to be aware of the status of this contract. This contract is being performed by Battelle Memorial Institute (Battelle), along with the Southwest Research Institute, and Iowa State University. The contract is a research and development contract to develop in-line inspection equipment using electromagnetic technology to detect and characterize mechanical damage and stress corrosion cracking. Battelle's Program Manager will make a presentation on the status of contract tasks, including a summary of the activity and progress during the past quarter and the projected activity for the next quarter.

DATES: The quarterly performance review meeting will be held on October 22, 1996, beginning at 9:00 am and ending around noon.

ADDRESSES: The quarterly review meeting will be conducted at the Holiday Inn Capitol, 550 C Street, SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lloyd W. Ulrich, Contracting Officer's Technical Representative, Office of Pipeline Safety, telephone: (202) 366–4556, FAX: (202) 366–4566, e-mail: lloyd.ulrich @ rspa.dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

RSPA is holding quarterly public meetings on the status of its contract ''Detection of Mechanical Damage in Pipelines'' (Contract DTRS–56–96–C–0010) because it recognizes that this in-line inspection research is of immediate interest to the pipeline industry and in-line inspection vendors. RSPA plans to make the results available on a quarterly basis throughout the two- or three-year period of the contract. The meetings will allow disclosure of the results to all interested parties at the same time and provide an opportunity for interested parties to ask Battelle clarifying questions concerning the research.

The first meeting will be conducted on October 22, 1996, in Washington, DC. Future quarterly review meetings may be held in Columbus, Ohio (Battelle); San Antonio, Texas (Southwest Research Institute); Ames, Iowa (Iowa State University); or Chicago, Illinois (Gas Research Institute). Each of the future meetings will be announced in the Federal Register at least two weeks prior to the meeting.

We want the pipeline industry, and in particular, that segment of the industry involved with in-line inspection, to be aware of the status of this contract. To assure that the industry is well represented at these meetings, we have invited the major domestic in-line inspection company (Tuboscope-Vetco Pipeline Services) and the following pipeline industry trade associations: American Petroleum Institute, Interstate Natural Gas Association of America, and the American Gas Association to name an engineering/technical representative, to attend the meetings.

II. The GRI/DOT Memorandum of Understanding

The Gas Research Institute (GRI) and the Department of Transportation (DOT) signed a Memorandum of Understanding (MOU) on June 20, 1996, which formalized a partnership to further the mutual interests of both organizations in providing public safety, and environmental protection, and in reducing risks from gas transmission pipelines. GRI is a cooperative research organization of the natural gas industry. The MOU's objective is to define and formalize a structure to exchange information and coordinate GRI's and DOT's research programs, and to guide research in various areas involving pipeline safety and environmental protection including nondestructive testing, data analysis, risk management, damage prevention, and mapping standards. The research contract RSPA has with Battelle is a cooperative effort between GRI and DOT, with GRI providing technical guidance.

III. The Contract

The Battelle contract is a research and development contract to evaluate and develop in-line inspection technologies for detecting mechanical damage and cracking, such as stress-corrosion cracking (SCC), in natural gas transmission and hazardous liquid pipelines. Third-party mechanical damage is one of the largest causes of pipeline failure, but existing in-line inspection tools cannot always detect or accurately characterize the severity of some types of third-party damage that can threaten pipeline integrity. For example, although SCC is not very common on pipelines, it usually appears in high-stress, low-population-density areas and only when a limited set of environmental conditions are met. Several attempts have been made to develop an in-line inspection tool for SCC, but there is no commercially successful tool on the market.

Under the contract, Battelle will evaluate and advance magnetic flux leakage (MFL) inspection technology for detecting mechanical damage and two electromagnetic technologies for detecting SCC. The focus is on MFL for mechanical damage because experience shows MFL can characterize some types of mechanical damage and can be successfully used for metal-loss corrosion under a wide variety of conditions. The focus for SCC is on electromagnetic technologies that can be used in conjunction with, or as a modification to, MFL tools. The technologies to be evaluated take advantage of the MFL magnetizer either by enhancing signals or using electrical currents that are generated by the passage of an inspection tool through a pipeline.

The contract includes two major tasks during the base two years of the contract, and one major task (Task 3) being considered for an option year to the contract:

Task 1 is to evaluate existing MFL signal generation and analysis methods to establish a baseline from which today's tools can be evaluated and tomorrow's advances measured. Then, it will develop improvements to signal analysis methods and verify them through testing under realistic pipeline conditions. Finally, it will build an experience base and defect sets to generalize the results from individual tools and analysis methods to the full range of practical applications.

Task 2 is to evaluate two inspection technologies for detecting stress corrosion cracks. The focus in Task 2 is on electromagnetic techniques that have been developed in recent years and that could be used on or as a modification to existing MFL tools. Three subtasks will evaluate velocity-induced remote-field techniques, remote-field eddy-current techniques, and external techniques for sizing stress corrosion cracks.

Task 3, if done, will verify the results from Tasks 1 and 2 by tests under realistic pipeline conditions. Task 3 will (1) extend the mechanical damage detection, signal decoupling, and sizing algorithms developed in the basic program to include the effects of pressure, (2) verify the algorithms under pressurized conditions in GRI's 4,700 foot, 24-inch diameter Pipeline Simulation Facility (PSF) flow loop, and (3) evaluate the use of eddy-current techniques for characterizing cold working within mechanical damage.

A drawback of present pig technology is the lack of a reliable pig performance verification procedure that is generally accepted by the pipeline industry and

RSPA. The experience gained by the pipeline industry and RSPA with the use of the PSF flow loop in this project will provide a framework to develop procedures for evaluating pig performance. Defect detection reliability is critical if instrumented pigging is to be used as an in-line inspection tool in pipeline industry risk management programs.

The ultimate benefits of the project could be more efficient and cost-effective operations, maintenance programs to monitor and enhance the safety of gas transmission and hazardous liquid pipelines. Pipeline companies will benefit from having access to inspection technologies for detecting critical mechanical damage and stress-corrosion cracks. Inspection tool vendors will benefit by understanding where improvements are beneficial and needed. These benefits will support RSPA's long-range objective of ensuring the safety and reliability of the gas transmission and hazardous liquid pipeline infrastructure.

Issued in Washington, D.C. on October 4, 1996.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 96–26030 Filed 10–9 –96; 8:45 am]

BILLING CODE 4910–60–P

Surface Transportation Board [1]

[STB Finance Docket No. 33135]

The Columbus & Ohio River Rail Road Company—Acquisition and Operation Exemption—Consolidated Rail Corporation

The Columbus & Ohio River Rail Road Company, a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire by purchase, and to operate, approximately 2.5 miles of rail line owned by Consolidated Rail Corporation between CP 138 and 17th Street in Columbus, OH. Consummation was expected to occur on or after September 30, 1996.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33135, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423 and served on: Kelvin J. Dowd, Esq., Slover & Loftus, 1224 Seventeenth Street, N.W., Washington, DC 20036.

Decided: October 3, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–26183 Filed 10–10–96; 8:45 am]

BILLING CODE 4915–00–P

Surface Transportation Board [1]

[STB Finance Docket No. 33044]

Flats Industrial Railroad Company—Acquisition and Operation Exemption—Consolidated Rail Corporation

Flats Industrial Railroad Company, a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire by purchase, and to operate, approximately 4 miles of rail lines owned by Consolidated Rail Corporation between M.P. 14 at Cleveland, Cuyahoga County, OH, and M.P. 10 at Carter Road, Cuyahoga County, OH, including the industrial lead to Cereal Food Processors, Inc. The proposed transaction was to have been consummated on or after October 1, 1996.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33044, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423 and served on: D. Scott Morgan, Gallagher Reilly and Lachat, 2000 Market Street, Suite 1300, Philadelphia, PA 19103.

Decided: October 3, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–26186 Filed 10–10–96; 8:45 am]

BILLING CODE 4915–00–P

[STB Finance Docket No. 33122]

Northwestern Stage Lines, Inc., and Greyhound Lines, Inc.—Purchase (Portion) Exemption

AGENCY: Surface Transportation Board.
ACTION: Notice of filing of petition for exemption.

SUMMARY: Petitioners, Northwestern Stage Lines, Inc. (NWL), and Greyhound Lines, Inc. (GLI), jointly seek an exemption under 49 U.S.C. 13541, from the prior approval requirements of 49 U.S.C. 14303(a)(2),[2] for each to acquire certain operating rights of the other, within the State of Washington, in interstate, intrastate, and foreign commerce.

DATES: Comments must be filed by October 31, 1996. Petitioners may file a reply by November 12, 1996.[3]

ADDRESSES: Send an original and 10 copies of comments referring to STB Finance Docket No. 33122 to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, send one copy of comments to petitioners' representative: Fritz R. Kahn, Suite 750 West, 1100 New York Avenue, N.W., Washington, DC 20005–3934.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: NWL (MC–108099), a motor passenger carrier, operates regular-route services in Washington and Idaho.[4] GLI (MC–1515),

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10902.

[1] The ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10901.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (1995), abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board) effective January 1, 1996. This notice relates to a transaction that is subject to Board jurisdiction under 49 U.S.C. 14303.

[2] The language of 49 U.S.C. 14303(a)(2) is identical to that in former 49 U.S.C. 11343(a)(2), under which applications of this nature were routinely considered. An exemption of this transaction will exempt petitioners from the antitrust laws and other pertinent state and municipal laws. See 49 U.S.C. 14303(f).

[3] Petitioners request that the decision exempting the transaction become effective no later than November 1, 1996. Because petitioners do not explain why such an expedited schedule is necessary and their proposed schedule would deprive the public of an adequate opportunity to comment, we will deny their request.

[4] NWL is affiliated with Boise-Winnemucca Trailways, a motor passenger carrier.

a motor passenger carrier, operates nationwide, regular-route services.[5] NWL seeks to transfer to GLI its route over Interstate Highway 90, between Moses Lake and Seattle, WA. In return, GLI seeks to transfer to NWL its local routes: (1) Between Moses Lake and Everett, WA, over Washington Highways 171, 17, 282, and 28 and U.S. Highway 2; and (2) between Wenatchee and Ellensburg, WA, over U.S. Highway 97. These routes apparently would connect with NWL's authority to operate between Everett and Seattle, over Interstate Highway 5.

As to the operating rights that GLI is receiving in the transaction, it appears that GLI already operates between Moses Lake and Seattle, under its own operating rights over Interstate Highway 90 between Butte, MT, and Seattle. As for NWL, it will acquire GLI's local routes and will no longer operate over its direct route between Seattle and Spokane, WA, over Interstate Highway 90.

According to the transfer agreement, NWL will use GLI's bus terminal in Wenatchee and will become a tenant in GLI's bus terminals in Ellensburg, Everett, and Seattle. In addition, GLI will terminate its agency agreement in Ephrata, WA, and NWL will consummate an agreement with the same agent. Neither petitioner will assume any obligations to the other's employees.

Petitioners submit that: (1) GLI's annual gross operating revenues exceed $2 million; (2) they hold satisfactory safety fitness ratings; (3) they have adequate insurance coverage; (4) neither is domiciled in Mexico or controlled by persons of that country; and (5) the proposed transaction will have no effect on the quality of the human environment or the conservation of energy resources.

Additional information may be obtained from petitioners' representative.

A copy of this notice will be served on the Department of Justice, Antitrust Division, 10th St. & Pennsylvania Ave., N.W., Washington, DC 20530.

Decided: October 7, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–26187 Filed 10–10–96; 8:45 am]

BILLING CODE 4915–00–P

[5] GLI is affiliated with Continental Panhandle Lines, Inc., Texas, New Mexico & Oklahoma Coaches, Inc., and Vermont Transit Co., Inc., all motor passenger carriers.

[STB Finance Docket No. 33127]

Shawnee Terminal Railway Company, Inc.—Acquisition and Operation Exemption—Cairo Terminal Railroad Company

Shawnee Terminal Railway Company, Inc. (Shawnee), a noncarrier, newly-established to become shortline railroad, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate a 2.5-mile line of railroad from Cairo Terminal Railroad Company (Cairo) between milepost 256.9 and milepost 259.4 at Cairo, IL. In addition, Shawnee will acquire, by assignment, Cairo's incidental trackage rights allowing overhead operation over approximately 4.5 miles of line of the Illinois Central Railroad Company between milepost 500 and Cairo, IL. The trackage rights will facilitate interchange and access to yard and industry tracks.

The transaction was expected to be consummated as soon as possible after the October 2, 1996 effective date of the exemption.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33127, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on Keith G. O'Brien, Esq., Rea, Cross & Auchincloss, Suite 420, 1920 N Street, N.W., Washington, DC 20036.

Decided: October 4, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–26185 Filed 10–10–96; 8:45 am]

BILLING CODE 4915–00–P

[STB Docket No. AB–470X]

Southeast Kansas Railroad Company—Abandonment Exemption—in Vernon and Barton Counties, MO

Southeast Kansas Railroad Company (SEK) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon a 24.1-mile portion of its line of railroad between milepost 319.3, at Nassau Junction Station, and milepost 343.4, at or near Liberal, in Barton and Vernon Counties, MO.

SEK has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) overhead traffic has been rerouted over other lines; (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 either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to 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. 10502(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 10, 1996, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by October 21, 1996. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 31, 1996, with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Karl Morell, Ball Janik

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Board will accept late-filed trail use requests as long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

LLP, 1455 F St., N.W., Suite 225, Washington, DC 20005.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

SEK 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 16, 1996. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Surface Transportation Board, 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 becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: October 4, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–26184 Filed 10–10–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; comment request

October 1, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0058.
Form Number: IRS Form 1028.
Type of Review: Extension.
Title: Application for Recognition of Exemption Under Section 521 of the Internal Revenue Code.
Description: Farmers' cooperatives must file Form 1028 to apply for exemption from Federal income tax as being organizations described in IRC section 521. The information on Form 1028 provides the basis for determining whether the applicants are exempt.
Respondents: Business or other for-profit.
Estimated Number of Respondents/ Recordkeepers: 50.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—44 hr., 14 min.
Learning about the law or the form—1 hr., 38 min.
Preparing the form—4 hr., 17 min.
Copy, assembling, and sending the form to the IRS—32 min.
Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 2,535 hours.

OMB Number: 1545–0235.
Form Number: IRS Form 730.
Type of Review: Revision.
Title: Tax on Wagering.
Description: Form 730 is used to identify taxable wagers and collect the tax monthly. The information is used to determine if persons accepting wagers are correctly reporting the amount of wagers and paying the required tax.
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents/ Recordkeepers: 4,150.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—3 hr., 35 min.
Learning about the law or the form—1 hr., 10 min.
Preparing the form—2 hr., 12 min.
Copying, assembling and sending the form to the IRS—16 min.
Frequency of Response: Monthly.
Estimated Total Reporting/ Recordkeeping Burden: 361,000 hours.

OMB Number: 1545–0939.
Form Number: IRS Form 8404.
Type of Review: Extension.
Title: Interest Charge on DISC-Related Deferred Tax Liability.
Description: Shareholders of Interest Charge Domestic International Sales Corporations (IC–DISCs) use Form 8404 to figure and report an interest charge on their DISC-related deferred tax liability. The interest charge is required by Internal Revenue Code section 995(f). IRS uses Form 8404 to determine whether the shareholder has correctly figured and paid the interest charge on a timely basis.
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents/ Recordkeepers: 2,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—4 hr., 4 min.
Learning about the law or the form—2 hr., 29 min.
Preparing, copying and sending the form to the IRS—2 hr., 40 min.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 18,420 hours

OMB Number: 1545–1417.
Form Number: IRS Form 8845.
Type of Review: Revision.
Title: Indian Employment Credit.
Description: Employers can claim a credit for hiring American Indians or their spouses to work within an Indian reservation. The credit is figured by multiplying by 20% the increase in wages and health insurance costs over the comparable amount paid or incurred during calendar year 1996.
Respondents: Business or other for-profit.
Estimated Number of Respondents/ Recordkeepers: 500.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—6 hr., 13 min.
Learning about the law or the form—1 hr., 41 min.
Preparing and sending the form to the IRS—1 hr., 52 min.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 4,885 hours.
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–26132 Filed 10–10–96; 8:45 am]

BILLING CODE 4830–01–P

Submission to OMB for Review; Comment Request

October 2, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: New.
Form Number: IRS Form W–4V.
Type of Review: New collection.

Title: Voluntary Withholding Request.

Description: If an individual receives any of the following government payments, he/she may voluntarily complete Form W–4V to request that the payer withhold Federal Income tax. Those payments are unemployment compensation, social security benefits, tier I railroad retirement benefits, Commodity Credit Corporation loans or certain crop disaster payments under Agricultural Act of 1949 or Title II of the Disaster Assistance Act of 1988.

Respondents: Individuals or households, Farms.

Estimated Number of Respondents/ Recordkeepers: 19,700,000.

Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—7 min.
Learning about the law or the form—5 min.
Preparing the form—7 min.
Copy, assembling, and sending the form to the IRS—10 min.

Frequency of Response: On occasion

Estimated Total Reporting/ Recordkeeping Burden: 9,653,000 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 96–26133 Filed 10–10–96; 8:45 am]

BILLING CODE 4830–01–P

Submission for OMB Review; Comment Request

October 3, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: New.

Form Number: ATF F 5154.3.

Type of Review: New collection.

Title: Bond for Drawback Under 26 U.S.C. 5131.

Description: Businesses that use taxpaid alcohol to manufacture nonbeverage products may file a claim for drawback (refund or remittance). Claims may be filed monthly or quarterly. Monthly claimants must file a bond on ATF F 5154.3 to protect the Government's interest.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 60.

Estimated Burden Hours Per Respondent: 12 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 12 hours.

OMB Number: 1512–0096.

Form Number: ATF F 5130.12 (1689).

Type of Review: Extension.

Title: Beer for Exportation.

Description: Untaxpaid beer may be removed from a brewery for exportation without payment of the excise tax normally due on removal. In order to ensure that exportation took place as claimed and that untaxpaid beer does not reach the domestic market, ATF requires certification on Form 5130.12.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 392.

Estimated Burden Hours Per Respondent: 1 hour, 39 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 38,808 hours.

OMB Number: 1512–0133.

Form Number: ATF F 5400.8.

Type of Review: Extension.

Title: Explosives Delivery Record.

Description: This information collection activity is used to verify distributor's compliance with Federal law and regulations, thereby documenting the flow of explosives in commerce; and as a tracing tool to prevent misuse and traffic in stolen explosives.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 25,000.

Estimated Burden Hours Per Respondent: 6 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 2,500 hours.

OMB Number: 1512–0298.

Recordkeeping Requirement ID Number: ATF REC 5120/1.

Type of Review: Extension.

Title: Usual and Customary Business Records Relating to Wine.

Description: Usual and customary business records relating to wine are routinely inspected by ATF officers to ensure the payment of alcohol taxes due to the Federal Government.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 1,650.

Estimated Burden Hours Per Respondent: 10 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 165 hours.

Clearance Officer: Robert N. Hogarth, (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, N.W., Washington, DC 20226.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–26134 Filed 10–10–96; 8:45 am]

BILLING CODE 4810–31–P

Submission to OMB for Review; Comment Request

October 3, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0024.

Form Number: IRS Form 843.

Type of Review: Revision.

Title: Claim for Refund and Request for Abatement.

Description: Internal Revenue Code (IRC) sections 6402, 6404, and sections 301.6402–2, 301.6404–1, and 301.6404–3 of the regulations allow for refunds of taxes (except income taxes) or refund, abatement, or credit of interest, penalties, and additions to tax in the event of errors on certain actions by the IRS. Form 843 is used by taxpayers to claim these refunds, credits, or abatements.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms, State, Local or Tribal Government.

Estimated Number of Respondents/ Recordkeepers: 545,500.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—26 min.

Learning about the law or the form—7 min.

Preparing the form—20 min.

Copying, assembling, and sending the form to the IRS—28 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 736,425 hours.

OMB Number: 1545–0049.

Form Number: IRS Form 990–BL, Schedule A (Form 990–BL, Form 6069).

Type of Review: Extension.

Title: Form 990–BL, Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons; Schedule A, (Form 990–BL), Initial Excise Taxes on Black Lung Benefit Trusts and Certain Related Persons Under Sections 4951 and 4952 of the Internal Revenue Code; and Form 6069, Return of Excise Tax on Excess Contributions to Black Lung Benefit Trust Under Section 4953 and Computation of Section 192 Deduction.

Description: IRS uses Form 990–BL to monitor activities of black lung benefit trusts, and to collect excise taxes on these trusts and certain related persons if they engage in proscribed activities. The tax is figured on Schedule A and attached to the 990–BL. Form 6069 is used by coal mine operators to figure the maximum deduction to a black lung trust. If excess contributions are made, IRS uses the form to figure and collect the tax on excess contributions.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions.

Estimated Number of Respondents/ Recordkeepers: 22.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 990–BL	Schedule A
Recordkeeping	16 hr., 44 min.	6 hr., 56 min.
Learning about the law or the form	6 hr., 22 min.	18 min.
Preparing and sending the form to the IRS	6 hr., 55 min.	25 min.

Frequency of Response: On occasion, Annually.

Estimated Total Reporting/ Recordkeeping Burden: 704 hours.

OMB Number: 1545–1492.

Form Number: IRS Form 10001.

Type of Review: Extension.

Title: Request for Closing Agreement Relating to Advance Refunding Issue Under Sections 148 and 7121 and Rev. Proc. 96–41.

Description: Form 10001 will be used in conjunction with a closing agreement program involving certain issuers of tax-exempt advance refunding bonds. A revenue procedure covering this voluntary compliance program will be issued concurrently with the issuance of the form.

Respondents: Not-for-profit institutions, State, Local or Tribal Governments.

Estimated Number of Respondents: 100.

Estimated Burden Hours Per Respondent: 3 hours.

Frequency of Response: Other (once).

Estimated Total Reporting Burden: 300 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–26135 Filed 10–10–96; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Performance Review Board Members

AGENCY: Department of Veterans Affairs.

ACTION: Correction.

SUMMARY: In notice document 96–25051 beginning on page 51317 in the issue of Tuesday, October 1, 1996, make the following correction: On page 51317, in the third column, the name of Celia Dollarhide, Director, Education Service should be changed to read Patricia Grysavage, Director, Office of Executive Management and Communications.

Dated: October 3, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

[FR Doc. 96–26138 Filed 10–10–96; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 61, No. 199
Friday, October 11, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 12

RIN 0578-AA17

Highly Erodible Land and Wetland Conservation

Correction

In rule document 96–22784 beginning on page 47019 in the issue of Friday, September 6, 1996, make the following corrections:

1. On page 47019:

a. In the first column, under **ADDRESSES**, in the sixth line, ''service'' should read ''Service''.

b. In the second column, in the first paragraph, the last two lines should read ''Conservation Service, P.O. Box 2890, Washington, D.C. 20013-2890.''.

c. In the third column, in the second paragraph, in the first line, ''unfunded'' should read ''Unfunded''.

2. On page 47020, in the second column, in the fourth line from the top, ''resources'' should read ''resource''.

3. On page 47021, in the 1st column:

a. The heading should read ''Public Listening Forums''.

b. In the 1st paragraph below the heading, in the 9th line, insert a semi-colon after ''Texas''.

c. In the same paragraph, in the 23rd line, ''3summary'' should read ''summary''.

d. In the next paragraph, in th second line, ''variance'' should read ''variances''.

4. On the same page, in the second column, in the seventh line from the top, ''provision'' should read ''provisions''.

5. On page 47022, in the second column, in the last line, ''determination'' should read ''determinations''.

6. On the same page, in the third column, in the second full paragraph, in the ninth line, ''Supplemental'' should read ''supplemental''.

7. On page 47024, in the second column, in the fourth full paragraph, in the fourth line, insert a period after ''§ 12.6''.

8. On the same page, in the third column, in the fourth full paragraph, in the third line from the bottom, ''research'' was misspelled.

9. On page 47025, in the second column, in the first full paragraph, in the ninth line from the bottom, insert a period after ''regulations''.

10. On the same page, in the third column, in the table of contents for part 12, in the heading for 12.31, ''Onn-site'' should read ''On-site''.

§ 12.2 [Corrected]

11. On page 47026, in the first column, in § 12.2(a), in the definition for *CCC*, insert ''a'' before ''wholly-owned''.

12. On page 47027:

a. In the first column, in § 12.2(a), in the definition for *Wetland*, in paragraph (3), in the second line, remove ''not''.

b. In the second column, in § 12.2(a), in the definition for *farmed-wetland pasture*, in subparagraph (i), in the third line, ''(5) percent'' should read ''(50) percent''.

c. In the same column, in § 12.2(a), in the definition for *Non-wetland*, in subparagraph (ii), in the fourth line, ''and'' should read ''an''.

§ 12.4 [Corrected]

13. On page 47027, in the third column, in § 12.4(a)(2), in the third line, ''December 23, 1995'' should read ''December 23, 1985''.

14. On page 47028, in the third column, in § 12.4, in paragraph (g)(3), in the sixth line and in paragraph (h), in the eighth line from the bottom, ''conversation'' should read ''conservation'' each time it appears.

§ 12.5 [Corrected]

15. On page 47028, in the third column, in § 12.5(a)(1)(i), in the second line, ''1081'' should read ''1981''

16. On page 47029, in the first column, in § 12.5(a)(2), in the second line, ''as'' should read ''As''.

17. On page 47030, in the third column, in § 12.5(b)(2)(iii), in the second line from the bottom, ''farmed'' was misspelled.

18. On page 47031, in the third column, in § 12.5(b)(7), in the first line, ''*Responsibility*'' was misspelled.

§ 12.6 [Corrected]

19. On page 47032, in the first column, in § 12.6(c), in the first line, ''*Administration*'' was misspelled.

§ 12.21 [Corrected]

20. On page 47034, in the second column, in § 12.21, the first paragraph designated ''(A)'' should read ''(a)''.

§ 12.22 [Corrected]

21. On page 47034, in the third column, in § 12.22, the paragraph designated ''(C)'' should read ''(c)''.

§ 12.30 [Corrected]

22. On page 47036, in the first column, in § 12.30(b), in the fifth line, insert a comma after ''agencies''.

23. On the same page, in the second column, in § 12.30(c)(6), in the sixth line, insert ''or'' after ''fiber,''.

BILLING CODE 1505–01–D

DEPARTMENT OF EDUCATION

William D. Ford Federal Direct Loan Program

Correction

In notice document 96–25709 beginning on page 52778 in the issue of Tuesday, October 8, 1996, make the following correction:

On page 52779, in the second column, under Deadlines for Submission of Records, in the first paragraph, in the seventh and eighth lines, ''(45 days after publication in the Federal Register)'' should read ''November 22, 1996''.

BILLING CODE 1505–01–D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 550

RIN 3206-AH09

Pay Under the General Schedule; Termination of Interim Geographic Adjustments

Correction

In the corrections to rule document 96–1835 published on page 50535, in the issue of Thursday, September 26, 1996; on page 51319 in the issue of Tuesday, October 1, 1996; and on page 52497 in the issue of Monday, October 7, 1996, in the subject heading,

''Intermin'' should read as set forth above.

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-37770; File No. SR-PSE-96-28]

Self-Regulatory Organizations; Pacific Stock Exchange Incorporated; Order Granting Approval to Proposed Rule Change Relating to Its Rule on the Evaluation of the Its Equity Specialists

Correction

In notice document 96–25762, beginning on page 52820, in the issue of Tuesday, October 8, 1996, make the following correction:

On page 52824, at the end of the third column, the omitted signature and title should read ''Margaret H. McFarland, *Deputy Secretary*.''

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FTA Fiscal Year 1997 Apportionments and Allocations

Correction

In Separate Part II beginning on page 52499 in the issue of Monday, October 7, 1996 make the following correction. The subject heading appearing on the separate part cover is corrected to read as follows:

FTA FISCAL YEAR 1997 APPORTIONMENTS AND ALLOCATIONS; NOTICE

BILLING CODE 1505–01–D

Federal Register

Friday
October 11, 1996

Part II

Federal Deposit Insurance Corporation

Statement of Policy on Foreclosure Consent and Redemption Rights; and Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager; Notices

FEDERAL DEPOSIT INSURANCE CORPORATION

Clarification of Applicability of Statement of Policy on Foreclosure Consent and Redemption Rights

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Clarification of Statement of Policy on Foreclosure Consent and Redemption Rights (Policy Statement) regarding the applicability of the Policy Statement to Resolution Trust Corporation assets that have been transferred by operation of law to the Federal Deposit Insurance Corporation (Corporation), and update Corporation addresses for receipt of requests for consent.

SUMMARY: In 1992, the Federal Deposit Insurance Corporation (Corporation or FDIC) adopted a policy statement (Policy Statement) concerning 12 U.S.C. 1825(b)(2), the codification of section 15(b) of the Federal Deposit Insurance Act (FDIA), and 28 U.S.C. 2410(c). The Policy Statement was published in the July 2, 1992 edition of the Federal Register (57 FR 29491). In conjunction with the Policy Statement, an initial listing of financial institutions in liquidation was also published in the July 2, 1992 edition of the Federal Register (57 FR 29494).

The Resolution Trust Corporation (RTC) had adopted an interim policy statement concerning 12 U.S.C. 1825(b)(2) and 28 U.S.C. 2410(c). The RTC policy statement was published in the May 7, 1992 edition of the Federal Register (57 FR 19651).

Upon termination of the RTC on December 31, 1995, by operation of law the Corporation succeeded the RTC as conservator or receiver of those depository institutions for which the RTC acted as conservator or receiver. 12 U.S.C. 1441a(m)(1).

Assets owned by the RTC in its corporate capacity have been transferred to the FSLIC Resolution Fund. 12 U.S.C. 1441a(m)(2).

The Corporation is publishing this clarification to remove uncertainty regarding the applicability of the Corporation's Policy Statement to assets for which the Corporation has succeeded the RTC as conservator or receiver and to assets for which the Corporation as manager of the FSLIC Resolution Fund has succeeded the RTC as owner. This clarification to the Corporation's Policy Statement confirms that commencing January 1, 1996 (which was the first date after termination of the RTC), the requirement for consent to foreclosure regarding all assets formerly held by institutions in liquidation for which the RTC was conservator or receiver or formerly held by the RTC in its corporate capacity will be governed by the Policy Statement.

Finally, because certain of the offices to which consent requests are to be sent have changed since the most recent update published in the Federal Register on May 15, 1995 (60 FR 25909), in this notice, the Corporation is publishing the current offices and addresses to which consent notices are to be sent.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Joseph W. Schantz, Asset Disposition Specialist, Asset Disposition and Operation Branch (202–416–7302), or Barbara Mutterperl, Counsel, Legal Division (202–736–0136), Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.

Clarification of Applicability of Statement of Policy Regarding 12 U.S.C. 1825(b)(2) and 28 U.S.C. 2410(c)

1. Purpose

To clarify that the Statement of Policy Regarding 12 U.S.C. 1825(b)(2) and 28 U.S.C. 2410(c) (Policy Statement) promulgated by the Federal Deposit Insurance Corporation (the Corporation) in the July 2, 1992 edition of the Federal Register (57 FR 29491) applies to assets formerly held by the Resolution Trust Corporation (RTC) for which the Corporation has succeeded the RTC as conservator or receiver or for which the Corporation as manager of the FSLIC Resolution Fund has succeeded the RTC as owner; to confirm that from and after the Effective Date of this notice, the Interim Statement of Policy on Foreclosure Consent and Redemption Rights (the Interim Policy) promulgated by the RTC in the May 7, 1992 edition of the Federal Register (57 FR 19651), shall not be applicable to assets formerly held by the RTC for which the Corporation has succeeded the RTC as conservator or receiver or for which the Corporation as manager of the FSLIC Resolution Fund has succeeded the RTC as owner; to change references to the ''Division of Liquidation'' to the ''Division of Depositor and Asset Services,'' in keeping with the current organizational structure of the Corporation; and to correct the addresses to which requests for consent shall be sent.

2. Clarification

The FDIC is issuing this clarification in response to section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (''CDRIA''), Pub. L. 103–325, 108 Stat. 2160 (Sept. 23, 1994). This statute requires that each federal banking agency, consistent with the principles of safety and soundness, statutory law and policy, and the public interest, conduct a review of the regulations and written policies of that agency to, among other things: streamline and modify those regulations and policies, and remove inconsistencies and outmoded and duplicative requirements.

As a result of its review of the Policy Statement, the FDIC has determined that Policy Statement should be clarified. In accordance with section 303 of CDRIA, the FDIC believes that this clarification will improve efficiency and reduce unnecessary costs and is consistent with the principles of safety and soundness, statutory law and policy, and the public interest.

This document clarifies that, as of the Effective Date, the Policy Statement shall apply to all assets of the Corporation, including those assets formerly held by the RTC for which the Corporation has succeeded the RTC as conservator or receiver or for which the Corporation as manager of the FSLIC Resolution Fund has succeeded the RTC as owner. In addition, as of the Effective Date, the Interim Policy of the RTC shall have no further force or effect, except with respect to foreclosures completed prior to the Effective Date. For this purpose, a nonjudicial foreclosure action shall be considered completed upon recordation of the trustee's deed conveying the property to the purchaser at a foreclosure sale; a judicial foreclosure shall be considered completed upon entry of a final, nonappealable judgment. Finally, this clarification hereby changes all references to the ''Division of Liquidation'' in the Policy Statement to the ''Division of Depositor and Asset Services.''

3. Address Correction

Where consent of the Corporation is required pursuant to the Policy Statement, lienholders shall submit a written request to the Corporation. The request shall be delivered to the Corporation by certified mail at the address indicated below with the envelope marked: ''Foreclosure Consent Request.'' The request shall be sent to the Corporation office that covers the state in which the financial institution in liquidation is located. The states covered by each Corporation office are listed under the addresses of each office. In certain instances, as set forth below, institutions in liquidation for which the Corporation has been appointed

receiver, liquidator or manager and institutions in liquidation for which the RTC was formerly receiver, from the same state are handled by different Corporation offices. Except with respect to the address, all procedures set forth in the Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager, published in the July 2, 1992 edition of the Federal Register, at page 29494, shall remain unchanged.

Northeast Service Center

111 Founders Plaza, 14th Floor, East Hartford, CT 06128, (800) 873–7785, (860) 291–4000

FDIC Institutions

Connecticut
Maine
Massachusetts
New Hampshire
New Jersey
New York
Pennsylvania
Rhode Island
Vermont
Puerto Rico
Virgin Islands

Former RTC Institutions

Connecticut
Delaware
Maine
Massachusetts
New Hampshire
New Jersey
New York
Pennsylvania
Rhode Island
Vermont

Southeast Service Center

1201 West Peachtree St. NE, 18th Floor, Atlanta, GA 30309–3415, (800) 765–3342 (404) 817–2500

FDIC Institutions

Alabama
Delaware
District of Columbia
Florida
Georgia
Kentucky
Maryland
Mississippi
North Carolina
South Carolina
Tennessee
Virginia
West Virginia

Former RTC Institutions

Alabama
District of Columbia
Florida
Georgia
Maryland
North Carolina
South Carolina
Tennessee
Virginia
West Virginia
Puerto Rico
Virgin Islands

Midwest Service Center

500 West Monroe, Chicago, IL 60661, (800) 944–5343, (312) 382–5575

FDIC Institutions

Illinois
Indiana
Iowa
Kansas
Michigan
Minnesota
Missouri
Nebraska
North Dakota
Ohio
South Dakota
Wisconsin

Former RTC Institutions

Alaska
Arkansas
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Michigan
Minnesota
Missouri
Montana
Nebraska
North Dakota
Ohio
Oklahoma
Oregon
South Dakota
Washington
Wisconsin
Wyoming

Southwest Service Center

5080 Spectrum Drive, Suite 1000E, Dallas, TX 75248, (800) 319–1444 (214) 385–4700

FDIC Institutions

Arkansas
Colorado
Louisiana
New Mexico
Oklahoma
Texas

Former RTC Institutions

Louisiana
Mississippi
Texas

Western Service Center

4 Park Plaza, Newport Beach, CA 92714, (800) 234–0867, (714) 263–7700

FDIC Institutions

Alaska
Arizona
California
Hawaii
Idaho
Montana
Nevada
Oregon
Utah
Washington
Wyoming
Guam

Former RTC Institutions

Arizona
California
Colorado
Hawaii
Nevada
New Mexico
Utah
Guam

4. Listing of Financial Institutions in Liquidation

To reduce uncertainty regarding identification of Corporation and former RTC institutions in liquidation or for which the Corporation or RTC has been appointed receiver, the Corporation will publish two lists: the first will be a consolidation of and listing of financial institutions in liquidation of the Corporation, superseding the listing published in the July 2, 1992 edition of the Federal Register at page 29494, and all subsequent updates thereto, through and including the most recent update set forth in the May 15, 1995 edition of the Federal Register (60 FR 25909). Immediately following this listing will be a listing of all financial institutions in liquidation for which the RTC was formerly receiver, superseding the listing published in the September 1, 1992 edition of the Federal Register (57 FR 39715). The respective states in which each of the institutions in liquidation is located will be set forth in the lists of the financial institutions in liquidation.

By order of the Board of Directors.

Dated at Washington, DC, this 10th day of September, 1996.

Federal Deposit Insurance Corporation

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–25726 Filed 10–10–96; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update Listing of Financial Institutions in Liquidation.

SUMMARY: The Federal Deposit Insurance Corporation (Corporation) has adopted a policy statement concerning 12 U.S.C. 1825(b)(2) and 28 U.S.C. 2410(c). The policy statement and an initial listing of financial institutions in liquidation were published in the July 2, 1992 issue of the Federal Register (57 FR 29491). The following is a consolidation of and listing of financial institutions in liquidation of the Corporation, superseding the listing published in the July 2, 1992 issue of the Federal Register at page 29494, and all subsequent updates thereto, through and including the most recent update set forth in the May 15, 1995 issue of the Federal Register (60 FR 25909). Immediately following this listing is a listing of all financial institutions in liquidation for which the Resolution Trust Corporation was formerly receiver, superseding the listing published in the September 1, 1992 issue of the Federal Register (57 FR 39715). The respective states in which each of the institutions in liquidation is located are set forth in the lists of the financial institutions in liquidation.

This list (as updated in the Federal Register from time to time) constitutes the financial institutions in liquidation as of the date of publication and may be relied upon (as updated from time to time in the Federal Register) as ''of record'' notice that the Corporation has been appointed receiver for purposes of the statement of policy. For information concerning the identification of any institutions which have been placed in liquidation subsequent to the date of publication, interested persons may request information directed to the Regional Manager (Asset Disposition) in the appropriate service center.

Dated: September 25, 1996.

Federal Deposit Insurance Corporation

Jerry L. Langley,

Executive Secretary.

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER

FDIC Ref. No.	Bank name	City	State	Date closed
5975	102 VALLEY BANK	HOPKINS	MO	07/05/89
8554	1ST FS & LA OF EAST ALTON	EAST ALTON	IL	04/06/89
6980	1ST FS & LA OF EAST ALTON	EAST ALTON	IL	05/04/90
7061	1ST FS & LA OF ESTHERVILLE	ESTHERVILLE	IA	06/15/90
8534	1ST FS & LA OF ESTHERVILLE	ESTHERVILLE	IA	04/06/89
4562	1ST NATIONAL BANK OF VERMONT	BRADFORD	VT	01/29/93
4513	1ST NTL BNK OF YORKTOWN	YORKTOWN	TX	09/10/92
7280	ABQ BANK, A FSB	ALBUQUERQUE	NM	03/01/91
8236	ABQ BANK, A FSB	ALBUQUERQUE	NM	03/16/90
1255	ABRAHAM LINCOLN FSA	DRESHER	PA	03/25/94
7915	ABRAHAM LINCOLN FSB	DRESHER	PA	09/19/91
8396	ACADIA S & LA, A FSA	CROWLEY	LA	03/16/89
6928	ACADIA SAVINGS & LOAN ASSOC.	CROWLEY	LA	10/06/89
4182	ACADIANA NATIONAL BANK	LAFAYETTE	LA	04/19/90
2137	ACTION FEDERAL SAVINGS BANK	SOMER POINT	NJ	10/25/91
7884	ACTION FEDERAL SAVINGS BANK	SOMER POINT	NJ	11/15/90
1252	ADVANCED FSB	NORTHRIDGE	CA	03/18/94
7948	ADVANCED SAVINGS BANK	NORTHRIDGE	CA	01/24/92
8463	ALAMO SA OF TEXAS	SAN ANTONIO	TX	03/02/89
7286	ALAMO SA OF TEXAS	SAN ANTONIO	TX	05/03/91
2888	ALASKA CONTINENTAL BANK	ANCHORAGE	AK	08/03/88
8027	ALASKA MUTUAL BANK	ANCHORAGE	AK	03/01/87
5915	ALASKA NATIONAL BANK OF THE NORTH	FAIRBANKS	AK	10/22/87
2963	ALASKA STATEBANK	ANCHORAGE	AK	02/03/89
2594	ALBANY STATE BANK	ALBANY	MO	08/28/86
4125	ALEDO STATE BANK	ALEDO	TX	12/07/89
7437	ALEXANDER HAMILTON	PATERSON	NJ	09/13/91
7761	ALEXANDER HAMILTON	PATERSON	NJ	03/08/91
2377	ALL AMERICAN NATIONAL BANK	MIAMI	FL	03/02/84
2518	ALLEN CO BANK AND TRUST COMPANY	LEO	IN	11/22/85
2842	ALLEN NATIONAL BANK	ALLEN	TX	07/14/88
3952	ALLIANCE BANCORPORATION	ANCHORAGE	AK	03/01/90
4009	ALLIANCE BANK	ANCHORAGE	AK	04/21/89
8041	ALLIANCE BANK, N.A	ANCHORAGE	AK	02/01/88
4226	ALLIANCE BANK, N.A	AUSTIN	TX	06/14/90
7522	ALLIANCE/BAY SAVINGS BANK	KENNER	LA	08/23/85
4005	ALLIED OKLAHOMA BANK, N.A	OKLAHOMA CITY	OK	04/13/89
7939	ALPHA INDIAN ROCK	PHILADELPHIA	PA	02/28/92
1221	ALPHA INDIAN ROCK FSLA	PHILADELPHIA	PA	07/09/93
8338	ALPINE FS & LA	STEAMBOAT SPRINGS	CO	03/09/89
7096	ALPINE FS & LA	STEAMBOAT SPRINGS	CO	06/22/90
8230	ALTUS BANK	MOBILE	AL	05/17/91
1280	ALTUS FSB	MOBILE	AL	05/20/94
4315	ALVARADO BANK	RICHMOND	CA	01/25/91
4425	ALVARADO NATIONAL BANK	ALVARADO	TX	11/14/91
4172	ALVORD NATIONAL BANK	ALVORD	TX	03/29/90
1234	AMADOR VALLEY S & L	PLEASONTON	CA	09/10/93
7832	AMBASSADOR SAVINGS & LOAN ASSOC	TAMARAC	FL	08/24/90

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
7328	AMBASSADOR SAVINGS & LOAN ASSOC	TAMARAC	FL	06/21/91
2761	AMERICA BANK IN LOUISIANA	MORGAN CITY	LA	12/10/87
6494	AMERICAN BANK	SAINT JOSEPH	TN	06/27/84
4582	AMERICAN BANK AND TRUST	SAN JOSE	CA	06/18/93
2602	AMERICAN BANK AND TRUST COMPANY	LAFAYETTE	LA	09/26/86
4169	AMERICAN BANK OF ARLINGTON	ARLINGTON	TX	03/22/90
6652	AMERICAN BANK OF CASPER	CASPER	WY	01/17/86
4468	AMERICAN BANK OF COMMERCE	OKLAHOMA CITY	OK	03/26/92
2767	AMERICAN BANK OF COMMERCE	LAKE CHARLES	LA	12/17/87
2683	AMERICAN BANK OF COMMERCE	DENVER	CO	05/06/87
4264	AMERICAN BANK OF COMMERCE, N.A	DEL RIO	TX	08/30/90
4563	AMERICAN BANK OF HALTOM CITY	HALTOM CITY	TX	02/04/93
2910	AMERICAN BANK OF MUSKOGEE	MUSKOGEE	OK	09/01/88
4254	AMERICAN BANK & TRUST COMPANY	BATON ROUGE	LA	08/02/90
4341	AMERICAN BANK & TRUST CO	SHREVEPORT	LA	04/11/91
4313	AMERICAN BANK, N.A	RIO RANCHO	NM	01/22/91
2336	AMERICAN CITY BANK	LOS ANGELES	CA	02/25/83
4576	AMERICAN COMMERCE NATIONAL BANK	ANAHEIM	CA	04/30/93
7576	AMERICAN DIVERSIFIED	COSTA MESA	CA	06/06/88
2720	AMERICAN EXCHANGE BANK & TRUST CO	NORMAN	OK	08/20/87
2146	AMERICAN FEDERAL BANK	TULSA	OK	11/01/91
7895	AMERICAN FEDERAL BANK	ADA	OK	03/22/91
7273	AMERICAN FEDERAL SAVINGS ASSOCIATION	DES MOINES	IA	02/08/91
8664	AMERICAN FEDERAL SAVINGS BANK	SANFORD	ME	01/11/90
6913	AMERICAN FEDERAL SAVINGS BANK	AUSTIN	TX	09/08/89
7426	AMERICAN FEDERAL SAVINGS BANK	SANFORD	ME	09/13/91
7670	AMERICAN FEDERAL (SW004)	DALLAS	TX	08/09/89
7580	AMERICAN FEDERAL/MID 1ST	ANADARKO	OK	07/29/88
7057	AMERICAN FS & LA	ALBUQUERQUE	NM	06/08/90
8441	AMERICAN FS & LA	ALBUQUERQUE	NM	03/09/89
8525	AMERICAN FS & LA OF COLORADO	DENVER	CO	03/31/89
7018	AMERICAN FS & LA OF COLORADO	DENVER (CO. SPRINGS)	CO	05/18/90
8262	AMERICAN FS & LA OF IOWA	DES MOINES	IA	02/09/90
8505	AMERICAN FSB	AUSTIN	TX	04/06/89
7167	AMERICAN HOME SAVINGS & LOAN ASSN	EDMOND	OK	09/12/90
8641	AMERICAN HOME SAVINGS & LOAN ASSN	EDMOND	OK	10/05/89
4499	AMERICAN INTERSTATE BANK	NEWPORT BEACH	CA	06/12/92
8565	AMERICAN INTERSTATE SAV. ASSOC. F.A	LOS ANGELES	CA	07/20/89
6986	AMERICAN INTERSTATE SAV. ASSOC. F.A	LOS ANGELES	CA	05/04/90
2932	AMERICAN NATIONAL BANK	TYLER	TX	11/10/88
2658	AMERICAN NATIONAL BANK	DURANT	OK	02/25/87
4239	AMERICAN NATIONAL BANK	ELK CITY	OK	06/28/90
2790	AMERICAN NATIONAL BANK	STAFFORD	TX	02/25/88
8044	AMERICAN NATIONAL BANK	PARMA	OH	03/01/88
5744	AMERICAN NATIONAL BANK	CASPER	WY	08/28/86
4501	AMERICAN NATIONAL BANK—POST OAK	HOUSTON	TX	06/25/92
2406	AMERICAN NATIONAL BANK IN MCLEAN	MCLEAN	TX	08/16/84
5912	AMERICAN NATIONAL BANK OF AFTON	AFTON	WY	10/15/87
5900	AMERICAN NATIONAL BANK OF EVANSTON	EVANSTON	WY	08/20/87
5788	AMERICAN NATIONAL BANK OF GRAND JUNCTION	GRAND JUNCTION	CO	01/08/87
4247	AMERICAN NATIONAL BANK OF GREENVILLE	GREENVILLE	TX	07/12/90
4440	AMERICAN NATIONAL BANK OF NEW YORK	LARCHMONT	NY	01/24/92
2470	AMERICAN NATIONAL BANK OF RIVERTON	RIVERTON	WY	06/11/85
8886	AMERICAN PIONEER SAVINGS BANK	ORLANDO	FL	05/25/90
2101	AMERICAN PIONEER SAVINGS BANK	ORLANDO	FL	09/20/91
7198	AMERICAN S & LA OF BRAZORIA	LAKE JACKSON	TX	09/28/90
8465	AMERICAN S & LA OF BRAZORIA	LAKE JACKSON	TX	03/09/89
8514	AMERICAN S & LA, A FEDERAL ASSN	SALT LAKE CITY	UT	02/17/89
7054	AMERICAN S & LA, A FEDERAL ASSN	SALT LAKE CITY	UT	06/08/90
4497	AMERICAN SAVINGS BANK	WHITE PLAINS	NY	06/12/92
7305	AMERICAN SAVINGS & LOAN ASSOCIATION	MT. CARMEL	IL	06/07/91
7753	AMERICAN SAVINGS & LOAN ASSOCIATION	MT. CARMEL	IL	08/10/90
7044	AMERICAN SAVINGS & LOAN ASSOC. F.A	NEW ORLEANS	LA	06/08/90
8397	AMERICAN SAVINGS & LOAN ASSOC. F.A	NEW ORLEANS	LA	08/07/89
2743	AMERICAN SECURITY BANK	NORTH PLATTE	NE	10/30/87
7075	AMERICAN SECURITY FS & LA	CHICAGO	IL	06/19/90
8368	AMERICAN SECURITY FS & LA	CHICAGO	IL	03/16/89
2424	AMERICAN STATE BANK	THOMAS	OK	10/19/84
2334	AMERICAN STATE BANK	BRADLEY	IL	02/12/83
1311	AMERICAN S&L ASSOCIATION	NEW YORK	NY	05/05/95
7605	AMERICAN (C380)	SPRINGFIELD	IL	12/01/89
7572	AMERICAN/FSLA/COLONIAL	ANDERSON	IN	04/29/88

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
7513	AMERICAN/NEW/CHARTER	KNOXVILLE	TN	11/16/84
7509	AMERICAN/SECURITY	BILOXI	MS	04/03/84
7679	AMERICITY (SOUTHWEST 018)	DALLAS	TX	11/21/91
7816	AMERIFED SAVINGS BANK	LAWRENCEVILLE	NJ	03/01/91
2102	AMERIFED SAVINGS BANK	LAWRENCEVILLE	NJ	09/20/91
7722	AMERIFIRST BANK	MIAMI	FL	03/15/91
2184	AMERIFIRST FEDERAL SAVINGS BANK	MIAMI	FL	03/20/92
7004	AMERIMAC SAVINGS ASSOC	HILLSBORO	IL	05/15/90
8572	AMERIMAC SAVINGS ASSOC	HILLSBORO	IL	06/29/89
6995	AMERIWAY SAVINGS	HOUSTON	TX	05/14/90
8470	AMERIWAY SAVINGS	HOUSTON	TX	03/09/89
7337	AMIGO SAVINGS & LOAN	BROWNSVILLE	TX	06/28/91
7814	AMIGO SAVINGS & LOAN ASSOCIATION	BROWNSVILLE	TX	08/03/90
4411	AMOSKEAG BANK	MANCHESTER	NH	10/10/91
7686	AMWEST SAVINGS (SW017)	OLNEY	TX	06/15/93
8376	ANCHOR SA	KANSAS CITY	KS	02/17/89
7084	ANCHOR SA	KANSAS CITY	KS	06/22/90
7427	ANDREWS SAVINGS & LOAN ASSOCIATION	ANDREWS	TX	09/06/91
8293	ANDREWS SAVINGS & LOAN ASSOC	ANDREWS	TX	12/07/90
7504	ANTIOCH/GREAT AMERICAN	ANTIOCH	IL	07/08/83
2305	AQUIA BANK AND TRUST CO	AQUIA	VA	04/03/82
7751	ARCANUM FEDERAL SAVINGS & LOAN ASSN	ARCANUM	OH	03/15/91
2103	ARCANUM FEDERAL SAVINGS & LOAN ASSN	ARCANUM	OH	09/20/91
2772	AREDALE STATE BANK	AREDALE	IA	01/20/88
4343	ARIZONA COMMERCE BANK	TUCSON	AZ	04/12/91
8833	ARKANSAS FEDERAL SAVINGS BANK, FA	LITTLE ROCK	AR	12/17/90
7428	ARKANSAS FEDERAL SAVINGS BANK, FA	LITTLE ROCK	AR	09/06/91
7197	ARLINGTON HEIGHTS FED, FS & LA	ARLINGTON HEIGHTS	IL	09/28/90
8281	ARLINGTON HEIGHTS FED. FS & LA	ARLINGTON HEIGHTS	IL	12/07/89
8328	ARROWHEAD PACIFIC SAVINGS BANK	SAN BERNARDINO	CA	03/31/89
6987	ARROWHEAD PACIFIC SAVINGS BANK	SAN BERNARDINO	CA	05/04/90
8660	ASPEN SAVINGS ASSOCIATION	ASPEN	CO	11/09/89
7055	ASPEN SAVINGS BANK	ASPEN	CO	06/08/90
4436	ASSURED THRIFT AND LOAN ASSOCIATION	SAN JUAN CAPISTRANO	CA	01/03/92
7806	ATASCOSA SAVINGS ASSOCIATION	JORDANTON	TX	11/30/90
7393	ATASCOSA SAVINGS ASSOCIATION	JORDANTON	TX	08/02/91
6449	ATKINSON TRUST & SAVINGS BANK	ATKINSON	IL	11/22/83
8254	ATLANTA FEDERAL SAVINGS & LOAN ASSOC	ATLANTA	TX	08/31/90
7320	ATLANTA FEDERAL SAVINGS & LOAN ASSOC	ATLANTA	TX	06/14/91
7840	ATLANTIC FINANCIAL	SAN FRANCISCO	CA	07/26/91
2136	ATLANTIC FINANCIAL FEDERAL, F.A	CHARLESTON	WV	10/18/91
1209	ATLANTIC FINANCIAL FSB	SAN FRANCISCO	CA	04/10/92
6975	ATLANTIC FINANCIAL SAVINGS F. A	BALA CYNWYD	PA	04/25/90
2147	ATLANTIC FINANCIAL SAVINGS F.A	BALA CYNWYD	PA	11/15/91
8661	ATLANTIC FINANCIAL SAVINGS, F.A	BALA CYNWYD	PA	01/11/90
4126	ATLANTIC NATIONAL BANK	NORFOLK	VA	12/07/89
8672	ATLANTIC PERMANENT FED. SAVING BANK	NORFOLK	VA	12/08/89
7346	ATLANTIC PERMANENT FED. SAV. BANK	NORFOLK	VA	07/12/91
4443	ATLANTIC TRUST COMPANY	NEWINGTON	NH	01/30/92
4510	ATTLEBORO PAWTUCKET SAVINGS BANK	PAWTUCKET	RI	08/20/92
2512	AUBURN SAVINGS BANK	AUBURN	IA	11/08/85
7535	AUDUBON FINANCIAL	NEW ORLEANS	LA	06/20/86
2185	AUGUATA FEDERAL SAVINGS ASSOCIATION	BALTIMORE	MD	03/20/92
7752	AUGUSTA FEDERAL SAVINGS BANK	BALTIMORE	MD	04/26/91
7336	AUSTIN FEDERAL S & L	AUSTIN	TX	06/26/91
8585	AUSTIN FEDERAL S & L ASSOC	AUSTIN	TX	11/30/89
2931	AVOYELLES TRUST AND SAVINGS BANK	BUNKIE	LA	11/10/88
4237	BACLIFF BANK, NATIONAL ASSOCIATION	BACLIFF	TX	06/28/88
8034	BALBOA NATIONAL BANK	NATIONAL CITY	CA	05/14/87
5922	BALBOA NATIONAL BANK	NATIONAL CITY	CA	01/14/88
8305	BALDWIN COUNTY FEDERAL SAVINGS BANK	ROBERTSDALE	AL	03/30/89
7124	BALDWIN COUNTY FEDERAL SAVINGS BANK	ROBERTSDALE	AL	08/10/90
6963	BALTIMORE FEDERAL FINANCIAL	BALTIMORE	MD	04/20/90
8411	BALTIMORE FEDERAL FINANCIAL, FSA	BALTIMORE	MD	02/07/89
4143	BANC TEXAS	DALLAS	TX	01/26/90
4581	BANCCENTRAL AMARILLO	AMARILLO	TX	06/10/93
2763	BANCFIRST—AUSTIN N. A	AUSTIN	TX	12/10/87
2897	BANCFIRST WESTLAKE, N.A	AUSTIN	TX	08/24/88
2564	BANCO DE AHORRO, F.S.B	MAYQUEZ	PR	05/30/86
8797	BANCO DE LATINO INTERNACIONAL	MIAMI	FL	01/25/94
3968	BANCO DE LATINO INTERNACIONAL	MIAMI	FL	01/18/94
4441	BANCO NACIONAL, N.A	HATO REY	PR	01/24/92

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
2311	BANCO REGIONAL	BAYANON	PR	06/12/82
2104	BANCPLUS SAVINGS ASSOCIATION	PASADENA	TX	09/20/91
8460	BANCPLUS SAVINGS ASSOCIATION	PASADENA	TX	03/09/89
4398	BANK FIVE FOR SAVINGS	ARLINGTON	MA	09/20/91
4406	BANK MERIDIAN, N.A	HAMPTON	NH	10/10/91
4231	BANK M.	MIAMI	FL	06/15/90
8030	BANK OF OKLAHOMA, N.A	OKLAHOMA CITY	OK	08/15/86
4295	BANK OF ARLINGTON	ARLINGTON	TX	11/29/90
5968	BANK OF AURORA	AURORA	CO	05/24/89
2949	BANK OF BENTON	BENTON	LA	01/05/89
4472	BANK OF BEVERLY HILLS	BEVERLY HILLS	CA	04/03/92
2705	BANK OF BRAZORIA	BRAZORIA	TX	07/02/87
2502	BANK OF CANTON	CANTON	OK	10/10/85
2777	BANK OF CASPER	CASPER	WY	01/21/88
6607	BANK OF CLIFTON	CLIFTON	CO	09/06/85
2425	BANK OF CODY	CODY	NE	10/24/84
8009	BANK OF COLUMBIA FALLS	COLUMBIA FALLS	MT	03/07/86
2565	BANK OF COLUMBIA FALLS	COLUMBIA FALLS	MT	05/30/86
8031	BANK OF COMMERCE	MORRISTOWN	TN	11/26/86
3620	BANK OF COMMERCE	MORRISTOWN	TN	11/26/86
4301	BANK OF COMMERCE	ALEXANDRIA	LA	12/13/90
2556	BANK OF COMMERCE AND TRUST COMPANY	TULSA	OK	05/08/86
2781	BANK OF DALLAS	DALLAS	TX	02/05/88
2529	BANK OF DIXIE	LAKE PROVIDENCE	LA	01/10/86
4431	BANK OF EAST HARTFORD	EAST HARTFORD	CT	12/13/91
4233	BANK OF EAST TEXAS	TYLER	TX	06/21/90
2606	BANK OF GERING	GERING	NE	10/23/86
6888	BANK OF GRANITE	GRANITE	OK	07/30/87
2367	BANK OF HACKLEBURG	HACKLEBURG	AL	12/13/83
4610	BANK OF HARTFORD	HARTFORD	CT	06/10/94
2671	BANK OF HERINGTON	GERINGTON	KS	04/02/87
2452	BANK OF HUNTER	HUNTER	OK	04/04/85
7127	BANK OF IOWA, FSB	CEDAR RAPIDS	IA	08/10/90
8571	BANK OF IOWA, FSB	CEDAR RAPIDS	IA	10/16/89
2676	BANK OF IRON COUNTY	PAROWAN	UT	04/10/87
2389	BANK OF IRVINE	IRVINE	CA	05/18/84
8032	BANK OF KANSAS CITY	KANSAS CITY	MO	12/29/86
3628	BANK OF KANSAS CITY	KANSAS CITY	KS	12/29/86
6716	BANK OF KIOWA	KIOWA	KS	07/17/86
6359	BANK OF LAKE HELEN	LAKE HELEN	FL	01/11/80
4011	BANK OF LAKEWOOD, N.A	LAKEWOOD	CO	04/27/89
2467	BANK OF LOCKESBURG	LOCKESBURG	AR	05/31/85
2710	BANK OF LOS GATOS	LOS GATOS	CA	07/23/87
2769	BANK OF MABANK	MABANK	TX	12/17/87
4164	BANK OF MEEKER	MEEKER	OK	03/15/90
4309	BANK OF NEW ENGLAND	BOSTON	MA	01/06/91
8708	BANK OF NEW ENGLAND, N.A	BOSTON	MA	01/06/91
2463	BANK OF NEWCASTLE	NEWCASTLE	OK	05/16/85
4616	BANK OF NEWPORT	NEWPORT BEACH	CA	08/12/94
2354	BANK OF NIOBRARA	NIOBRARA	NE	07/08/83
5901	BANK OF NORTH AMERICA	HOUSTON	TX	08/27/87
2679	BANK OF NORTH MISSISSIPPI	OAKLAND	MS	04/22/87
2554	BANK OF NORTONVILLE	NORTONVILLE	KS	05/01/86
2690	BANK OF OAK GROVE	OAK GROVE	LA	05/21/87
4250	BANK OF ODESSA	ODESSA	TX	07/26/90
3468	BANK OF OREGON	WOODBURN	OR	05/31/85
2330	BANK OF QUITMAN	QUITMAN	AR	11/12/82
2342	BANK OF SAN MARINO	SAN MARINO	CA	04/08/83
4613	BANK OF SAN PEDRO	LOS ANGELES	CA	07/15/94
4385	BANK OF SOUTH PALM BEACHES	HYPOLUXO	FL	08/09/91
4113	BANK OF ST. CHARLES	SAINT ROSE	LA	11/02/89
2466	BANK OF TAYLOR, NE	TAYLOR	NE	05/31/85
4453	BANK OF THE BRANDYWINE VALLEY	WEST CHESTER	PA	02/21/92
4317	BANK OF THE HILLS	AUSTIN	TX	01/31/91
2896	BANK OF THE MID-SOUTH	BOSSIER CITY	LA	08/25/88
5952	BANK OF THE NORTHWEST	WOODWARD	OK	11/10/88
2412	BANK OF THE NORTHWEST	EUGENE	OR	08/31/84
4420	BANK OF THE SOUTH	BATON ROUGE	LA	10/30/91
2970	BANK OF THE WEST	AUSTIN	TX	03/09/89
2416	BANK OF VERDIGREE & TRUST COMPANY	VERDIGREE	NE	09/19/84
4249	BANK OF WILSON	WILSON	OK	07/26/90
2746	BANK OF WINTER PARK	WINTER PARK	CO	11/10/87

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
2300	BANK OF YORKVILLE	YORKVILLE	TN	02/20/82
8036	BANK TEXAS GROUP, INC	DALLAS	TX	07/09/87
7692	BANK UNITED OF TX, FSB (SW025)	HOUSTON	TX	12/23/93
8888	BANK USA, FEDERAL ASSOCIATION	SILVIS	IL	05/25/90
7217	BANK USA, FEDERAL ASSOCIATION	SILVIS	IL	11/09/90
4622	BANK USA, N.A	KIHEI, MAUI	HI	05/19/95
4409	BANKEAST	MANCHESTER	NH	10/10/91
5961	BANKER TRUST OF LOUISIANA, N.A	KENNER	LA	03/10/89
8478	BANKERS S & LA	GALVESTON	TX	03/09/89
6960	BANKERS SAVINGS & LOAN ASSOCIATION	GALVESTON	TX	03/16/90
7199	BANNER BANC	GARLAND	TX	09/28/90
8292	BANNER BANC	DALLAS	TX	01/04/90
4609	BARBARY COAST NATIONAL BANK	SAN FRANCISCO	CA	05/19/94
4063	BARNARD STATE BANK	BERNARD	KS	08/03/89
2786	BASIN STATE BANK	VERNAL	UT	02/12/88
4267	BAY CITY BANK & TRUST CO	BAY CITY	TX	08/30/90
1291	BAY FSB	WEST PALM BEACH	FL	07/15/94
7909	BAY SAVINGS BANK	WEST PALM BEACH	FL	09/06/91
6894	BAY SHORE BANK OF FLORIDA	MIAMI	FL	08/07/87
8504	BAYSHORE SA	LA PORTE	TX	03/09/89
2105	BAYSHORE SA	LA PORTE	TX	09/20/91
8355	BAYSIDE FEDERAL SAVINGS & LOAN ASSN	PORT CHARLOTTE	FL	02/12/89
7358	BEACH FEDERAL SAVINGS BANK	HUNTINGTON BEACH	CA	07/19/91
8343	BEACH FS & LA	BOYNTON BEACH	FL	02/12/89
7887	BEACH SAVINGS BANK	HUNTINGTON BEACH	CA	01/18/91
4370	BEACON CO-OPERATIVE BANK	BOSTON	MA	06/21/91
2133	BEACON FEDERAL SAVINGS ASSOCIATION	BALDWIN	NY	10/18/91
7736	BEACON FEDERAL SAVINGS BANK	BALDWIN	NY	03/08/91
2639	BEAR CREEK NATIONAL BANK	HOUSTON	TX	01/29/87
2340	BEAR CREEK VALLEY BANK	PHOENIX	OR	03/25/83
4104	BEAUMONT BANK-NATIONAL ASSOC	BEAUMONT	TX	10/19/89
6828	BEAVER CREEK STATE BANK	BEAVER CREEK	MN	03/13/87
2555	BEDFORD NATIONAL BANK	BEDFORD	IA	05/01/86
8475	BEDFORD SA	BEDFORD	TX	03/31/89
6965	BEDFORD SAVINGS ASSOCIATION	BEDFORD	TX	04/20/90
2186	BELL FEDERAL SAVINGS BANK	UPPER DARBY	PA	03/20/92
7893	BELL SAVINGS BANK	UPPER DARBY	PA	03/15/91
7520	BELL SAVINGS BANK	TEMPLE	TX	08/03/85
8456	BENJAMIN FRANKLIN SA	HOUSTON	TX	03/09/89
7429	BENJAMIN FRANKLIN SA	HOUSTON	TX	09/06/91
5976	BENNETT NATIONAL BANK	BENNETT	CO	07/13/89
4187	BERGEN PARK NATIONAL BANK	EVERGREEN	CO	04/20/90
7683	BEVERLY HILLS FSB (C393)	BEVERLY HILLS	CA	03/01/92
8549	BEXAR SAVINGS ASSOC	SAN ANTONIO	TX	03/02/89
7071	BEXAR SAVINGS ASSOC	SAN ANTONIO	TX	06/15/90
1227	BIRMINGHAM FSB	CRESTLINE	OH	08/06/93
8208	BIRMINGHAM FSLA	BIRMINGHAM	AL	08/21/92
2899	BIWABIK STATE BANK	BIWABIK	MN	08/26/88
7108	BLACK HAWK S & L ASSOC., F.A	ROCK ISLAND	IL	06/29/90
8620	BLACK HAWK S & L ASSOC., F.A	ROCK ISLAND	IL	08/17/89
4333	BLACKSTONE BANK & TRUST COMPANY	BOSTON	MA	03/15/91
2387	BLEDSOE COUNTY BANK	PIKEVILLE	TN	05/18/84
7694	BLUE BONNET SAVINGS BANK (SW020)	DALLAS	TX	01/17/94
8415	BLUE VALLEY FS & LA	KANSAS CITY	MO	02/17/89
7060	BLUE VALLEY FS & LA	KANSAS CITY	MO	06/15/90
7562	BOHEMIAN SLA	ST. LOUIS	MO	12/11/87
2642	BOLEVARD STATE BANK	WICHITA	KS	02/05/87
7295	BOONSLICK FS & LA	BOONVILLE	MO	05/24/91
8291	BOONSLICK SAVINGS & LOAN ASSN	BOONVILLE	MO	11/02/90
2566	BOSSIER BANK AND TRUST COMPANY	BOSSIER	LA	06/12/86
3900	BOSSIER CITY CONSOLIDATED OFFICE	BOSSIER CITY	LA	09/01/88
7610	BOSSIER CITY CONSOLIDATED–FRF–CP	BOSSIER CITY	LA	04/01/90
4347	BOSTON TRADE BANK	BOSTON	MA	05/03/91
4296	BOUNDARY WATERS STATE BANK	ELY	MN	11/30/90
3959	BOWEST ASSET TRANSFERRED-BIF	IRVINE	CA	01/24/92
7682	BOWEST ASSET TRANSFERRED-FRF	IRVINE	CA	04/20/92
2630	BOWIE NATIONAL BANK	BOWIE	TX	01/08/87
2727	BREAUX BRIDGE BANK & TRUST COMPANY	BREAUX BRIDGE	LA	09/17/87
4600	BRENTWOOD THRIFT AND LOAN ASSOCIATION	LOS ANGELES	CA	10/15/93
7045	BRICKELL BANC SA	MIAMI	FL	06/08/90
8353	BRICKELLBANC SA	MIAMI	FL	03/16/89
8701	BRIDGE BANK-NCNB TEXAS NATIONAL BANK	DALLAS	TX	07/31/88

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
6952	BRIGHT BANC	DALLAS	TX	02/02/90
8454	BRIGHT BANC SA	DALLAS	TX	02/10/89
8542	BROADVIEW SAVINGS BANK	CLEVELAND	OH	03/30/89
7010	BROADVIEW SAVINGS BANK	CLEVELAND	OH	05/18/90
4459	BROADWAY BANK & TRUST COMPANY	PATERSON	NJ	03/13/92
8260	BROKEN ARROW FEDERAL SAVINGS & LOAN ASSO	BROKEN ARROW	OK	08/24/90
7306	BROKEN ARROW FEDERAL SAVINGS & LOAN ASSO	BROKEN ARROW	OK	06/07/91
4489	BROOKFIELD BANK	BROOKFIELD	CT	05/08/92
7347	BROOKHAVEN FS & LA	BROOKHAVEN	MS	07/12/91
8803	BROOKHAVEN FS & LA	BROOKHAVEN	MS	01/18/90
4285	BROOKLYN SAVINGS BANK	DANIELSON	CT	10/19/90
7218	BROOKSIDE FEDERAL S & L ASSOC	LOS ANGELES	CA	11/16/90
8656	BROOKSIDE FEDERAL S & L ASSOC	LOS ANGELES	CA	11/30/89
4241	BROOKWOOD NATIONAL BANK	OKLAHOMA CITY	OK	06/28/90
2375	BROWNFIELD STATE BANK & TRUST CO	BROWNFIELD	TX	02/17/84
4062	BRUSHY CREEK NATIONAL BANK	ROUND ROCK	TX	07/27/89
4389	BUCHEL BANK AND TRUST	CUERO	TX	08/22/91
2423	BUCKLIN STATE BANK OF BUCKLIN MISSOURI	BUCKLIN	MO	10/12/84
6743	BUENA VISTA BANK AND TRUST COMPANY	BUENA VISTA	CO	08/28/86
7882	BURLESON COUNTY SAVINGS ASSN	CALDWELL	TX	05/31/91
2166	BURLESON COUNTY SAVINGS ASSN.	CALDWELL	TX	02/28/92
4551	BURRITT INTERFINANCIAL BANCORPORATION	NEW BRITAIN	CT	12/04/92
7003	CABRILLO SAVINGS BANK FSB	SAN JOSE	CA	05/11/90
8553	CABRILLO SAVINGS BANK SB	HAYWARD	CA	04/06/89
8865	CAGUAS-CENTRAL FEDERAL SAVINGS BANK	CAGUAS	PR	05/25/90
7151	CAGUS-CENTRAL FEDERAL SAVINGS BANK	CAGUS	PR	08/31/90
7700	CALIF FED S & LA (C–392)	LOS ANGELES	CA	04/01/94
2519	CALIFORNIA HERITAGE BANK	SAN DIEGO	CA	11/22/85
2576	CALLAO COMMUNITY BANK	CALLAO	MO	07/17/86
4135	CANYON LAKE BANK	CANYON LAKE	TX	12/14/89
2453	CAPISTRANO NATIONAL	S JUAN CAPISTRANO	CA	04/05/85
4617	CAPITAL BANK	DOWNEY	CA	08/26/94
4355	CAPITAL BANK	DALLAS	TX	05/16/91
5972	CAPITAL BANK—NORTHWEST, N.A	SAN ANTONIO	TX	06/15/89
3810	CAPITAL BANK AND TRUST, N.A. II	BATON ROUGE	LA	04/22/88
4583	CAPITAL BANK OF CALIFORNIA	LOS ANGELES	CA	06/18/93
4259	CAPITAL BANK & TRUST	OKLAHOMA CITY	OK	08/16/90
2744	CAPITAL BANK & TRUST COMPANY	BATON ROUGE	LA	10/30/87
5946	CAPITAL NATIONAL BANK	FORT WORTH	TX	09/15/88
4244	CAPITAL NATIONAL BANK	BRONX	NY	07/06/90
4308	CAPITOL BANK & TRUST COMPANY	BOSTON	MA	12/28/90
8616	CAPITOL CITY FEDERAL SAVINGS ASSOC	AUSTIN	TX	07/27/89
7172	CAPITOL CITY FEDERAL SAVINGS ASSOC	AUSTIN	TX	09/14/90
7289	CAPITOL FEDERAL BANK FOR SAVINGS	CHICAGO	IL	05/10/91
7107	CAPITOL FEDERAL S & L ASSOC	LITTLE ROCK	AR	06/29/90
8622	CAPITOL FEDERAL S & L ASSOC	WEST HELEN	AR	07/27/89
7348	CAPITOL FEDERAL SAV & LOAN ASSOC	AURORA	CO	07/12/91
8207	CAPITOL FEDERAL SAVINGS & LOAN ASSOC OF	AURORA	CO	05/04/90
7574	CAPITOL FEDERAL/MIDWEST FEDERAL	MT. PLEASANT	IA	05/13/88
8694	CAPITOL-UNION SAVINGS, F.A.	BATON ROUGE	LA	07/13/90
7329	CAPITOL-UNION SAVINGS, F.A.	BATON ROUGE	LA	06/21/91
7185	CAPROCK FEDERAL SAVINGS & LOAN ASSOC	LUBBOCK	TX	09/21/90
8598	CAPROCK FEDERAL SAVINGS & LOAN ASSOC	LUBBOCK	TX	08/01/89
7573	CARDINAL SB/UNITED FEDERAL	NEWPORT	NC	05/13/88
7658	CARDINAL (C383)	CLEVELAND	OH	08/09/89
2493	CARDWELL STATE BANK	CARDWELL	MO	08/29/85
2941	CARIBANK	DANIA	FL	12/08/88
6384	CARROLL COUNTY BANK	HUNTINGDON	TN	04/30/82
7949	CARROLLTON HOMESTEAD	NEW ORLEANS	LA	03/13/92
1259	CARROLTON HOME	NEW ORLEANS	LA	04/08/94
1309	CARTERET FSB	NEWARK	NJ	01/20/95
1306	CARTERET FSB	NEWARK	NJ	10/28/94
8602	CARTERET SB	NEWARK	NJ	12/04/92
8358	CARTERSVILLE FEDERAL SB OF GEORGIA	CARTERSVILLE	GA	03/30/89
8322	CARVER S & LA	ESCONDIDO	CA	02/12/89
6932	CARVER SLA	ESCONDIDO	CA	01/27/89
2799	CASHION COMMUNITY BANK	CASHION	OK	03/24/88
8420	CASS FS & LA OF ST. LOUIS	FLORISSANT	MO	04/06/89
7089	CASS FS & LA OF ST. LOUIS	FLORISSANT	MO	06/22/90
4502	CASTLE HILLS NATIONAL BANK	SAN ANTONIO	TX	06/25/92
2327	CEDAR BLUFF BANK	CEDAR BLUFF	AL	11/02/82
2773	CEDAR VALE STATE BANK	CEDAR VALE	KS	01/21/88

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
6958	CENTENNIAL SAVINGS BANK	GREENVILLE	TX	03/02/90
8477	CENTENNIAL SAVINGS BANK, FSB	GREENVILLE	TX	04/06/89
2560	CENTENNIAL STATE BANK OF COLORADO	ENGLEWOOD	CO	05/23/86
7557	CENTENNIAL/CITIZENS FEDERAL	SANTA ROSA	CA	04/24/87
2550	CENTER NATIONAL BANK	LOS ANGELES	CA	04/11/86
7764	CENTER SAVINGS & LOAN ASSN	CLIFTON	NJ	01/25/91
2106	CENTER SAVINGS & LOAN ASSN	CLIFTON	NJ	09/20/91
2753	CENTER STATE BANK	CENTER	NE	12/03/87
4191	CENTRAL ARIZONA BANK	CHANDLER	AZ	04/26/90
7588	CENTRAL ARKANSAS/FIRST FSLA	CONWAY	AR	11/17/88
4413	CENTRAL BANK	MERIDEN	CT	10/18/91
3654	CENTRAL BANK AND TRUST COMPANY OF GLENMO	GLENMORA	LA	02/26/87
2597	CENTRAL BANK AND TRUST OF TULSA	TULSA	OK	09/11/86
4123	CENTRAL DAKOTA BANK	LEHR	ND	12/01/89
8267	CENTRAL FEDERAL SAVINGS BANK	LONG BEACH	NY	12/07/90
2172	CENTRAL FEDERAL SAVINGS BANK	MINEOLA	NY	03/13/92
7539	CENTRAL ILLINOIS	VIRDEN	IL	07/25/86
2803	CENTRAL NATIONAL BANK	DALLAS	TX	04/07/88
5904	CENTRAL NATIONAL BANK OF NEW YORK	NEW YORK CITY	NY	09/10/87
4171	CENTRAL NATIONAL BANK OF SAN ANGELO	SAN ANGELO	TX	03/22/90
8422	CENTRAL S & LA	JACKSON	MS	04/06/89
7192	CENTRAL S & LA	JACKSON	MS	09/28/90
7592	CENTRAL SAVINGS	SAN DIEGO	CA	04/01/87
7079	CENTRAL SAVINGS & LOAN ASSOC F.A	NEW ORLEANS	LA	06/22/90
8401	CENTRAL SAVINGS & LOAN ASSOC. F.A	NEW ORLEANS	LA	08/07/89
8469	CENTRAL TEXAS S & LA	WACO	TX	04/06/89
7210	CENTRAL TEXAS S & LA	WACO	TX	11/02/90
4236	CENTRE NATIONAL BANK-FARMERS BANK	FARMERS BRANCH	TX	06/21/90
7836	CENTRE SAVINGS ASSOCIATION	ARLINGTON	TX	08/16/91
2164	CENTRE SAVINGS ASSOCIATION	ARLINGTON	TX	02/21/92
8229	CENTRUST BANK, SB	MIAMI	FL	02/02/90
7102	CENTRUST BANK, SB	MIAMI	FL	06/29/90
4105	CENTURY BANK	PHOENIX	AZ	10/19/89
2800	CENTURY BANK	TULSA	OK	03/24/88
2153	CENTURY FEDERAL SAVINGS BANK	CHICAGO	IL	01/31/92
7772	CENTURY FEDERAL SAVINGS BANK	CHICAGO	IL	05/03/91
5754	CENTURY NATIONAL BANK	HOUSTON	TX	10/02/86
2417	CENTURY NATIONAL BANK	JACKSONVILLE	FL	09/20/84
2830	CENTURY NATIONAL BANK	AUSTIN	TX	06/16/88
8492	CENTURY S & LA	BAYTOWN	TX	03/09/89
6907	CENTURY SAVINGS & LOAN ASSOC	BAYTOWN	TX	08/18/89
7063	CENTURY SAVINGS, A FS & LA	TRENTON	TN	06/15/90
8543	CENTURY SAVINGS, A FS & LA	TRENTON	TN	03/09/89
4603	CENTURY THRIFT AND LOAN	LOS ANGELES	CA	11/05/93
7519	CENTURY/HOUSEHOLD BANK	ROELAND PARK	KS	06/26/85
7359	CERTIFIED FEDERAL SAVINGS ASSOCIATION	GEORGETOWN	TX	07/19/91
8637	CERTIFIED FEDERAL SAVINGS ASSOCIATION	GEORGETOWN	TX	01/11/90
4178	CHAMPIONS POINT NATIONAL BANK	HOUSTON	TX	04/05/90
4195	CHANCERY NATIONAL BANK	DENVER	CO	05/09/90
8870	CHARTER BANK, A FEDERAL SAVINGS BANK	HATTIESBURG	MS	07/20/90
7369	CHARTER BANK, A FEDERAL SAVINGS BANK	HATTIESBURG	MS	07/26/91
8822	CHARTER SAFINGS BANK	NEWPORT BEACH	CA	06/15/90
7251	CHARTER SAVINGS BANK	NEWPORT BEACH	CA	12/07/90
7330	CHARTER SAVINGS & LOAN ASSOCIATION	STAMFORD	CT	06/21/91
8889	CHARTER SAVINGS & LOAN ASSOCIATION	STANFORD	CT	06/29/90
4186	CHAS SCHREINER BANK	KERRVILLE	TX	04/19/90
7924	CHASE SAVINGS & LOAN ASSOCIATION	PHILADELPHIA	PA	11/22/91
1224	CHASE SAVINGS & LOAN ASSOC	PHILADELPHIA	PA	07/30/93
8001	CHERENO STATE BANK	CHERENO	TX	11/01/85
2393	CHEROKEE COUNTY BANK	CENTRE	AL	06/05/84
1304	CHEROKEE VALLEY	CLEVELAND	TN	09/23/94
8566	CHEROKEE VALLEY FSB	CLEVELAND	TN	06/12/92
4261	CHERRY CREEK NATIONAL BANK	DENVER	CO	08/16/90
2517	CHESTER STATE BANK	CHESTER	TX	11/22/85
8369	CHILLICOTHE FS & LA	CHILLICOTHE	IL	03/16/89
7144	CHILLICOTHE FS & LA	CHILLICOTHE	IL	08/24/90
4346	CHIRENO STATE BANK	CHIRENO	TX	05/09/91
2187	CHISHOLM FS & LA	KINGFISHER	OK	03/20/92
8608	CHISHOLM FS & LA	KINGFISHER	OK	04/19/91
4266	CHISHOLM NATIONAL BANK	PLANO	TX	08/30/90
2614	CHOKIO STATE BANK	CHOKIO	MN	11/07/86
1219	CIMARRON FEDERAL SAVINGS	MUSKOGEE	OK	05/21/93

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
8610	CIMARRON FEDERAL SAVINGS & LOAN ASSOC	MUSKOGEE	OK	04/19/91
4334	CITADEL BANK	WILLIS	TX	03/21/91
7967	CITADEL FEDERAL SAVINGS BANK	CHARLESTON	SC	08/07/92
1270	CITADEL FS & LA	CHARLESTON	SC	04/29/94
7701	CITIBANK CALIF C–159	OAKLAND	CA	05/09/94
7657	CITICORP (C207)	CHICAGO	IL	08/09/89
4437	CITIZENS BANK	DALLAS	GA	01/10/92
2706	CITIZENS BANK	BRYAN	TX	07/02/87
4101	CITIZENS BANK	GALVESTON	TX	10/12/89
6388	CITIZENS BANK	TILLAR	AR	06/23/82
4271	CITIZENS BANK	CLARKSVILLE	TX	09/13/90
3629	CITIZENS BANK AND TRUST COMPANY	ARCADIA	LA	12/31/86
2966	CITIZENS BANK HOUSTON	HOUSTON	TX	02/09/89
2721	CITIZENS BANK OF GLENDALE	DENVER	CO	08/27/87
5910	CITIZENS BANK OF KREBS	KREBS	OK	10/08/87
2916	CITIZENS BANK OF LITTLETON	LITTLETON	CO	09/15/88
2382	CITIZENS BANK OF MONROE COUNTY	TELLICO PLAINS	TN	04/27/84
3815	CITIZENS BANK OF TULSA	TULSA	OK	05/06/88
2624	CITIZENS BANK OF WINDSOR	WINDSOR	MO	12/09/86
6666	CITIZENS BANK OF WINEGAN	WINEGAN	MO	03/07/86
2972	CITIZENS BANK & TRUST	CALVERT	TX	03/09/89
8033	CITIZENS BANK & TRUST COMPANY	ARCADIA	LA	12/31/86
2964	CITIZENS BANK, HOUSTON	HOUSTON	TX	02/09/89
7860	CITIZENS FEDERAL SAVINGS BANK	JACKSONVILLE	FL	10/21/91
2440	CITIZENS FIDELITY BANK	BRISTOL	TN	02/01/85
1271	CITIZENS FSA	JACKSONVILLE	FL	04/29/94
7308	CITIZENS HOMESTEAD FED. SAV. ASSOC	NEW ORLEANS	LA	06/07/91
8538	CITIZENS HOMESTEAD FED. SAV. ASSOC	NEW ORLEANS	LA	08/07/89
4268	CITIZENS NATIONAL BANK	EL CAMPO	TX	08/30/90
4275	CITIZENS NATIONAL BANK	KERRVILLE	TX	09/14/90
4162	CITIZENS NATIONAL BANK	DENTON	TX	03/07/90
4338	CITIZENS NATIONAL BANK	LIMON	CO	03/29/91
5737	CITIZENS NATIONAL BANK	OKLAHOMA CITY	OK	08/14/86
5939	CITIZENS NATIONAL BANK	COLORADO SPRINGS	CO	04/21/88
4067	CITIZENS NATIONAL BANK OF KILLEEN	KILLEEN	TX	08/17/89
4148	CITIZENS NATIONAL BANK OF WALNUT RIDGE	WALNUT RIDGE	AR	02/02/90
4316	CITIZENS NATIONAL BANK & TRUST CO. OF CH	CHICAGO	IL	01/29/91
7128	CITIZENS OF TEXAS S & LA	BAYTOWN	TX	08/10/90
8487	CITIZENS OF TEXAS S & LA	BAYTOWN	TX	03/09/89
7085	CITIZENS S & L ASSN OF SPRINGFIELD, F.A	SPRINGFIELD	IL	06/22/90
8621	CITIZENS S & L ASSN OF SPRINGFIELD, F.A	SPRINGFIELD	IL	09/07/89
7827	CITIZENS SECURITY BANK	BORSER	TX	03/22/91
7403	CITIZENS SECURITY BANK	BORSER	TX	08/16/91
7565	CITIZENS SLA/FREEDOM FEDERAL	SALEM	OR	01/29/88
2797	CITIZENS STATE BANK	GIBBON	MN	03/18/88
8219	CITIZENS STATE BANK	DONNA	TX	09/18/86
2895	CITIZENS STATE BANK	MAUD	OK	08/14/88
3782	CITIZENS STATE BANK	HAYFIELD	MN	01/17/88
6531	CITIZENS STATE BANK	EDGERTON	WY	01/04/85
2804	CITIZENS STATE BANK	EAGLE BEND	MN	04/08/88
2584	CITIZENS STATE BANK	IOWA FALLS	IA	07/28/86
2962	CITIZENS STATE BANK	EARTH	TX	01/26/89
6843	CITIZENS STATE BANK	BROWNSTOWN	IN	04/10/87
2484	CITIZENS STATE BANK OF EL DORADO	EL DORADO	KS	07/25/85
6543	CITIZENS STATE BANK OF FULDA	FULDA	MN	02/15/85
2285	CITIZENS STATE BANK OF GALENA	GALENA	KS	11/21/80
2738	CITIZENS STATE BANK OF RAY	RAY	ND	10/15/87
2559	CITIZENS STATE BANK OF ST. FRANCIS	ST. FRANCIS	KS	05/15/86
2447	CITIZENS STATE BANK, NE	ARAPAHOE	NE	03/08/85
7834	CITIZENS & BUILDERS FSB	PENSACOLA	FL	07/27/90
7349	CITIZENS & BUILDERS FSB	PENSACOLA	FL	07/12/91
2350	CITY AND COUNTY BANK OF ANDERSON COUNTY	LAKE CITY	TN	05/27/83
2282	CITY AND COUNTY BANK OF CAMPBELL COUNTY	JELLICO	TN	06/27/80
2370	CITY AND COUNTY BANK OF JEFFERSON COUNTY	WHITE PINES	TN	01/20/84
2346	CITY AND COUNTY BANK OF KNOX COUNTY	KNOXVILLE	TN	05/27/83
2349	CITY AND COUNTY BANK ROANE COUNTY	KINGSTON	TN	05/27/83
4337	CITY BANK & TRUST	CLAREMONT	NH	03/29/91
7019	CITY FEDERAL S & LA	OAKLAND	CA	05/18/90
8334	CITY FEDERAL S & LA	OAKLAND	CA	04/06/89
8303	CITY FS & LA	BIRMINGHAM	AL	03/30/89
7169	CITY FS & LA	BIRMINGHAM	AL	09/14/90
2540	CITY NATIONAL BANK	PLAINVIEW	TX	03/06/86

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
4260	CITY NATIONAL BANK	HOUSTON	TX	08/16/90
4276	CITY NATIONAL BANK OF IRVING	IRVING	TX	09/20/90
4116	CITY NATIONAL BANK OF PLANO	PLANO	TX	11/10/89
4133	CITY NATIONAL BANK OF SAYRE	SAYRE	OK	12/13/89
4584	CITY NATIONAL BANK OF WASHINGTON	WASHINGTON	DC	06/25/93
8527	CITY S & LA	WESTLAKE VILLAGE	CA	03/31/89
7153	CITY SA	LEAGUE CITY	TX	08/31/90
8507	CITY SA	LEAGUE CITY	TX	03/09/89
8675	CITY SAVINGS BANK, F.S.B	BEDMINSTER	NJ	12/08/89
7181	CITY SAVINGS BANK, F.S.B	BEDMINISTER	NJ	09/21/90
7847	CITY SAVINGS & LOAN ASSN	SAN ANTONIO	TX	10/26/90
7425	CITY SAVINGS & LOAN ASSN	SAN ANTONIO	TX	09/04/91
6912	CITY SAVINGS & LOAN ASSOC	WEST LAKE VILLAGE	CA	08/25/89
7270	CITY SAVINGS, F.S.B	SOMERSET	NJ	01/11/91
7865	CITY SAVINGS, F.S.B	BEDMINSTER	NJ	09/21/90
4590	CITY THRIFT & LOAN ASSOCIATION	LOS ANGELES	CA	07/09/93
4382	CITYTRUST	BRIDGEPORT	CT	08/09/91
8581	CIVIC SAVINGS BANK	PORTSMOUTH	OH	06/08/89
7382	CIVIC SAVINGS BANK	PORTSMOUTH	OH	08/02/91
2836	CLAIBORNE BANK AND TRUST COMPANY	HOMER	LA	06/29/88
2665	CLARKS FORK NATIONAL BANK	FROMBERG	MT	03/19/87
2734	CLAY COUNTY STATE BANK	DILWORTH	MN	10/01/87
7505	CLEVELAND COMM/SUPERIOR	CLEVELAND	OH	10/28/83
4222	CLIFTON NATIONAL BANK	CLIFTON	TX	06/07/90
2758	CLIMBING HILL SAVINGS BANK	CLIMBING HILL	IA	12/03/87
7360	CLINTON FEDERAL SAVINGS & LOAN ASSOCIATI	CLINTON	OK	07/19/91
8852	CLYDE FS & LA	NORTH RIVERSIDE	IL	02/02/90
7297	CLYDE FS & LA	NORTH RIVERSIDE	IL	05/31/91
2401	COALMONT SAVINGS BANK	COALMONT	TN	07/24/84
2436	COAST COMMUNITY BANK	HARBOR	OR	01/11/85
7690	COASTAL BANC SA (SW001)	HOUSTON	TX	12/30/93
1281	COASTAL FSB	NEW LONDON	CT	05/20/94
7852	COBB FEDERAL SAVINGS BANK	MARIETTA	GA	11/08/91
1297	COBB FSA	MARIETTA	GA	08/12/94
2309	COLES COUNTY NAT'L BANK OF CHARLESTON	CHARLESTON	IL	05/01/82
4571	COLLEGE BLVD NTL BANK	OVERLAND PARK	KS	04/02/93
2789	COLLIN COUNTY STATE BANK	MELISSA	TX	02/25/88
7890	COLONIAL BANK	CRANSTON	RI	05/10/91
2771	COLONIAL BANK	NEW ORLEANS	LA	01/14/88
8659	COLONIAL FEDERAL SAAVINGS ASSOC	ROSELLE PARK	NJ	11/09/89
8298	COLONIAL FEDERAL SAVINGS ASSN	PRAIRIE VILLAGE	KS	01/18/90
7125	COLONIAL FEDERAL SAVINGS ASSN	PRAIRIE VILLAGE	KS	08/10/90
7342	COLONIAL FEDERAL SAVINGS ASSOC	ROSELLE PARK	NJ	07/0//91
2173	COLONIAL FSB	CRANSTON	RI	03/13/92
8386	COLONIAL SA OF AMERICA	LIBERAL	KS	03/02/89
6921	COLONIAL SAVINGS ASSOC.	LIBERAL	KS	09/29/89
8275	COLONIAL SLA, F.A	CAPE GIRADEAU	MO	01/26/90
7216	COLONIAL SLA, F.A	CAPE GRANDEAU	MO	11/09/90
2806	COLONIAL THRIFT & LOAN ASSOCIATION	CULVER CITY	CA	04/15/88
4456	COLONY SAVINGS BANK	WALLINGFORD	CT	02/28/92
2130	COLONY SAVINGS BANK, FSB	MONACA	PA	10/11/91
8868	COLONY SAVINGS BANK, FSB	MONACA	PA	04/05/90
8530	COLORADO SAVINGS AND LOAN	ENGLEWOOD(GRANBY)	CO	03/09/89
8567	COLORADO SAVINGS BANK, FSB	STERLING	CO	09/28/89
7116	COLORADO SAVINGS BANK, FSB	STERLING	CO	06/29/90
6956	COLORADO SAVINGS & LOAN ASSN	ENGLEWOOD	CO	02/09/90
4455	COLUMBIA BANK	AVONDALE	AZ	02/27/92
7919	COLUMBIA BANKING	ROCHESTER	NY	06/12/92
1283	COLUMBIA BANKING FEDERAL	ROCHESTER	NY	06/03/94
8006	COLUMBIA COMMUNITY BANK	HUMINTON	OR	02/06/86
2605	COLUMBIA COMMUNITY BANK	HERMISTON	OR	10/03/86
7420	COLUMBIA FEDERAL HOMESTEAD	METAIRIE	LA	08/30/91
8632	COLUMBIA FEDERAL HOMESTEAD	METARIE	LA	10/13/89
6961	COLUMBIA FEDERAL SAVINGS BANK	WESTPORT	CT	04/12/90
8341	COLUMBIA FEDERAL SAVINGS BANK	WESTPORT	CT	02/17/89
7438	COLUMBIA FSA	WEBSTER	TX	09/13/91
8639	COLUMBIA FSA	NASSAU BAY	TX	12/21/89
4561	COLUMBIA NATIONAL BANK	SANTA MONICA	CA	01/22/93
6416	COLUMBIA PACIFIC BANK & TRUST COMPANY	PORTLAND	OR	03/18/83
7790	COLUMBIA SAVINGS & LOAN ASSN	BEVERLY HILLS	CA	01/25/91
2140	COLUMBIA SAVINGS & LOAN ASSN	HAMILTON	OH	11/01/91
7439	COLUMBIA SAVINGS & LOAN ASSN	BEVERLY HILLS	CA	09/13/91

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
7712	COLUMBIA SAVINGS & LOAN ASSN	HAMILTON	OH	04/05/91
4345	COLUMBINE VALLEY BANK & TRUST	JEFFERSON COUNTY	CO	04/26/91
7651	COLUMBUS (C386)	WALNUT CREEK	CA	08/09/89
7440	COMFED SAVINGS BANK	LOWELL	MA	09/13/91
7745	COMFED SAVINGS BANK	LOWELL	MA	12/14/90
4021	COMMERCE AND ENERGY BANK	LAFAYETTE	LA	05/24/89
4614	COMMERCE BANK	NEWPORT BEACH	CA	07/29/94
5920	COMMERCE BANK—PLANO	PLANO	TX	01/07/88
4149	COMMERCE BANK OF TAMPA	TAMPA	FL	02/02/90
7350	COMMERCE SA	SAN ANTONIO	TX	07/12/91
8461	COMMERCE SA	DALLAS	TX	03/02/89
2927	COMMERCIAL BANK AND TRUST COMPANY	METAIRIE	LA	10/20/88
4608	COMMERCIAL BANK & TRUST CO	LOWELL	MA	05/06/94
8005	COMMERCIAL NATL BANK & TRUST COMPANY	GRAND ISLAND	NE	08/04/84
8595	COMMERCIAL S & L ASSOC. F.A	HAMMOND	LA	07/27/89
7298	COMMERCIAL S & L ASSOC., F.A	HAMMOND	LA	05/31/91
8042	COMMERCIAL STATE BANK	OKLAHOMA CITY	OK	02/01/88
5944	COMMERCIAL STATE BANK	SAN AUGUSTINE	TX	09/01/88
2953	COMMERCIAL STATE BANK	HOUSTON	TX	01/12/89
2731	COMMONWEALTH BANK	TORRANCE	CA	09/25/87
5998	COMMONWEALTH BANK	ARLINGTON	TX	10/05/89
8617	COMMONWEALTH FEDERAL S & L ASSOC	MARGATE	FL	07/20/89
7281	COMMONWEALTH FEDERAL S&L ASSOC	FT. LAUDERDALE	FL	03/08/91
1274	COMMONWEALTH FSB	MANASSAS	VA	05/06/94
4196	COMMONWEALTH NATIONAL BANK	DALLAS	TX	05/10/90
7246	COMMONWEALTH S & LA	OSCEOLA	AR	12/07/90
8317	COMMONWEALTH S & LA	OSCEOLA	AR	03/02/89
8269	COMMONWEALTH SAVINGS ASSOCIATION	NEW ORLEANS	LA	07/20/90
7335	COMMONWEALTH SAVINGS ASSOCIATION	HOUSTON	TX	06/21/91
7351	COMMONWEALTH SAVINGS ASSOCIATION	NEW ORLEANS	LA	07/12/91
8457	COMMONWEALTH SAVINGS ASSOCIATION	HOUSTON	TX	03/09/89
7952	COMMONWEALTH SB	MANASSAS	VA	04/03/92
2674	COMMONWEALTH STATE BANK	GLENDALE	CO	04/09/87
4604	COMMONWEALTH THRIFT & LOAN	TORRANCE	CA	02/11/94
2644	COMMUNITY BANK	SEILING	OK	02/11/87
4168	COMMUNITY BANK	NEW CANEY	TX	03/22/90
2352	COMMUNITY BANK	HARTFORD	SD	06/17/83
2922	COMMUNITY BANK AND TRUST	ROCKDALE	TX	09/22/88
2310	COMMUNITY BANK OF WASHTENAW	YPSILANTI	MI	05/15/82
2415	COMMUNITY BANK & TRUST COMPANY	ENID	OK	09/14/84
5956	COMMUNITY BANK, N.A.	DECKER PRAIRIE	TX	01/26/89
7170	COMMUNITY FEDERAL SAVINGS ASSOC	BRIDGEPORT	CT	09/14/90
8628	COMMUNITY FEDERAL SAVINGS ASSOC	BRIDGEPORT	CT	12/07/89
8356	COMMUNITY FS & LA	TAMPA	FL	03/16/89
8517	COMMUNITY FS & LA	NEWPORT NEWS	VA	03/30/89
7253	COMMUNITY FS & LA	ST LOUIS	MO	12/14/90
7007	COMMUNITY FS & LA	NEWPORT NEWS	VA	05/18/90
7157	COMMUNITY FS & LA	TAMPA	FL	09/07/90
4377	COMMUNITY GUARDIAN BANK	ELMWOOD PARK	NJ	07/19/91
4344	COMMUNITY NATIONAL BANK	SHERMAN	TX	04/18/91
4312	COMMUNITY NATIONAL BANK	GLASTONBURY	CT	01/11/91
4423	COMMUNITY NATIONAL BANK & TRUST CO OF NY	NEW YORK CITY	NY	11/08/91
8519	COMMUNITY S & LA	FOND DU LAC	WI	02/17/89
7208	COMMUNITY SAVINGS BANK	EAST MOLINE	IL	11/02/90
8294	COMMUNITY SAVINGS BANK	EAST MOLINE	IL	02/23/90
6957	COMMUNITY SAVINGS & LOAN ASSN.	FOND DU LAC	WI	02/09/90
2822	COMMUNITY STATE BANK	WHITING	IA	06/02/88
4159	COMMUNITY STATE BANK OF ONALASKA	ONALASKA	TX	03/01/90
7533	COMMUNITY/HORIZON FINANCIAL	BATON ROUGE	LA	06/20/86
7518	COMMUNITY/NEW COMMUNITY	NASHVILLE	TN	06/07/85
6944	CONCORD—LIBERTY	MONROEVILLE	PA	12/15/89
7031	CONCORDIA FEDERAL BANK FOR SAVINGS	LANSING	IL	05/29/90
8361	CONCORDIA FEDERAL BANK FOR SAVINGS	LANSING	IL	02/17/89
8449	CONCORD—LIBERTY S & LA	MONROEVILLE	PA	03/09/89
8709	CONNECTICUT BANK & TRUST CO., N.A	HARTFORD	CT	01/06/91
4310	CONNECTICUT BANK & TRUST CO., N.A	HARTFORD	CT	01/06/91
4424	CONNECTICUT SAVINGS BANK	NEW HAVEN	CT	11/14/91
7879	CONNECTICUT SAVINGS & LOAN ASSN	HARTFORD	CT	01/14/91
2157	CONNECTICUT SAVINGS & LOAN ASSN	HARTFORD	CT	02/07/92
4414	CONNECTICUT VALLEY BANK	CROMWELL	CT	10/18/91
7542	CONSOLIDATED SB	IRVINE	CA	08/29/86
7115	CONSTITUTION FEDERAL SAVINGS & LOAN ASSN	TUSTIN	CA	06/29/90

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
8800	CONSTITUTION FEDERAL SAVINGS & LOAN ASSO	TUSTIN	CA	04/12/90
2419	CONT ILLINOIS NAT'L BANK & TRUST CO	CHICAGO	IL	12/01/84
4251	CONTINENTAL BANK	DALLAS	TX	07/26/90
7394	CONTINENTAL FS & LA	OKLAHOMA CITY	OK	08/09/91
8445	CONTINENTAL FS & LA	OKLAHOMA CITY	OK	03/16/89
2402	CONTINENTAL ILL NATIONAL BANK & TRUST C	CHICAGO	IL	07/26/84
2410	CONTINENTAL ILLINOIS NAT'L BK & TRUST C	CHICAGO	IL	09/26/84
2409	CONTINENTAL ILLINOIS NAT'L BK & TRUST C	CHICAGO	IL	09/26/84
2411	CONTINENTAL ILLINOIS NATL BK & TRUST CO.	CHICAGO	IL	09/26/84
4008	CONTINENTAL NATIONAL BANK	SAN ANTONIO	TX	04/20/89
2569	CONTINENTAL NATIONAL BANK OF KENTUCKY	LOUISVILLE	KY	06/26/86
8544	CONTINENTAL SAVINGS A FS & LA	BELLAIRE	TX	03/09/89
1310	CONTINENTAL SAVINGS OF AMERICA, FS & LA	SAN FRANCISCO	CA	04/28/95
7404	CONTINENTAL SAVINGS, A FS & LA	BELLAIRE	TX	08/16/91
8362	COOK COUNTY FS & LA	CHICAGO	IL	02/12/89
4417	COOLIDGE BANK & TRUST COMPANY	BOSTON	MA	10/25/91
4332	COOLIDGE CORNER CO-OPERATIVE BANK	BROOKLINE	MA	03/14/91
8257	COOPER RIVER FSB	NO. CHARLESTON	SC	06/05/92
1282	COOPER RIVER, FSB	N. CHARLESTON	SC	06/03/94
7776	CO-OPERATIVE FS & LA	WESTMONT	IL	07/19/91
2150	CO-OPERATIVE FS & LA	WESTMONT	IL	12/13/91
1292	CORAL COAST	BOYNTON BEACH	FL	07/15/94
7817	CORAL COAST SAVINGS BANK	BOYNTON BEACH	FL	08/02/91
7331	CORAL SAVINGS & LOAN	CORAL SP	FL	06/28/91
8850	CORAL SAVINGS & LOAN ASSN	CORAL SPRINGS	FL	01/25/91
5779	CORDELL NATIONAL BANK	CORDELL	OK	12/05/86
7807	COREAST SAVINGS FSB	ROANOKE	VA	02/01/91
2169	COREST FSB	RICHMOND	VA	03/06/92
4181	CORINTH DEPOSIT NATIONAL BANK	CORINTH	KY	04/19/90
1308	CORNERSTONE BANK, FSB	MISSION VIE JO	CA	12/16/94
8596	CORNERSTONE FEDERAL SAVINGS ASSOC	HOUSTON	TX	07/13/89
7017	CORNERSTONE FEDERAL SAVINGS ASSOC	HOUSTON	TX	05/18/90
7907	COSTAL SB	NEW LONDON	CT	06/19/92
7818	COUNTY BANK	SANTA BARBARA	CA	03/27/91
2197	COUNTY BANK FSB	SANTA BARBARA	CA	03/27/92
4185	COVE STATE BANK	COPPERAS COVE	TX	04/19/90
4145	CREDITBANK	CORAL GABLES	FL	01/26/90
2942	CRESCENT CITY BANK AND TRUST CO	NEW ORLEANS	LA	12/15/88
7532	CRESENT/HORIZON FINANCIAL	NEW ORLEANS	LA	06/20/86
7168	CREST FEDERAL S & L ASSOCIATION	KANKAKEE	IL	09/14/90
8657	CREST FEDERAL S & L ASSOC	KANKAHEE	IL	11/09/89
1225	CRESTLINE FSLA	CRESTLINE	OH	07/30/93
7974	CRESTLINE S & LA	CRESTLINE	OH	11/20/92
2754	CROFTON STATE BANK	CROFTON	NE	12/03/87
8605	CROSS ROADS	CHECOTAH	OK	07/13/89
6997	CROSS ROADS S & LA	CHECOTAH	OK	05/11/90
4442	CROSSLAND SAVINGS	BROOKLYN	NY	01/24/92
4331	CROSSROADS BANK	VICTORIA	TX	03/14/91
4174	CROWN BANK, NATIONAL ASSOCIATION	SAN ANTONIO	TX	03/29/90
4578	CROWN NATIONAL BANK	CHARLOTTE	NC	05/07/93
5936	CY FAIR BANK	HOUSTON	TX	04/14/88
7586	CYPRESS SA/SECOR BANK	PLANTATION	FL	11/10/88
2174	DANBURRY SAVINGS & LOAN ASSOCIATION	DANBURY	CT	03/13/92
2593	DANBURY BANK	DANBURY	TX	08/21/86
7856	DANBURY SAVINGS & LOAN ASSOCIATION	DANSBURY	CT	07/12/91
4410	DARTMOUTH BANK	MANCHESTER	NH	10/10/91
2413	DAVID CITY BANK	DAVID CITY	NE	09/06/84
7899	DAVY CROCKETT FSB	CROCKETT	TX	09/13/91
2171	DAVY CROCKETT FSB	CROCKETT	TX	03/06/92
2514	DECATUR CO. NATIONAL BANK OF OBERLIN	OBERLIN	KS	11/21/85
7209	DEEP EAST TEXAS SA	JASPER	TX	11/02/90
8495	DEEP EAST TEXAS SA	JASPER	TX	03/16/89
2675	DEER LODGE BANK AND TRUST COMPANY	DEER LODGE	MT	04/09/87
8703	DELAWARE BRIDGE BANK	DELAWARE	DE	01/01/89
7105	DELTA FS & LA	DREW	MS	06/29/90
8425	DELTA FS & LA	DREW	MS	04/06/89
1256	DELTA FSB	WESTMINSTER	CA	03/25/94
2742	DELTA PACIFIC BANK	PITTSBURGH	CA	10/30/87
7930	DELTA SAVINGS BANK	WESTMINSTER	CA	11/08/91
8394	DELTA SAVINGS & LOAN ASSOC. F.A	KENNER	LA	08/07/89
7193	DELTA SAVINGS & LOAN ASSOC. LA	KENNER	LA	09/28/90
8627	DENTON FEDERAL SAVINGS & LOAN ASSOC	DENTON	TX	08/24/89

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
7090	DENTON FEDERAL SAVINGS & LOAN ASSOC	DENTON	TX	06/22/90
3887	DEPOSIT INSURANCE BRIDGE BANK—MCORP	DALLAS	TX	01/30/89
8831	DEPOSIT TRUST FEDERAL SAVINGS BANK	MONROE	LA	01/11/90
7242	DEPOSIT TRUST FEDERAL SAVINGS BANK	MONROE	LA	12/07/90
7028	DESERET FS & LA	SALT LAKE CITY	UT	05/25/90
8515	DESERET FS & LA	SALT LAKE CITY	UT	02/10/89
7430	DESOTO FEDERAL S & LA	MANSFIELD	LA	09/06/91
7723	DESOTO FEDERAL SAVINGS & LOAN ASSN	MANSFIELD	LA	11/02/90
4451	DOLLAR DRY DOCK	WHITE PLAINS	NY	02/21/92
2362	DOMINION BANK OF DENVER	DENVER	CO	9/30/83
4199	DOMINION NATIONAL BANK	DENVER	CO	05/10/90
4297	DOUGLAS COUNTY NATIONAL BANK	PARKER	CO	12/06/90
7688	DOWNEY S & LA (C–356)	NEWPORT BEACH	CA	11/01/93
4372	DRIPPING SPRINGS NATIONAL BANK	DRIPPING SPRINGS	TX	07/12/91
1301	DRYADES S & LA	NEW ORLEANS	LA	09/09/94
7713	DRYADES SAVINGS & LOAN ASSOCIATION	NEW ORLEANS	LA	06/07/91
8520	DURAND FA & LA	DURAND	WI	03/30/89
7024	DURAND FS & LA	DURAND	WI	05/25/90
4427	DURHAM TRUST COMPANY	DURHAM	NH	11/15/91
7405	DUVAL FEDERAL SAVINGS ASSN	JACKSONVILLE	FL	08/16/91
8653	DUVAL FEDERAL SAVINGS ASSN	JACKSONVILLE	FL	01/18/90
4585	EAGLE BANK OF CHAMPAIGN COUNTY NA	RANTOUL	IL	07/01/93
2510	EARLY SAVINGS BANK	EARLY	IA	11/01/85
2286	EAST GADSDEN BANK	GADSDEN	AL	12/31/80
7512	EAST TENN/NEW/CHARTER	KNOXVILLE	TN	11/16/84
2398	EAST TEXAS BANK & TRUST COMPANY	LONGVIEW	TX	06/29/84
7050	EAST TEXAS S & LA ASSOC. F.A	TYLER	TX	06/08/90
2934	EAST TEXAS STATE BANK	BUNA	TX	11/17/88
8589	EAST TEXAS S&L ASSOC. F.A	TYLER	TX	09/21/89
2113	EASTERN FS & LA	SAYVILLE	NY	09/27/91
8518	EASTERN WASHINGTON S & LA	EAST WENATCHEE	WA	02/12/89
4557	EASTLAND BANK	WOONSOCKET	RI	12/11/92
4558	EASTLAND SAVINGS BANK	WOONSOCKET	RI	12/11/92
4519	EASTWEST BANK, NATIONAL ASSOCIATION	KIHEI	HI	10/02/92
7500	ECONOMY SLA	CHICAGO	IL	05/18/81
2547	EDDY COUNTY NATIONAL BANK	CARLSBAD	NM	04/03/86
2583	EDEN STATE BANK	EDEN	TX	07/28/86
7733	EDISON FEDERAL SAVINGS & LOAN ASSN	NEW YORK	NY	11/30/90
7421	EDISON FEDERAL SAVINGS & LOAN ASSN	NEW YORK	NY	08/30/91
2701	EIGHTY NINER BANK OF COYLE	COYLE	OK	06/24/87
8895	EL PASO FEDERAL SAVINGS & LOAN ASSN	EL PASO	TX	09/07/90
2107	EL PASO FEDERAL SAVINGS & LOAN BANK	EL PASO	TX	09/20/91
6611	ELBA STATE BANK	ELBA	NE	09/18/85
4242	ELIOT SAVINGS BANK	BOSTON	MA	06/29/90
6661	ELK CITY STATE BANK	ELK CITY	OK	02/21/86
6914	ELMWOOD FEDERAL SAVINGS & LOAN	HARAHAN	LA	09/08/89
8402	ELMWOOD FS & LA	HARAHAN	LA	03/02/89
8436	ELYSIAN FEDERAL SAVINGS BANK	HOBOKEN	NJ	02/17/89
7103	ELYSIAN FEDERAL SAVINGS BANK	HOBOKEN	NJ	06/29/90
4587	EMERALD CITY BANK	SEATTLE	WA	07/02/93
2371	EMERALD EMPIRE BANKING COMPANY	SPRINGFIELD	OR	02/03/84
7508	EMPIRE	MESQUITE	TX	03/14/84
5891	EMPIRE NATIONAL BANK	LOS ANGELES	CA	07/30/87
7194	EMPIRE OF AMERICA F.S.B	BUFFALO	NY	09/28/90
8277	EMPIRE OF AMERICAN FSB	BUFFALO	NY	01/24/90
7866	EMPIRE SAVINGS BANK	HAMPTON	NJ	12/14/90
2131	EMPIRE SAVINGS BANK	HAMMONTON	NJ	10/11/91
5980	EMPIRE STATE BANK	NEW YORK	NY	07/28/89
8516	EMPORIA FS & LA	EMPORIA	VA	02/12/89
1284	ENCINO SAVINGS BANK, FSB	ENCINO	CA	06/03/94
4386	ENFIELD NATIONAL BANK	ENFIELD	CT	08/16/91
8836	ENSIGN BANK, FSB	NEW YORK	NY	08/31/90
7361	ENSIGN BANK, FSB	NEW YORK	NY	07/19/91
2978	ENTERPRISE BANK OF FLORIDA	MIAMI	FL	03/17/89
6915	ENTERPRISE FEDERAL SAVINGS & LOAN	MARRERO	LA	09/08/89
7158	ENTERPRISE FEDERAL SAVINGS & LOAN ASSOC	CLEARWATER	FL	09/07/90
8839	ENTERPRISE FEDERAL SAVINGS & LOAN ASSOC	CLEARWATER	FL	04/20/90
8399	ENTERPRISE FS & LA	MARRERO	LA	03/02/89
2938	ENTERPRISE NATIONAL BANK	ENGLEWOOD	CO	12/01/88
7263	ENTERPRISE SAVINGS BANK, FA	CHICAGO	IL	12/27/90
8805	ENTERPRISE SAVINGS & LOAN ASSOCIATION	COMPTON	CA	05/31/91
1217	ENTERPRISE SLA	COMPTON	CA	03/05/93

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
7223	EQUITABLE FEDERAL SAVINGS BANK	FREMONT	NE	11/16/90
8432	EQUITABLE FEDERAL SAVINGS BANK	FREMONT	NE	02/17/89
7081	EQUITABLE S & LA, FA	COLUMBUS	NE	06/22/90
8804	EQUITABLE S & LA, FA	COLUMBUS	NE	02/16/90
7553	EQUITABLE SLA/EMPIRE	SAN MANTEO	CA	03/27/87
8340	EQUITY FEDERAL SAVINGS BANK	DENVER	CO	03/31/89
7176	EQUITY FEDERAL SAVINGS BANK	DENVER	CO	09/14/90
2478	ESKRIDGE STATE BANK	ESKRIDGE	KS	07/18/85
7667	EUREKA (C330)	SAN CARLOS	CA	08/09/89
6905	EVANGELINE FEDERAL SAVINGS & LOAN	LAFAYETTE	LA	08/18/89
8405	EVANGELINE FS & LA	LAFAYETTE	LA	03/16/89
7918	EVERGREEN FEDERAL SAVINGS BANK	CHARLESTON	WV	09/13/91
1235	EVERGREEN FS & LA	CHARLESTON	WV	09/17/93
4175	EVERMAN NATIONAL BANK OF FORT WORTH	FORT WORTH	TX	03/30/90
7252	EXCEL BANC SAVINGS ASSOC	LAREDO	TX	12/14/90
8548	EXCEL BANC SAVINGS ASSOCIATION	LAREDO	TX	04/06/89
4229	EXCHANGE NATIONAL BANK OF DEL CITY	DEL CITY	OK	06/14/90
7395	EXECUTIVE BANC SAVINGS	NEW BRAUNFELS	TX	08/09/91
7849	EXECUTIVE BANC SAVINGS	NEW BRAUNFELS	TX	11/09/90
5660	EXECUTIVE CENTER BANK	DALLAS	TX	02/14/86
4119	EXECUTIVE NATIONAL BANK	SAN ANTONIO	TX	11/16/89
7830	EXECUTIVE SAVINGS & LOAN ASSN	MARINA DEL REY	CA	04/26/91
2167	EXECUTIVE SAVINGS & LOAN ASSN	MARINA DEL REY	CA	02/28/92
2661	EXPRESSWAY BANK	OKLAHOMA CITY	OK	03/12/87
4474	FAIRFIELD COUNTY TRUST COMPANY	STAMFORD	CT	04/09/92
7163	FAIRMONT FS & LA	FAIRMONT	MN	09/07/90
8698	FAIRMONT FS & LA	FAIRMONT	MN	02/09/90
2595	FAIRVIEW STATE BANK	FAIRWIEW	OK	09/04/86
8162	FAIRVIEW STATE BANK OF FAIRVIEW	FAIRVIEW	OK	09/01/86
5978	FALLBROOK NATIONAL BANK	HOUSTON	TX	07/20/89
2545	FAMILY BANK	OGDEN	UT	03/28/86
8446	FAMILY FEDERAL SAVINGS BANK	SAPULA	OK	10/05/89
7097	FAMILY FEDERAL SAVINGS & LOAN ASSN	DALLAS	OR	06/22/90
8667	FAMILY FEDERAL SAVINGS & LOAN ASSN	DALLAS	OR	01/11/90
8539	FAMILY FS & LA	SHREVEPORT	LA	03/16/89
7065	FAMILY FS & LA	SHREVEPORT	LA	06/15/90
7027	FAMILY SAVINGS BANK, FSB	SAPULPA	OK	05/25/90
7362	FAMILY SAVINGS & LOAN ASSN	SEATTLE	WA	07/19/91
7809	FAMILY SAVINGS & LOAN ASSN	SEATTLE	WA	02/08/91
8243	FAR WEST FEDERAL SAVINGS BANK	PORTLAND	OR	05/23/91
1263	FAR WEST FSB	PORTLAND	OR	04/15/94
7711	FAR WEST SAVINGS & LOAN ASSOC	NEWPORT BEACH	CA	01/11/91
2188	FAR WEST SAVINGS & LOAN ASSOC	NEWPORT BEACH	CA	03/20/92
4307	FAR WESTERN BANK	TUSTIN	CA	12/14/90
6642	FARMERS AND MERCHANTS BANK	COMSTOCK	NE	12/19/85
2709	FARMERS AND MERCHANTS BANK	EUFAULA	OK	07/23/87
2889	FARMERS AND MERCHANTS BANK OF ELMO	ELMO	MO	08/04/88
2579	FARMER'S BANK	TRIMBLE	TN	07/18/86
2369	FARMERS BANK AND TRUST	WINCHESTER	TN	01/06/84
2460	FARMERS SAVINGS BANK	MASSENA	IA	05/03/85
7578	FARMERS SLA	DAVIS	CA	07/18/88
2508	FARMERS ST BK OF KANARANZI	KANARANZI	MN	10/18/85
2394	FARMERS STATE BANK	LYONS	SD	06/15/84
2524	FARMERS STATE BANK	SARGENT	NE	12/19/85
4293	FARMERS STATE BANK	MADISONVILLE	TX	11/29/90
2485	FARMERS STATE BANK	RISING CITY	NE	08/02/85
2627	FARMERS STATE BANK	LEUDERS	TX	12/19/86
6858	FARMERS STATE BANK	MADDOCK	ND	05/08/87
2650	FARMERS STATE BANK	HART	TX	02/26/87
2426	FARMERS STATE BANK	KILGORE	NE	10/24/84
2714	FARMERS STATE BANK	KANAWHA	IA	07/30/87
2505	FARMERS STATE BANK IN AFTON	AFTON	OK	10/17/85
2520	FARMERS STATE BANK OF BARRY CO	EXETER	MO	12/13/85
4204	FARMERS STATE BANK OF BROOKSHIRE	BROOKSHIRE	TX	05/24/90
2573	FARMERS STATE BANK OF CLARISSA	CLARISSA	MN	07/11/86
6577	FARMERS STATE BANK OF DEXTER, KS	DEXTER	KS	06/20/85
2432	FARMERS STATE BANK OF HOLYOKE	HOLYOKE	CO	12/07/84
2312	FARMERS STATE BANK OF LEWISTOWN	LEWISTOWN	IL	06/25/82
2486	FARMERS STATE BANK OF ROUND LAKE	ROUND LAKE	MN	08/02/85
4161	FARMERS STATE BANK OF SCHULENBURG	SCHULENBURG	TX	03/08/90
4142	FARMERS STATE BANK OF SHIRO, TEXAS	SHIRO	TX	01/25/90
4071	FARMERS STATE BANK OF YUMA	YUMA	CO	08/24/89

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
2461	FARMERS STATE BANK, ST. JOSEPH, MO	ST. JOSEPH	MO	05/03/85
4465	FARMERS & MERCHANTS BANK	TRYON	OK	03/19/92
4232	FARMERS & MERCHANTS BANK	BUCKEYE	AZ	06/18/90
6672	FARMERS & MERCHANTS BANK OF HUNTSVILLE	HUNTSVILLE	MO	03/28/86
6667	FARMERS & MERCHANTS STATE BANK LAMBERTON	LAMBERTON	MN	03/14/86
6630	FARMERS & MERCHANTS STATE BANK OF RUSH C	LA CROSSE	KS	11/21/85
8004	FARMERS & MERCHANTS ST. BK. OF LAMBERTON	LAMBERTON	MN	01/30/86
8555	FED STAR SB, FSB	ALEXANDRIA	VA	03/15/89
4435	FEDERAL FINANCE & MORTGAGE, LTD	HONOLULU	HI	12/13/91
1248	FEDERAL SA OF VA	FALLS CHURCH	VA	03/11/94
8502	FEDERAL SAVINGS ASSOC. OF THE SOUTHWEST	KILGORE	TX	07/27/89
7037	FEDERAL SAVINGS ASSOC. OF THE SOUTHWEST	KILGORE	TX	06/01/90
7961	FEDERAL SAVINGS BANK	FALLS CHURCH	VA	04/10/92
5810	FEDERATED NATIONAL BANK	LIVE OAK	TX	02//12/87
8437	FELLOWSHIP S & LA	BERGENFIELD	NJ	02/12/89
4059	FIDELITY BANK	SCOTTSDALE	AZ	07/21/89
2451	FIDELITY BANK OF DENVER	DENVER	CO	03/29/85
4146	FIDELITY BANK, N.A.	SAN ANTONIO	TX	01/26/90
8649	FIDELITY FEDERAL SAVINGS ASSOC	GALESBURG	IL	11/09/89
7224	FIDELITY FEDERAL SAVINGS ASSOC	GALESBURG	IL	11/16/90
6977	FIDELITY FSB	CORINTH	MS	05/04/90
8421	FIDELITY FSB	CORINTH	MS	04/06/89
2926	FIDELITY NATIONAL BANK	FORT WORTH	TX	10/06/88
4592	FIDELITY NATIONAL BANK	HOUSTON	TX	07/22/93
7238	FIDELITY S & LA	PORT ARTHUR	TX	11/30/90
8551	FIDELITY S & LA	PORT ARTHUR	TX	03/16/89
8864	FIDELITY S & LA OF DANVILLE	DANVILLE	IL	02/16/90
7142	FIDELITY S & LA OF DANVILLE	DANVILLE	IL	08/22/90
2158	FIDELITY SAVINGS	AUSTIN	TX	02/07/92
7833	FIDELITY SAVINGS	AUSTIN	TX	07/12/91
7669	FIDELITY (C217)	BALTIMORE	MD	08/09/89
2575	FILLMORE COUNTY BANK	GENEVA	NE	07/17/86
4483	FINANCIAL CENTER BANK, N.A	SAN FRANCISCO	CA	05/04/92
7041	FINANCIAL FEDERAL S & LA	FRESNO	CA	06/01/90
8846	FINANCIAL FEDERAL S & LA	FRESNO	CA	01/11/90
6967	FINANCIAL FEDERAL SAVINGS AND LOAN ASSOC	JOPLIN	MO	04/27/90
7327	FINANCIAL FEDERAL SAVINGS BANK	HARTFORD	CT	06/19/91
7843	FINANCIAL FEDERAL SAVINGS BANK	HARTFORD	CT	08/17/90
8418	FINANCIAL FS & LA	JOPLIN	MO	03/31/89
8506	FINANCIAL SAVINGS, A SA	DALLAS	TX	02/12/89
8347	FINANCIAL SECURITY S & LA	DELRAY BEACH	FL	03/16/89
7022	FINANCIAL SECURITY S & LA	DELRAY BEACH	FL	05/25/90
8021	FINANCIAL SERVICES BRANCH	WASHINGTON	DC	09/01/86
4134	FIRST ACADIANA BANK	EUNICE	LA	12/14/89
7441	FIRST AMERICA SB	LONGMONT	CO	09/13/91
8844	FIRST AMERICA SB	LONGMONT	CO	03/16/90
7905	FIRST AMERICAN	TUCSON	AZ	08/16/91
5971	FIRST AMERICAN BANK	SAN ANTONIO	TX	06/08/89
4137	FIRST AMERICAN BANK AND TRUST	WEST PALM BEACH	FL	12/15/89
8707	FIRST AMERICAN BANK AND TRUST	WEST PALM BEACH	FL	12/15/89
2793	FIRST AMERICAN BANK AND TRUST OF BAYTOWN	BAYTOWN	TX	03/10/88
5930	FIRST AMERICAN BANK AND TRUST OF FRIENDS	FRIENDSWOOD	TX	03/10/88
5931	FIRST AMERICAN BANK AND TRUST OF MANVEL	MANVEL	TX	03/10/88
4286	FIRST AMERICAN BANK FOR SAVINGS	BOSTON	MA	10/19/90
4203	FIRST AMERICAN BANK & TRUST	WEST PALM BEACH	FL	05/11/90
2429	FIRST AMERICAN BANKING COMPANY	PENDLETON	OR	11/16/84
4566	FIRST AMERICAN CAPITAL BANK, N.A	LAGUNA BEACH	CA	03/04/93
8692	FIRST AMERICAN FEDERAL SAVINGS BANK	FORT SMITH	AR	05/25/90
7247	FIRST AMERICAN FEDERAL SAVINGS BANK	FORT SMITH	AR	12/07/90
1210	FIRST AMERICAN FSB	TUCSON	AZ	04/24/92
1239	FIRST AMERICAN FSB	GREENSBORO	NC	10/08/93
8372	FIRST AMERICAN S & LA	OAK BROOK	IL	02/12/89
7241	FIRST AMERICAN SAVINGS BANK, FSB	SANTA FE	NM	11/30/90
8866	FIRST AMERICAN SAVINGS BANK, FSB	SANTA FE	NM	08/31/90
8259	FIRST AMERICAN SB	GREENSBORO	NC	06/05/92
7287	FIRST ANNAPOLIS SAVINGS BANK, FSB	ANNAPOLIS	MD	05/03/91
8204	FIRST ANNAPOLIS SAVINGS BANK, FSB	ANNAPOLIS	MD	06/01/90
8681	FIRST ATLANTIC S & LA	PLAINFIELD	NJ	02/23/90
7442	FIRST ATLANTIC S & LA	PLAINFIELD	NJ	09/13/91
4100	FIRST BANK	COLORADO SPRINGS	CO	10/06/89
2891	FIRST BANK	BALCH SPRINGS	TX	08/11/88
2801	FIRST BANK AND TRUST	TOMBALL	TX	03/31/88

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
2475	FIRST BANK AND TRUST	TRACY CITY	TN	06/28/85
6782	FIRST BANK AND TRUST COMPANY	BOOKER	TX	12/18/86
2558	FIRST BANK AND TRUST OF IDAHO	MALAD CITY	ID	05/09/86
4163	FIRST BANK NATIONAL ASSOCIATION	CLEVELAND	OH	03/09/90
4262	FIRST BANK OF PLANO	PLANO	TX	08/30/90
2979	FIRST BANK OF ROWLETT	ROWLETT	TX	03/23/89
4131	FIRST BANK OF PINEVILLE	PINEVILLE	LA	12/08/89
2965	FIRST BANK & TRUST	BRYAN	TX	02/09/89
4177	FIRST BANK & TRUST COMPANY	CEDAR HILL	TX	04/05/90
4064	FIRST BANK & TRUST COMPANY	YALE	OK	08/03/89
2940	FIRST BANK & TRUST CO	DUNCAN	OK	12/08/88
7288	FIRST BANKERS TRUST	MIDLAND	TX	05/10/91
5989	FIRST BANKERS TRUST OF BOSSIER CITY	BOSSIER CITY	LA	09/14/89
8285	FIRST BANKERS TRUST & SA	MIDLAND	TX	06/08/90
4591	FIRST CALIFORNIA BANK	LA MESA	CA	07/09/93
6925	FIRST CALIFORNIA SAVINGS	ORANGE	CA	09/22/89
8323	FIRST CALIFORNIA SAVINGS, FSA	ORANGE	CA	04/06/89
8483	FIRST CAPITAL SA OF TEXAS	HOUSTON	TX	03/09/89
6923	FIRST CAPITAL SAVINGS ASSOC OF TEXAS	HOUSTON	TX	09/22/89
5941	FIRST CAPITOL BANK	WEST COLUMBIA	TX	07/28/88
7152	FIRST CENTRAL BANK A FED SAVINGS BANK	CHARITON	IA	09/07/90
8271	FIRST CENTRAL BANK A FED SAVINGS BANK	CHARITON	IA	01/04/90
2635	FIRST CHARTER BANK	DENVER	CO	01/15/87
2108	FIRST CITIZENS	FORT PIERCE	FL	09/20/91
8808	FIRST CITIZENS	FORT PIERCE	FL	03/08/91
2589	FIRST CITIZENS BANK	DALLAS	TX	08/08/86
3973	FIRST CITY—CP	DALLAS	TX	08/22/95
2526	FIRST CITY BANK	GLENDALE	CA	12/20/85
4356	FIRST CITY BANK	NEW ORLEANS	LA	05/17/91
2645	FIRST CITY BANK OF ATOKA	ATOKA	OK	02/12/87
2646	FIRST CITY BANK OF KING CITY, MISSOURI	KING CITY	MO	02/13/87
2474	FIRST CITY BANK, N.A.	OKLAHOMA CITY	OK	06/21/85
4543	FIRST CITY COLLECTING BANK	HOUSTON	TX	10/30/92
8407	FIRST CITY FEDERAL S & L ASSOC	BATON ROUGE	LA	08/07/89
7159	FIRST CITY FEDERAL S & L ASSOC	BATON ROUGE	LA	09/07/90
7363	FIRST CITY FEDERAL SAVINGS & LOAN ASSN	LUCEDALE	MS	07/19/91
7812	FIRST CITY FEDERAL SAVINGS & LOAN ASSN	LUCEDALE	MS	09/07/90
4138	FIRST CITY NATIONAL BANK & TRUST COMPANY	NEW YORK	NY	12/20/89
4523	FIRST CITY, ALICE, TEXAS	ALICE	TX	10/30/92
4524	FIRST CITY, ARANSAS PASS	ARANSAS PASS	TX	10/30/92
4525	FIRST CITY, AUSTIN	AUSTIN	TX	10/30/92
4526	FIRST CITY, BEAUMONT	BEAUMONT	TX	10/30/92
4527	FIRST CITY, BRYAN	BRYAN	TX	10/30/92
4528	FIRST CITY, CORPUS CHRISTI	CORPUS CHRISTI	TX	10/30/92
4529	FIRST CITY, DALLAS	DALLAS	TX	10/30/92
4530	FIRST CITY, EL PASO	EL PASO	TX	10/30/92
4531	FIRST CITY, GRAHAM	GRAHAM	TX	10/30/92
4532	FIRST CITY, HOUSTON	HOUSTON	TX	10/30/92
8040	FIRST CITY, HOUSTON	HOUSTON	TX	03/16/88
4533	FIRST CITY, KOUNTZE	KOUNTZE	TX	10/30/92
4534	FIRST CITY, LAKE JACKSON	LAKE JACKSON		10/30/92
4535	FIRST CITY, LUFKIN	LUFKIN	TX	10/30/92
4536	FIRST CITY, MADISONVILLE	MADISONVILLE	TX	10/30/92
4537	FIRST CITY, MIDLAND	MIDLAND	TX	10/30/92
4538	FIRST CITY, ORANGE	ORANGE	TX	10/30/92
4539	FIRST CITY, SAN ANGELO	SAN ANGELO	TX	10/30/92
4540	FIRST CITY, SAN ANTONIO	SAN ANTONIO	TX	10/30/92
4541	FIRST CITY, SOUR LAKE	SOUR LAKE	TX	10/30/92
4542	FIRST CITY, TYLER	TYLER	TX	10/30/92
4278	FIRST COMANCHE BANK	COMANCHE	TX	09/20/90
7903	FIRST COMMERCE BANK	LOWELL	IN	06/14/91
2159	FIRST COMMERCE BANK	LOWELL	IN	02/07/92
4128	FIRST COMMERCE NATIONAL BANK	PHOENIX	AZ	12/07/89
4304	FIRST COMMERCIAL BANK OF FLORIDA	BOCA RATON	FL	12/14/90
2358	FIRST COMMERCIAL BANK OF HAWKINS COUNTY	ROGERSVILLE	TN	08/12/83
2678	FIRST COMMERCIAL BANK OF TEXAS, N.A	HOUSTON	TX	04/16/87
4470	FIRST COMMUNITY BANK OF CHEROKEE	WOODSTOCK	GA	03/31/92
4108	FIRST CONSOLIDATED BANK-BUDA, N.A	BUDA	TX	10/20/89
4106	FIRST CONSOLIDATED BANK-FERRIS	FERRIS	TX	10/20/89
4107	FIRST CONSOLIDATED BANK-HILLSBORO, N.A	HILLSBORO	TX	10/20/89
4110	FIRST CONSOLIDATED BANK-PLEASANT RUN	LANCASTER	TX	10/20/89
4109	FIRST CONSOLIDATED BANK-ROSEBUD, N.A	ROSEBUD	TX	10/20/89

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
4521	FIRST CONSTITUTION BANK	NEW HAVEN	CT	10/02/92
2708	FIRST CONTINENTAL BK OF ROCKRIMMON, N.A	COLORADO SPRINGS	CO	07/09/87
6479	FIRST CONTINENTAL BK & TR CO OF DEL CTY	DEL CITY	OK	05/11/84
5957	FIRST CONTINENTAL NATIONAL BANK	HOUSTON	TX	02/15/89
4022	FIRST EASTERN AND TRUST CO	NEW ORLEANS	LA	05/24/89
6599	FIRST ENTERPRISE BANK	OAKLAND	CA	04/26/85
8486	FIRST EQUITY SA	TOMBALL	TX	03/09/89
6996	FIRST EQUITY SA	TOMBALL	TX	05/11/90
4484	FIRST EXCHANGE BANK OF CAPE GIRARDEAU	CAPE GIRARDEAU	MO	05/07/92
4516	FIRST EXCHANGE BANK OF LITTLE ROCK	LITTLE ROCK	AR	09/24/92
4486	FIRST EXCHANGE BANK OF MADISON COUNTY	FREDERICKTOWN	MO	05/07/92
4485	FIRST EXCHANGE BANK OF NORTH ST. LOUIS C	FLORISSANT	MO	05/07/92
4488	FIRST EXCHANGE BANK OF ST. LOUIS	ST. LOUIS	MO	05/07/92
7026	FIRST FED S&L ASSOC. OF BRENHAM	BRENHAM	TX	05/25/90
7202	FIRST FED S&L ASSOC. OF CENTRAL IN	ANDERSON	IN	10/05/90
8635	FIRST FED S&L ASSOC. OF BRENHAM	BRENHAM	TX	09/21/89
7785	FIRST FEDERAL BANK	HURON	SD	03/08/91
7443	FIRST FEDERAL BANK	HURON	SD	09/13/91
6948	FIRST FEDERAL BANK OF ALASKA	ANCHORAGE	AK	01/12/90
8301	FIRST FEDERAL BANK OF ALASKA, SB	ANCHORAGE	AK	03/02/89
7552	FIRST FEDERAL MD/COLUMBIA 1ST	HAGERSTOWN	MD	03/20/87
8308	FIRST FEDERAL OF ARKANSAS, FA	LITTLE ROCK	AR	02/10/89
7370	FIRST FEDERAL OF ARKANSAS, FA	LITTLE ROCK	AR	07/26/91
7211	FIRST FEDERAL S&LA	BLUEFIELD	WV	11/09/90
8697	FIRST FEDERAL S&LA	BLUEFIELD	WV	02/23/90
8877	FIRST FEDERAL SAVING & LOAN ASSOC	TUSCOLA	IL	08/17/90
7339	FIRST FEDERAL SAVINGS	BORGER	TX	06/28/91
8299	FIRST FEDERAL SAVINGS AND LOAN ASSOCIATI	WARNER ROBINS	GA	04/12/90
7412	FIRST FEDERAL SAVINGS AND LOAN ASSOC	MT. VERNON	OH	08/23/91
7760	FIRST FEDERAL SAVINGS AND LOAN ASSOC	WEWOKA	OK	03/08/91
7364	FIRST FEDERAL SAVINGS ASSOC. OF CONROE	CONROE	TX	07/19/91
8634	FIRST FEDERAL SAVINGS ASSOCATION	BORGER	TX	05/18/90
2189	FIRST FEDERAL SAVINGS ASSOCIATION	LUBBOCK	TX	03/20/92
7302	FIRST FEDERAL SAVINGS ASSOCIATION	NACOGDOCHES	TX	05/31/91
8228	FIRST FEDERAL SAVINGS ASSOC. OF CONROE	CONROE	TX	05/18/90
8668	FIRST FEDERAL SAVINGS BANK	DIAMONDVILLE	WY	11/30/89
2138	FIRST FEDERAL SAVINGS BANK	NEWTON	KS	10/28/91
8286	FIRST FEDERAL SAVINGS BANK	NEWTON	KS	05/10/91
8263	FIRST FEDERAL SAVINGS BANK	LUBBOCK	TX	10/11/91
7072	FIRST FEDERAL SAVINGS BANK	DIAMONDVILLE	WY	06/15/90
2200	FIRST FEDERAL SAVINGS BANK	ASHBURN	GA	04/03/92
8827	FIRST FEDERAL SAVINGS BANK	ASHBURN	GA	04/05/91
7740	FIRST FEDERAL SAVINGS BANK & TRUST	PONTIAC	MI	10/16/91
2115	FIRST FEDERAL SAVINGS & LOAN	DALLAS	GA	09/27/91
7796	FIRST FEDERAL SAVINGS & LOAN	DALLAS	GA	02/22/91
6906	FIRST FEDERAL SAVINGS & LOAN	COFFEYVILLE	KS	08/18/89
7132	FIRST FEDERAL SAVINGS & LOAN ASSN	WARNER ROBINS	GA	08/17/90
7262	FIRST FEDERAL SAVINGS & LOAN ASSN	SAN ANTONIO	TX	01/04/91
8251	FIRST FEDERAL SAVINGS & LOAN ASSN	WICHITA FALLS	TX	03/16/90
7311	FIRST FEDERAL SAVINGS & LOAN ASSN	WICHITA FALLS	TX	06/07/91
7076	FIRST FEDERAL SAVINGS & LOAN ASSOC	AMERICUS	GA	06/22/90
7332	FIRST FEDERAL SAVINGS & LOAN ASSOC	LAS VEGAS	NM	06/21/91
7748	FIRST FEDERAL SAVINGS & LOAN ASSOC	WAYNESBORO	TN	02/08/91
8568	FIRST FEDERAL SAVINGS & LOAN ASSOC	AMERICUS	GA	06/22/89
7372	FIRST FEDERAL SAVINGS & LOAN ASSOC	METAIRIE	LA	07/26/91
2114	FIRST FEDERAL SAVINGS & LOAN ASSOCIATION	BEAUMONT	TX	09/27/91
2117	FIRST FEDERAL SAVINGS & LOAN ASSOCIATION	TOLEDO	OH	09/27/91
8249	FIRST FEDERAL SAVINGS & LOAN ASSOCIATION	NEW BRAUNFELS	TX	05/25/90
7310	FIRST FEDERAL SAVINGS & LOAN ASSOCIATION	NEW BRAUNFELS	TX	06/07/91
6971	FIRST FEDERAL SAVINGS & LOAN ASSOCIATION	BAKERS FIELD	CA	04/27/90
7888	FIRST FEDERAL SAVINGS & LOAN ASSOCIATION	TOLEDO	OH	02/01/91
8810	FIRST FEDERAL SAVINGS & LOAN ASSOCIATION	BREAUX BRIDGE	LA	05/11/90
8820	FIRST FEDERAL SAVINGS & LOAN ASSOCIATION	METAIRIE	LA	06/15/90
7313	FIRST FEDERAL SAVINGS & LOAN ASSOC	TUSCOLA	IL	06/07/91
8218	FIRST FEDERAL SAVINGS & LOAN ASSOC	NACOGDOCHES	TX	11/30/90
8234	FIRST FEDERAL SAVINGS & LOAN ASSOC	WINNFIELD	LA	08/31/90
7431	FIRST FEDERAL SAVINGS & LOAN ASSOC	TEMPLE	TX	09/06/91
6910	FIRST FEDERAL SAVINGS & LOAN ASSOC	MALVERN	AR	08/25/89
7885	FIRST FEDERAL SAVINGS & LOAN ASSOC	PARAGOULD	AR	11/30/90
7432	FIRST FEDERAL SAVINGS & LOAN ASSOC	WINNFIELD	LA	09/06/91
7445	FIRST FEDERAL SAVINGS & LOAN ASSOC	PARAGOULD	AR	09/13/91
7741	FIRST FEDERAL SAVINGS & LOAN ASSOC	TEMPLE	TX	08/24/90

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
2170	FIRST FEDERAL SAVINGS & LOAN ASSOC	RALEIGH	NC	03/06/92
7384	FIRST FEDERAL SAVINGS & LOAN ASSOC	WEWOKA	OK	08/02/91
7383	FIRST FEDERAL SAVINGS & LOAN ASSOC	WAYNESBORO	TN	08/09/91
8606	FIRST FEDERAL SAVINGS & LOAN ASSOC	BAKERSFIELD	CA	06/29/89
8244	FIRST FEDERAL SAVINGS & LOAN ASSOC	LAS VEGAS	NM	11/16/90
7756	FIRST FEDERAL SAVINGS & LOAN ASSOC	RALEIGH	NC	12/07/90
6964	FIRST FEDERAL SAVINGS & LOAN OF HUTCHINS	HUTCHINSON	KS	04/20/90
7571	FIRST FEDERAL SLA	SHAWNEE	OK	04/08/88
8673	FIRST FEDERAL S.A. OF YORK	YORK	NE	01/18/90
7082	FIRST FEDERAL S.A. OF YORK	YORK	NE	06/22/90
7665	FIRST FEDERAL (C311)	NATCHITOCHES	LA	08/09/89
7653	FIRST FEDERAL (C357)	VINCENNES	IL	08/09/89
7668	FIRST FEDERAL–CHICAGO (C207)	CHICAGO	IL	08/09/89
7661	FIRST FEDERAL–ROANOKE (C321)	ROANOKE	VA	08/09/89
7550	FIRST FEDERAL/HOME SA	BELOIT	KS	02/27/87
8630	FIRST FED. S & l ASSOC. OF CENTRAL IN	ANDERSON	IN	11/16/89
6931	FIRST FINANCIAL	NEW ALBANY	MS	01/27/89
8424	FIRST FINANCIAL S & LA	NEW ALBANY	MS	02/12/89
8359	FIRST FS & LA	SUMMERVILLE	GA	03/09/89
8357	FIRST FS & LA	ATLANTA	GA	03/09/89
7732	FIRST FS & LA	PITTSBURG	KS	05/03/91
1232	FIRST FS & LA	PONTIAC	MI	08/27/93
7396	FIRST FS & LA	THIEF RIVER FALLS	MN	08/09/91
8404	FIRST FS & LA	BATON ROUGE	LA	03/16/89
8315	FIRST FS & LA	MALVERN	AR	03/02/89
2143	FIRST FS & LA	PITTSBURGH	KS	11/01/91
7195	FIRST FS & LA	NEW IBERIA	LA	09/28/90
7077	FIRST FS & LA	SUMMERVILLE	GA	06/22/90
8344	FIRST FS & LA	LARGO	FL	02/17/89
8312	FIRST FS & LA	FAYETTEVILLE	AR	03/02/89
7207	FIRST FS & LA	FAYETTEVILLE	AR	11/02/90
7046	FIRST FS & LA	LARGO	FL	06/08/90
7023	FIRST FS & LA	ALTANTA	GA	05/25/90
7243	FIRST FS & LA	SHREVEPORT	LA	12/07/90
8409	FIRST FS & LA	EUNICE	LA	03/16/89
8398	FIRST FS & LA	NEW IBERIA	LA	03/16/89
6992	FIRST FS & LA	EUNICE	LA	05/11/90
8393	FIRST FS & LA	SHREVEPORT	LA	03/16/90
7139	FIRST FS & LA	BATON ROUGE	LA	08/17/90
8233	FIRST FS & LA OF ANDALUSIA	ANDALUSIA	AL	12/28/90
2116	FIRST FS & LA OF ANDALUSIA	ANDALUSIA	AL	09/27/91
8382	FIRST FS & LA OF COFFEYVILLE	COFFEYVILLE	KS	03/02/89
8532	FIRST FS & LA OF COLORADO SPRINGS	COLORADO SPRINGS	CO	03/09/89
7117	FIRST FS & LA OF COLORADO SPRINGS	COLORADO SPRINGS	CO	06/29/90
8380	FIRST FS & LA OF HUTCHINSON	HUTCHINSON	KS	03/02/89
7267	FIRST FS & LA OF PITTSBURG	PITTSBURG	PA	01/04/91
7744	FIRST FS & LA OF SEMINOLE	SEMINOLE	FL	04/05/91
2210	FIRST FS & LA OF SEMINOLE	SEMINOLE	FL	04/03/92
7186	FIRST FS & LA OF SEMINOLE	SEMINOLE	OK	09/21/90
8447	FIRST FS & LA OF SEMINOLE	SEMINOLE	OK	03/16/89
8417	FIRST FS & LA OF SOUTHEAST MO	CAPE GIRARDEAU	MO	04/06/89
7014	FIRST FS & LA OF SOUTHEAST MO	CAPE GIRARDEAU	MO	05/18/90
8345	FIRST FS & LA OF THE FLORIDA KEYS	KEY WEST	FL	03/16/89
6974	FIRST FS & LA OF THE FLORIDA KEYS	KEY WEST	FL	04/27/90
1253	FIRST FSA	LEWISTON	ME	03/18/94
7956	FIRST FSB	LEWISTON	ME	05/21/92
7934	FIRST FSB OF GA	WINDER	GA	11/06/92
1242	FIRST FSB OF GEORGIA	WINDER	GA	11/05/93
7371	FIRST FSB OF HEMPSTEAD	HEMPSTEAD	TX	07/26/91
7862	FIRST FSB OF HEMPSTEAD	HEMPSTEAD	TX	09/14/90
8381	FIRST FSB OF KANSAS	WELLINGTON	KS	03/02/89
7254	FIRST FSB OF KANSAS	WELLINGTON	KS	12/14/90
1213	FIRST FSB OF SOUTH DAKOTA	RAPID CITY	SD	04/24/92
8223	FIRST FSLA	CRESTON	IA	05/10/91
8210	FIRST FSLA	CHICKASHA	OK	03/22/91
2141	FIRST FSLA	CRESTON	IA	11/01/91
7951	FIRST FSLA RUSSELL COUNTY	PHENIX CITY	AL	07/24/92
7568	FIRST FSLA/SECURITY	PADUCAH	KY	03/11/88
7663	FIRST FS&LA-RAPID CITY (C120)	RAPID CITY	SD	08/09/89
2160	FIRST F.S.L.A	CHICKASHA	OK	02/07/92
7091	FIRST GARLAND FED S & L ASSN	GARLAND	TX	06/22/90
8636	FIRST GARLAND FED S&L ASSN	GARLAND	TX	09/21/89

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
7321	FIRST GUARANTY BANK FOR SAVINGS	HATTIESBURG	MS	06/14/91
8821	FIRST GUARANTY BANK FOR SAVINGS	HATTIESBURG	MS	01/04/90
4419	FIRST HANOVER BANK	WILMINGTON	NC	10/25/91
7689	FIRST HEIGHTS BANK, FSB (SW013)	HOUSTON	TX	12/25/93
1218	FIRST HOME FSA	PITTSBURG	PA	06/30/93
7927	FIRST HOME SA	PITTSBURG	PA	06/19/92
5926	FIRST HOUSTON BANK N.A	HOUSTON	TX	02/11/88
2948	FIRST INDUSTRIAL BANK	ROCKY FORD	CO	12/16/88
5933	FIRST INTERCOUNTY BANK AND TRUST CO. OF	NEW YORK CITY	NY	03/10/88
2766	FIRST INTERSTATE BANK OF ALASKA	ANCHORAGE	AK	12/11/87
8812	FIRST JACKSON SAVINGS BANK, FSB	JACKSON	MS	06/29/90
7352	FIRST JACKSON SAVINGS BANK, FSB	JACKSON	MS	07/12/91
7444	FIRST JERSEY SAVINGS & LOAN ASSOC	WYCKOFF	NJ	09/13/91
7707	FIRST JERSEY SAVINGS & LOAN ASSOC	WYCKOFF	NJ	02/08/91
7232	FIRST LOUISIANA FEDERAL SAVINGS BANK F.A	LAFAYETTE	LA	11/30/90
8395	FIRST LOUISIANA FEDERAL SAVINGS BANK, F.A	LAFAYETTE	LA	11/02/89
7602	FIRST MADISON (FIRST GIBRALTER) SW021	DALLAS	TX	12/01/89
4329	FIRST MARINE BANK OF FLORIDA	PALM CITY	FL	03/08/91
4388	FIRST MEXIA BANK	MEXIA	TX	08/22/91
2699	FIRST MIDWEST BANK	MARYSVILLE	MO	06/18/87
4371	FIRST MUTUAL BANK FOR SAVINGS	BOSTON	MA	06/28/91
2535	FIRST NATIONAL BANK	TIPTON	IA	02/14/86
2537	FIRST NATIONAL BANK	GORMAN	TX	02/27/86
5953	FIRST NATIONAL BANK	COVINGTON	LA	11/18/88
2619	FIRST NATIONAL BANK	WILLOWS	CA	11/20/86
2893	FIRST NATIONAL BANK	AUSTIN	TX	08/18/88
4252	FIRST NATIONAL BANK	PURCELL	OK	07/26/90
5476	FIRST NATIONAL BANK	SNYDER	TX	05/07/84
4391	FIRST NATIONAL BANK AND TRUST COMPANY	BLACKWELL	OK	08/29/91
6697	FIRST NATIONAL BANK AND TRUST OF NORMAN	NORMAN	OK	05/29/86
2538	FIRST NATIONAL BANK AT DOUGLAS	DOUGLAS	WY	02/21/86
4019	FIRST NATIONAL BANK AT OSWEGO	OSWEGO	KS	05/18/89
2944	FIRST NATIONAL BANK IN BOGOTA	BOGOTA	TX	12/15/88
2943	FIRST NATIONAL BANK IN CENTER	CENTER	TX	12/15/88
2438	FIRST NATIONAL BANK IN CLARKSVILLE	CLARKSVILLE	TX	01/24/85
4322	FIRST NATIONAL BANK IN KAUFMAN	KAUFMAN	TX	02/07/91
2437	FIRST NATIONAL BANK IN MARLOW	MARLOW	OK	01/24/85
5821	FIRST NATIONAL BANK IN WEST CONCORD	WEST CONCORD	MN	03/05/87
2912	FIRST NATIONAL BANK OF ATASCOCITA	HARRIS (HUMBLE)	TX	09/01/88
2568	FIRST NATIONAL BANK OF BORGER	BORGER	TX	06/19/86
2673	FIRST NATIONAL BANK OF BRAMAN	BRAMAN	OK	04/09/87
5448	FIRST NATIONAL BANK OF BROWNING	BROWNING	MT	11/14/83
5360	FIRST NATIONAL BANK OF CARRINGTON	CARRINGTON	ND	02/12/80
5686	FIRST NATIONAL BANK OF CARTER	CARTER	OK	05/01/86
4354	FIRST NATIONAL BANK OF CEDAR HILL	CEDAR HILL	TX	05/16/91
2957	FIRST NATIONAL BANK OF CEDAR PARK	CEDAR PARK	TX	01/19/89
4150	FIRST NATIONAL BANK OF COLBERT	COLBERT	OK	02/08/90
4256	FIRST NATIONAL BANK OF CORPUS CHRISTI	CORPUS CHRISTI	TX	08/09/90
2651	FIRST NATIONAL BANK OF CROSBY	CROSBY	TX	02/26/87
4273	FIRST NATIONAL BANK OF CROSBY	CROSBY	ND	09/13/90
5934	FIRST NATIONAL BANK OF DEL CITY	DEL CITY	OK	03/25/88
4198	FIRST NATIONAL BANK OF DESOTO	DESOTO	TX	05/10/90
2444	FIRST NATIONAL BANK OF EADS	EADS	CO	02/14/85
4013	FIRST NATIONAL BANK OF EAST BATON ROUGE	BATON ROUGE	LA	05/04/89
2689	FIRST NATIONAL BANK OF ELBOW LAKE	ELBOW LAKE	MN	05/14/87
4127	FIRST NATIONAL BANK OF FRISCO	FRISCO	TX	12/07/89
4173	FIRST NATIONAL BANK OF GARLAND	GARLAND	TX	03/29/90
2428	FIRST NATIONAL BANK OF GAYLORD	GAYLORD	KS	10/25/84
2482	FIRST NATIONAL BANK OF GLENROCK	GLENROCK	WY	07/23/85
4197	FIRST NATIONAL BANK OF GRAND SALINE	GRAND SALINE	TX	05/10/90
2552	FIRST NATIONAL BANK OF IRVING	IRVING	TX	04/24/86
4288	FIRST NATIONAL BANK OF JACKSON	JACKSON	TN	10/25/90
4270	FIRST NATIONAL BANK OF KENNEDALE	KENNEDALE	TX	09/13/90
2820	FIRST NATIONAL BANK OF KINGWOOD	KINGWOOD	TX	05/26/88
2522	FIRST NATIONAL BANK OF LINCOLN CO	RUIDOSO	NM	12/13/85
4428	FIRST NATIONAL BANK OF MIAMI	MIAMI	FL	11/26/91
4002	FIRST NATIONAL BANK OF NOCONA	NOCONA	TX	04/06/89
2344	FIRST NATIONAL BANK OF OAK LAWN	OAK LAWN	IL	04/29/83
2659	FIRST NATIONAL BANK OF OLNEY	OLNEY	TX	03/12/87
2796	FIRST NATIONAL BANK OF PORT ALLEN	PORT ALLEN	LA	03/17/88
2391	FIRST NATIONAL BANK OF PRIOR LAKE	PRIOR LAKE	MN	05/24/84
4031	FIRST NATIONAL BANK OF RICHARDSON	RICHARDSON	TX	06/30/89

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
5741	FIRST NATIONAL BANK OF RIFLE	RIFLE	CO	08/21/86
4298	FIRST NATIONAL BANK OF ROWLETT	ROWLETT	TX	12/07/90
2549	FIRST NATIONAL BANK OF RUSTON	RUSTON	LA	04/10/86
2657	FIRST NATIONAL BANK OF SAPULPA	SAPULPA	OK	03/05/87
2577	FIRST NATIONAL BANK OF SHERIDAN	SHERIDAN	WY	07/17/86
2623	FIRST NATIONAL BANK OF STEWARTVILLE	STEWARTVILLE	MN	12/04/86
5629	FIRST NATIONAL BANK OF TEAGUE	TEAGUE	TX	11/14/85
2539	FIRST NATIONAL BANK OF TEKEMAH	TEKEMAH	NE	03/06/86
5771	FIRST NATIONAL BANK OF TEMPLE	TEMPLE	OK	11/14/86
4506	FIRST NATIONAL BANK OF TEXAS	WEBSTER	TX	07/23/92
5999	FIRST NATIONAL BANK OF VAIL	VAIL	CO	10/05/89
5815	FIRST NATIONAL BANK OF WESLACO	WESLACO	TX	02/20/87
2441	FIRST NATIONAL BANK OF WOODBINE	WOODBINE	IA	02/07/85
4416	FIRST NATIONAL BANK, BEDFORD	BEDFORD	TX	10/24/91
4192	FIRST NATIONAL BANK, NORTHEAST	AUSTIN	TX	05/03/90
7608	FIRST NATIONWIDE	DEARBORNE	MI	12/01/89
5727	FIRST NATL. BANK IN CORDELL	CORDELL	OK	07/02/86
2580	FIRST NATL. BANK OF PRARIE CITY	PRARIE CITY	IA	07/23/86
8867	FIRST NETWORK SAVINGS BANK	LOS ANGELES	CA	04/20/90
7177	FIRST NETWORK SAVINGS BANK	LOS ANGELES	CA	09/14/90
4549	FIRST NEW YORK BANK FOR BUSINESS	NEW YORK	NY	11/13/92
7966	FIRST NEWPORT BANK	NEWPORT BEACH	VA	06/19/92
1223	FIRST NEWPORT FSB	NEWPORT BEACH	CA	07/23/93
7385	FIRST NORTHERN COOP	KEENE	NH	08/02/91
7891	FIRST NORTHERN COOP	KEENE	NH	02/20/91
2142	FIRST OF FARGO	FARGO	ND	11/01/91
7708	FIRST OF FARGO	FARGO	ND	05/10/91
8387	FIRST OF KANSAS BANKING & SA	HAYS	KS	03/31/89
7036	FIRST OF KANSAS BANKING & SA	HAYS	KS	06/01/90
2175	FIRST OHIO FSB	ST. BERNARD	OH	03/13/92
4258	FIRST PACIFIC BANK	BEVERLY HILLS	CA	08/10/90
2355	FIRST PEOPLES BANK OF WASHINGTON COUNTY	JOHNSON CITY	TN	07/29/83
2530	FIRST PROGRESSIVE BANK	METARIE	LA	01/17/86
2851	FIRST REPUBLIC BANK, A & M	A & M	TX	07/29/88
2852	FIRST REPUBLIC BANK, ABILENE, N.A	ABILENE	TX	07/29/88
2848	FIRST REPUBLIC BANK, AUSTIN, N.A	AUSTIN	TX	07/29/88
2853	FIRST REPUBLIC BANK, BROWNWOOD, N.A	BROWNWOOD	TX	07/29/88
2854	FIRST REPUBLIC BANK, CLEBURNE, N.A	CLEBURNE	TX	07/29/88
2855	FIRST REPUBLIC BANK, CLIFTON, (SB)	CLIFTON	TX	07/29/88
2856	FIRST REPUBLIC BANK, CONROE, N.A	CONROE	TX	07/29/88
2857	FIRST REPUBLIC BANK, CORSICANA, N.A	CORSICANA	TX	07/29/88
2846	FIRST REPUBLIC BANK, DALLAS,N.A	DALLAS	TX	07/29/88
2858	FIRST REPUBLIC BANK, DENISON, N.A	DENISON	TX	07/29/88
2859	FIRST REPUBLIC BANK, EL PASO, N.A	EL PASO	TX	07/29/88
2860	FIRST REPUBLIC BANK, ENNIS, N.A	ENNIS	TX	07/29/88
2861	FIRST REPUBLIC BANK, FORNEY (SB)	FORNEY	TX	07/29/88
2849	FIRST REPUBLIC BANK, FORT WORTH, N.A	FORT WORTH	TX	07/29/88
2863	FIRST REPUBLIC BANK, GALVESTON, N.A	GALVESTON	TX	07/29/88
2864	FIRST REPUBLIC BANK, GREENVILLE, N.A	GREENVILLE	TX	07/29/88
2865	FIRST REPUBLIC BANK, HARLINGEN, N.A	HARLINGEN	TX	07/29/88
2866	FIRST REPUBLIC BANK, HENDERSON, N.A	HENDERSON	TX	07/29/88
2867	FIRST REPUBLIC BANK, HILLSBORO (SB)	HILLSBORO	TX	07/29/88
2847	FIRST REPUBLIC BANK, HOUSTON, N.A	HOUSTON	TX	07/29/88
2868	FIRST REPUBLIC BANK, JEFFERSON COUNTY (S	JEFFERSON COUNTY	TX	07/29/88
2869	FIRST REPUBLIC BANK, LUBBOCK, N.A	LUBBOCK	TX	07/29/88
2870	FIRST REPUBLIC BANK, LUFKIN, (SB)	LUFKIN	TX	07/29/88
2871	FIRST REPUBLIC BANK, MALAKOFF (SB)	MALAKOFF	TX	07/29/88
2872	FIRST REPUBLIC BANK, MIDLAND, N.A	MIDLAND	TX	07/29/88
2873	FIRST REPUBLIC BANK, MINERAL WELLS, N.A	MINERAL WELLS	TX	07/29/88
2874	FIRST REPUBLIC BANK, MT. PLEASANT, N.A	MT. PLEASANT	TX	07/29/88
2875	FIRST REPUBLIC BANK, ODESSA, N.A	ODESSA	TX	07/29/88
2876	FIRST REPUBLIC BANK, PARIS (SB)	PARIS	TX	07/29/88
2877	FIRST REPUBLIC BANK, PLANO, N.A	PLANO	TX	07/29/88
2878	FIRST REPUBLIC BANK, RICHMOND, N.A	RICHMOND	TX	07/29/88
2850	FIRST REPUBLIC BANK, SAN ANTONIO, N.A	SAN ANTONIO	TX	07/29/88
2879	FIRST REPUBLIC BANK, STEPHENVILLE, N.A	STEPHENVILLE	TX	07/29/88
2880	FIRST REPUBLIC BANK, TEMPLE, N.A	TEMPLE	TX	07/29/88
2881	FIRST REPUBLIC BANK, TYLER, N.A	TYLER	TX	07/29/88
2882	FIRST REPUBLIC BANK, VICTORIA (SB)	VICTORIA	TX	07/29/88
2883	FIRST REPUBLIC BANK, WACO, N./A.	WACO	TX	07/29/88
2885	FIRST REPUBLIC BANK, WICHITA FALLS, N.A	WICHITA FALLS	TX	07/29/88
2884	FIRST REPUBLIC BANK, WILLIAMSON COUNTY,	WILLIAMSON COUNTY	TX	07/29/88

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
3958	FIRST REPUBLIC/NCNB RESIDUAL ASSET POOL	ADDISON	TX	11/08/91
1222	FIRST RUSSELL COUNTY FSLA	PHENIX CITY	AL	07/23/93
7563	FIRST SA OF EAST TEXAS	HOUSTON	TX	01/15/88
8497	FIRST SAVINGS ASSN OF SOUTHEAST TEXAS	SILSBEE	TX	03/16/89
7239	FIRST SAVINGS ASSN OF SOUTHEAST TEXAS	SILSBEE	TX	11/30/90
8226	FIRST SAVINGS ASSN, F.A	BISMARK	ND	01/26/90
7183	FIRST SAVINGS ASSN, F.A	BISMARK	ND	09/21/90
6942	FIRST SAVINGS BANK OF ALABAMA	HAMILTON	AL	12/15/89
8307	FIRST SAVINGS BANK OF ALBAMA	HAMILTON	AL	03/09/89
8869	FIRST SAVINGS BANK & TRUST	KANSAS CITY	MO	05/04/90
7120	FIRST SAVINGS BANK & TRUST	KANSAS CITY(INDEPEN)	MO	07/06/90
8373	FIRST SAVINGS OF AMERICA, A FS & LA	ORLAND PARK	IL	03/16/89
6904	FIRST SAVINGS OF AMERICA, A FS&LA	ORLAND PARK	IL	08/10/89
8640	FIRST SAVINGS OF LAREDO	LAREDO	TX	09/14/89
7068	FIRST SAVINGS OF LAREDO	LAREDO	TX	06/15/90
8408	FIRST SAVINGS OF LOUISIANA, FSA	LA PLACE	LA	03/02/89
6918	FIRST SAVINGS OF LOUISIANA, FSA	LA PLACE	LA	09/15/89
2144	FIRST SAVINGS OF ZION	ZION	IL	11/01/91
7892	FIRST SAVINGS OF ZION	ZION	IL	04/05/91
7312	FIRST SAVINGS & LOAN ASSOCIATION	BREAUX BRIDGE	LA	06/21/91
8590	FIRST SAVINGS & LOAN ASSOC, F.A	WACO	TX	07/13/89
7067	FIRST SAVINGS & LOAN ASSOC, F.A	WACO	TX	06/15/90
8203	FIRST SAVINGS & LOAN COMPANY	MASSILLON	OH	04/20/90
7365	FIRST SAVINGS & LOAN COMPANY	MASSILLON	OH	07/19/91
2379	FIRST SECURITY BANK	ERWIN	TN	04/06/84
4361	FIRST SECURITY BANK	ROANOKE	VA	05/24/91
2435	FIRST SECURITY BANK	SANDWICH	IL	12/22/84
4460	FIRST SECURITY BANK OF ANACONDA	ANACONDA	MT	03/16/92
2498	FIRST SECURITY BANK OF DICKSON	DICKSON	TN	09/12/85
4124	FIRST SECURITY BANK OF GLENDIVE	GLENDIVE	MT	12/01/89
2318	FIRST SECURITY BANK OF NORTH ARKANSAS	HORSESHOE BEND	AR	08/27/82
4112	FIRST SECURITY BANK & TRUST CO	HAUGHTON	LA	10/26/89
1214	FIRST SECURITY FSB	PINEHURST	NC	05/22/92
5963	FIRST SERVICE BANK FOR SAVINGS	LEOMINSTER	MA	03/31/89
6796	FIRST SIERRA BANK	BISHOP	CA	01/23/87
7547	FIRST SLA/COLONIAL	BURKBURNETT	TX	01/16/87
7353	FIRST SOUTH SA	HOUSTON	TX	07/12/91
8466	FIRST SOUTH SA	PORT NECHES	TX	03/16/89
7957	FIRST SOUTH SB	COLUMBIA	SC	04/24/92
1237	FIRST SOUTH SB	COLUMBIA	SC	09/24/93
7551	FIRST SOUTHERN/MAGNOLIA	PASCAGOULA	MS	03/20/87
2947	FIRST SOUTHWEST BANK	EL DORADO	OK	12/16/88
7413	FIRST SOUTHWEST SAVINGS	TYLER	TX	08/23/91
8819	FIRST SOUTHWEST SAVINGS & LOAN ASSOC	TYLER	TX	11/30/90
7545	FIRST SOUTH/RIVERSIDE FEDERAL	PINE BLUFF	AR	12/04/86
2920	FIRST ST BANK TALIHINA	TALIHINA	OK	09/22/88
7155	FIRST STANDARD SAVINGS	FAIRMONT	WV	11/02/90
8279	FIRST STANDARD SAVINGS	FAIRMONT	WV	02/23/90
4439	FIRST STATE BANK	BANGS	TX	01/24/92
4069	FIRST STATE BANK	PFLUGERVILLE	TX	08/24/89
6896	FIRST STATE BANK	BLANCHARD	OK	08/13/87
4066	FIRST STATE BANK	LIBERTY	TX	08/17/89
4007	FIRST STATE BANK	DEANVILLE	TX	04/20/89
2783	FIRST STATE BANK	OILTON	OK	02/11/88
2756	FIRST STATE BANK	OAKDALE	NE	12/03/87
4303	FIRST STATE BANK	LEXINGTON	OK	12/13/90
2506	FIRST STATE BANK	JET	OK	10/18/85
8011	FIRST STATE BANK	ATMORE	AL	06/18/86
2695	FIRST STATE BANK	MILFORD	TX	06/11/87
4339	FIRST STATE BANK	WEIMAR	TX	04/04/91
2923	FIRST STATE BANK	SEMINOLE	OK	09/29/88
2542	FIRST STATE BANK	WHITE CLOUD	KS	03/27/86
4569	FIRST STATE BANK	VEGA	TX	04/01/93
2528	FIRST STATE BANK	CACHE	OK	01/09/86
2981	FIRST STATE BANK	ROGERS	TX	03/23/89
2684	FIRST STATE BANK	SISSETON	SD	05/07/87
2543	FIRST STATE BANK	MEMPHIS	TX	03/27/86
2950	FIRST STATE BANK	HARPER	TX	01/12/89
6898	FIRST STATE BANK	WILLOW	OK	08/20/87
2561	FIRST STATE BANK AND TRUST OF EDINBURG	EDINBURG	TX	05/23/86
2648	FIRST STATE BANK OF ATMORE	ATMORE	AL	02/19/87
2740	FIRST STATE BANK OF BOVINA	BOVINA	TX	10/22/87

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
8003	FIRST STATE BANK OF COLMESNEIL	COLMESNEIL	TX	11/22/85
4183	FIRST STATE BANK OF CRANDALL	CRANDALL	TX	04/19/90
2454	FIRST STATE BANK OF ELGIN	ELGIN	OR	04/12/85
6845	FIRST STATE BANK OF FOREST CITY	FOREST CITY	MO	04/16/87
4068	FIRST STATE BANK OF MCKINNEY	MCKINNEY	TX	08/17/89
8038	FIRST STATE BANK OF OILTON	OILTON	OK	01/19/88
6798	FIRST STATE BANK OF PATTONSBURG	PATTONSBURG	MO	01/29/87
4154	FIRST STATE BANK OF REGENT	REGENT	ND	02/22/90
4277	FIRST STATE BANK OF RISING STAR	RISING STAR	TX	09/20/90
2725	FIRST STATE BANK OF ROLLINGSTONE	ROLLINGSTONE	MN	09/11/87
2677	FIRST STATE BANK OF SAGINAW	SAGINAW	TX	04/16/87
5919	FIRST STATE BANK OF SHOSHONI	SHOSHONI	WY	12/17/87
2961	FIRST STATE BANK OF TEXAS	DUNCANVILLE	TX	01/26/89
6692	FIRST STATE BANK & TRUST COMPANY	EDINBURG	TX	05/23/86
8467	FIRST STATE SA	SAN ANTONIO	TX	03/02/89
2212	FIRST STATE SAVINGS ASSN	SEDALIA	MO	04/03/92
6984	FIRST STATE SAVINGS ASSOC	SAN ANTONIO	TX	05/04/90
8314	FIRST STATE SAVINGS BANK, FSB	MOUNTAIN HOME	AR	03/02/89
7040	FIRST STATE SAVINGS BANK, FSB	MOUNTAIN HOME	AR	10/26/90
2612	FIRST STOCK YARDS BANK	ST. JOSEPH	MO	11/06/86
4620	FIRST TRUST BANK	ONTARIO	CA	03/03/95
6568	FIRST TRUST BANK OF LAKEFIELD	LAKEFIELD	MN	05/31/85
8452	FIRST VALLEY S & LA INC	PIKEVILLE	TN	02/12/89
8351	FIRST VENICE S & LA	VENICE	FL	03/16/89
7035	FIRST VENICE S & LA	VENICE	FL	06/01/90
4574	FIRST WESTERN BANK, NA	SAN DIEGO	CA	04/15/93
4201	FIRST-TAYLOR NATIONAL BANK	TAYLOR	TX	05/17/90
2201	FLAGLER FS & LA	MIAMI	FL	03/27/92
2551	FLORIDA CENTER BANK	ORLANDO	FL	04/18/86
8211	FLORIDA FEDERAL SAVINGS BANK	ST. PETERSBURG	FL	11/09/90
7386	FLORIDA FEDERAL SAVINGS BANK	ST.PETERSBURG	FL	08/02/91
4360	FLORIDA STATE BANK	HOLIDAY	FL	05/24/91
2792	FLOWER MOUND BANK	FLOWER MOUND	TX	03/02/88
2814	FOREST CITY BANK AND TRUST COMPANY	FOREST CITY	IA	05/06/88
5979	FORESTWOOD NATIONAL BANK OF DALLAS	DALLAS	TX	07/27/89
4279	FORT WORTH STATE BANK	FORT WORTH	TX	09/27/90
8662	FORTUNE FINANCIAL FEDERAL S & L	COOPERAS COVE	CA	11/30/89
7206	FORTUNE FINANCIAL FEDERAL S & LA	COOPERAS COVE	TX	10/19/90
4623	FOUNDERS BANK	NEW HAVEN	CT	07/28/95
7272	FOUNDERS S & LA	LOS ANGELES	CA	01/18/91
8324	FOUNDERS S & LA	LOS ANGELES	CA	04/06/89
4445	FOUNTAIN BANK	SCOTTSDALE	AZ	01/31/92
8375	FOUNTAIN FEDERAL SAVINGS BANK	BLOOMINGTON	IN	02/12/89
7034	FOUNTAINBLEAU FEDERAL SAVINGS BANK	SLIDELL	LA	06/01/90
8403	FOUNTAINEBLEAU FEDERAL SAVINGS BANK	SLIDELL	LA	03/02/89
4508	FOXWORTH BANK	FOXWORTH	MS	08/07/92
3953	FRANKLIN BIF CP	FRANKLIN	MA	10/06/90
7607	FRANKLIN FED	AUSTIN	TX	12/01/89
7620	FRANKLIN FRF-CP	FRANKLIN	MA	04/01/90
1285	FRANKLIN FSA	OTTOWA	KS	06/10/94
8856	FRANKLIN SA	OTTAWA	KS	02/16/90
2886	FRB,DELAWARE	DELAWARE	DE	08/02/88
7397	FREEDOM FS & LA	COLUMBUS	OH	08/09/91
8687	FREEDOM FS & LA	COLUMBUS	OH	02/16/90
4292	FREEDOM NATIONAL BANK OF NEW YORK	NEW YORK	NY	11/09/90
6937	FREEDOM S & LA	TAMPA	FL	10/13/89
8342	FREEDOM S & LA, A FS & LA	TAMPA	FL	02/07/89
7171	FRENCH MARKET HOMESTEAD, FSA	METAIRIE	LA	09/14/90
8392	FRENCH MARKET HOMESTEAD, FSA	METAIRIE	LA	02/17/89
5928	FRENCHMAN VALLEY BANK	PALISADE	NE	03/10/88
7677	FRF—CP—LA OFFICE LEASE	IRVINE	CA	03/01/91
7684	FRF—SMALL ASSETS SERVICED	HOUSTON	TX	04/02/92
8682	FRONTIER FEDERAL SAVINGS BANK	BELLEVIEW	IL	01/18/90
7230	FRONTIER FEDERAL SAVINGS BANK	BELLEVILLE	IL	11/29/90
7098	FRONTIER FS & LA	WALLA WALLA	WA	06/22/90
8857	FRONTIER FS & LA	WALLA WALLA	WA	02/23/90
2604	FRONTIER NATIONAL BANK	VISTA	CA	10/02/86
2929	FRONTIER NATIONAL BANK	ROUND ROCK	TX	10/27/88
7255	FRONTIER SAVINGS ASSOCIATION	LAS VEGAS	NV	12/14/90
7558	FRONTIER/1ST FEDERAL	FAIRBANKS	AK	06/12/87
8055	FSLIC RESOLUTION FUND	WASHINGTON	DC	08/08/89
5969	FULSHEAR STATE BANK	FULSHEAR	TX	06/08/89

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
7373	FULTON FEDERAL SAVINGS BANK	ATLANTA	GA	07/26/91
8215	FULTON FEDERAL SAVINGS BANK	ATLANTA	GA	01/04/91
7422	FUTURE FEDERAL SAVINGS BANK	LOUISVILLE	KY	08/30/91
7554	FUTURE SLA/WILLIAMSBURG	ALBANY	OR	04/10/87
2890	GALENA PARK STATE BANK	GALENA PARK	TX	08/11/88
6469	GAMALIEL BANK	GAMALIEL	KY	04/18/84
2392	GARDEN COMMUNITY BANK	GARDEN GROVE	CA	06/01/84
4153	GATEWAY NATIONAL BANK	PHOENIX	AZ	02/15/90
7056	GATEWAY SAVINGS BANK	SAN FRANCISCO	CA	06/08/90
8326	GATEWAY SAVINGS BANK	SAN FRANCISCO	CA	03/31/89
8220	GEM CITY FS & LA	QUINCY	IL	01/18/90
7162	GEM CITY FS & LA	QUINCY	IL	09/07/90
8629	GENERAL FEDERAL SAVINGS BANK	MIAMI	FL	11/16/89
7268	GENERAL FEDERAL SAVINGS BANK	MIAMI	FL	01/11/91
7114	GENERAL SA	HENDERSON	TX	06/29/90
8545	GENERAL SA	HENDERSON	TX	03/16/89
4205	GENTRY COUNTY BANK	ALBANY	MO	05/24/90
7886	GEORGE WASHINGTON	JONESBORO	TN	02/01/91
7343	GEORGE WASHINGTON	JONESBOROUGH	TN	07/05/91
7374	GERMANIA BANK, FSB	ALTON	IL	07/26/91
7771	GERMANIA BANK, FSB	ALTON	IL	06/22/90
7009	GERMANTOWN TRUST SAVINGS BANK	GERMANTOWN	TN	05/18/90
8540	GERMANTOWN TRUST SAVINGS BANK	GERMANTOWN	TN	03/09/89
8412	GIBRALTER FEDERAL SAVINGS BANK, FSB	ANNAPOLIS	MD	03/02/89
7049	GIBRALTER FEDERAL SAVINGS BANK, FSB	ANNAPOLIS	MD	06/08/90
8558	GIBRALTER SAVINGS BANK, F.S.B.	BELLEVUE	WA	03/31/89
7118	GIBRALTER SAVINGS BANK, F.S.B.	SEATTLE (BELLEVUE)	WA	06/29/90
8557	GIBRALTER SAVINGS, F.A.	BEVERLY HILLS	CA	03/31/89
7119	GIBRALTER SAVINGS, F.A.	SIMI VALLEY (B.HILLS)	CA	06/29/90
7070	GILL SA	SAN ANTONIO	TX	06/15/90
8459	GILL SA	HONDO	TX	02/07/89
2479	GILPIN COUNTY BANK	BLACK HAWK	CO	07/19/85
2407	GIROD TRUST COMPANY	SAN JUAN	PR	08/16/84
2785	GLOBAL BANK OF MIAMI	HIALEAH	FL	02/12/88
7418	GOLD COAST SAVINGS BANK	PLANTATION	FL	08/23/91
7837	GOLD COAST SAVINGS BANK	PLANTATION	FL	10/19/90
2118	GOLD RIVER SAVINGS BANK	FAIR OAKS	CA	09/27/91
7148	GOLDEN CIRCLE SA, FSB	CORSICANA	TX	08/24/90
8510	GOLDEN CIRCLE SA, FSB	CORSICANA	TX	03/31/89
5580	GOLDEN PACIFIC NATIONAL BANK	NEW YORK	NY	06/21/85
2431	GOLDEN SPIKE STATE BANK	TREMONTON	UT	12/04/84
7989	GOLDEN STATE BANK	IRVINE	CA	08/13/93
1260	GOLDEN STATE FSB	SHERMAN OAKS	CA	04/08/94
8509	GOLDEN TRIANGLE S & LA	BRIDGE CITY	TX	03/16/89
7204	GOLDEN TRIANGLE S & LA	BRIDGE CITY	TX	10/12/90
2450	GOLDEN VALLEY BANK	TURLOCK	CA	03/22/85
4363	GOLDOME	BUFFALO	NY	05/31/91
3955	GOLDOME	BUFFALO	NY	03/26/82
1264	GOLDOME FSB	ST. PETERSBURG	FL	04/15/94
7793	GOLDOME SAVINGS ASSOCIATION	ST. PETERSBURG	FL	05/31/91
2588	GRAETTINGER STATE BANK	GRAETTINGER	IA	08/08/86
5967	GRAND CANYON STATE BANK	SCOTTSDALE	AZ	05/19/89
8448	GRAND FEDERAL SAVINGS BANK	GROVE	OK	02/12/89
7215	GRAND PRAIRIE FS & LA	STUTTGART	AR	11/09/90
8825	GRAND PRAIRIE FS & LA	STUTTGART	AR	01/26/90
4430	GRANITE CO-OPERATIVE BANK	QUINCY	MA	12/12/91
7705	GREAT AMERICAN	SAN DIEGO	CA	08/09/91
7182	GREAT AMERICAN FS & LA	OAK PARK	IL	09/21/90
7256	GREAT AMERICAN FS & LA	CORINTH	MS	12/14/90
8224	GREAT AMERICAN FS & LA	OAK PARK	IL	02/16/90
8862	GREAT AMERICAN FS & LA	CORINTH	MS	03/16/90
1279	GREAT AMERICAN FSA	SAN DIEGO	CA	05/13/94
8428	GREAT ATLANTIC SAVINGS BANK FSB	MANTEO	NC	03/30/89
6916	GREAT ATLANTIC SAVINGS BANK, FSB	MANTEO	NC	09/15/89
7333	GREAT LIFE SAVINGS ASSOCIATION	SUNRISE	FL	06/21/91
8885	GREAT LIFE SAVINGS ASSOCIATION	SUNRISE	FL	06/01/90
8582	GREAT PLAINS SAVINGS ASSOC	WEATHERFORD	OK	10/26/89
7137	GREAT PLAINS SAVINGS ASSOC	WEATHERFORD	OK	08/17/90
7078	GREAT SOUTHERN FEDERAL SAVINGS ASSOC	SAVANNAH	GA	06/22/90
8570	GREAT SOUTHERN FEDERAL SAVINGS ASSOC	SAVANNAH	GA	06/22/89
8878	GREAT WEST FEDERAL SAVINGS BANK	CRAIG	CO	05/11/90
7406	GREAT WEST FEDERAL SAVINGS BANK	CRAIG	CO	08/16/91

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
4280	GREAT WESTERN NATIONAL BANK	LEWISVILLE	TX	09/27/90
4014	GREATER TEXAS BANK LEANDER	LEANDER	TX	05/04/89
4121	GREATER TEXAS BANK, NORTH, N.A	AUSTIN	TX	11/30/89
4122	GREATER TEXAS BANK, SOUTHWEST	AUSTIN	TX	11/30/89
4544	GREENWOOD BANK OF BETHEL, INC	BETHEL	CT	11/06/92
7299	GREENWOOD FS & LA	GREENWOOD	MS	05/31/91
8289	GREENWOOD FS & LA	GREENWOOD	MS	02/23/90
8597	GUADALUPE S&L ASSOC. F.A	KERRVILLE	TX	08/17/89
7053	GUALDALUPE S & L ASSOC. F.A	KERRVILLE	TX	06/08/90
2825	GUARANTY BANK	DALLAS	TX	06/02/88
2315	GUARANTY BOND STATE BANK	RED WATER	TX	07/28/82
7546	GUARANTY FEDERAL	CASPER	WY	12/12/86
8684	GUARANTY FEDERAL SAVINGS BANK	FAYETTEVILLE	NC	07/27/90
7322	GUARANTY FEDERAL SAVINGS BANK	FAYETTEVILLE	NC	06/14/91
7819	GUARANTY FEDERAL SAVINGS BANK	WARNER ROBINS	GA	05/10/91
2176	GUARANTY FEDERAL SAVINGS BANK	WARNER ROBINS	GA	03/13/92
6978	GUARANTY FS & LA	BIRMINGHAM	AL	05/04/90
8304	GUARANTY FS & LA	BIRMINGHAM	AL	02/17/89
7691	GUARANTY FSB (SW015)	DALLAS	TX	12/30/93
8429	GUARANTY SAVINGS BANK, INC	FAYETTEVILLE	NC	02/12/89
2400	GUARANTY STATE BANK OF SAINT PAUL	ST PAUL	MN	07/19/84
4545	GUARANTY-FIRST TRUST CO	WALTHAM	MA	11/13/92
7524	GUARANTY/GUARANTY FSLA	HARRISON	AR	12/06/85
7528	GUARANTY/OLYMPIC SAVINGS BANK	LONGVIEW	WA	03/21/86
1293	GUARDIAN BANK	BOCA RATON	FL	07/15/94
4619	GUARDIAN BANK	LOS ANGELES	CA	01/20/95
8901	GUARDIAN BANK	BOCA RATON	FL	03/16/93
4190	GUARDIAN BANK	SCOTTSDALE	AZ	04/26/90
5973	GUARDIAN BANK N.A	HEMPSTEAD	NY	06/21/89
1296	GUARDIAN FSA	HUNTINGTON BEACH	CA	07/29/94
7828	GUARDIAN SAVINGS & LOAN ASSOC	HUNTINGTON BCH	CA	06/21/91
8569	HABERSHAM FEDERAL SAVINGS	ATLANTA	GA	06/22/89
6920	HABERSHAM FEDERAL SAVINGS & LOAN	CORNELIA	GA	09/21/89
2446	HALIFAX NATIONAL BANK OF PORT ORANGE	PORT ORANGE	FL	03/01/85
7005	HALLMARK S & L ASSOC	PLANO	TX	05/16/90
8600	HALLMARK S & L ASSOC F.A	PLANO	TX	07/27/89
2698	HAMILTON COUNTY STATE BANK	LOCKLAND	OH	06/12/87
1265	HANSEN FSA	HAMMONTON	NJ	04/15/94
1294	HANSEN FSB	PALM BEACH GARDENS	FL	07/22/94
7838	HANSEN SAVINGS BANK	PALM BEACH GARDENS	FL	01/10/92
7788	HANSEN SAVINGS BANK, SLA	HAMMONTON	NJ	01/10/92
7664	HANSEN SB (C329)	EAST BRUNSWICK	NJ	08/09/89
4403	HARBOR NATIONAL BANK OF CONNECTICUT	BRANFORD	CT	10/03/91
5927	HARRIS COUNTY BANK, N.A	HOUSTON	TX	02/25/88
4001	HARVARD BANK	TULSA	OK	03/30/89
8851	HAVEN FS & LA	WINTER HAVEN	FL	03/02/90
7245	HAVEN FS & LA	WINTER HAVEN	FL	12/07/90
5932	HAYESVILLE SAVINGS BANK	HAYESVILLE	IA	03/10/88
2621	HAYS STATE BANK	HAYS	KS	12/04/86
7025	HEARNE BUILDING & LOAN ASSOC. F.A	HEARNE	TX	05/25/90
8586	HEARNE BUILDING & LOAN ASSOC. F.A	HEARNE	TX	08/17/89
6000	HEARTLAND FEDERAL SAVINGS & LOAN ASSOC	PONCA CITY	OK	10/08/93
7433	HEARTLAND S & LA	LA MESA	CA	09/06/91
4299	HEIGHTS BANK	HARKER HEIGHTS	TX	12/07/90
7609	HEIGHTS OF TEXAS, SSB	DALLAS	TX	01/01/90
4026	HELOTES STATE BANK	HELOTES	TX	06/15/89
8689	HENDERSON HOME FS & LA	HENDERSON	KY	02/02/90
7233	HENDERSON HOME FS & LA	HENDERSON	KY	11/30/90
6505	HEREFORD STATE BANK	HEREFORD	CO	08/24/84
6966	HERITAGE BANC SAVINGS ASSOCIATION	DUNCANVILLE	TX	04/20/90
6465	HERITAGE BANK	ANAHEIM	CA	03/16/84
2343	HERITAGE BANK	ASHLAND	OR	04/29/83
6852	HERITAGE BANK AND TRUST	SALT LAKE	UT	04/28/87
4553	HERITAGE BANK FOR SAVINGS	HOLYOKE	MA	12/04/92
2373	HERITAGE BANK OF BUREAU COUNTY	DEPUE	IL	02/08/84
7300	HERITAGE FEDERAL SAVINGS ASSOCIATION	LANCASTER	PA	05/31/91
7180	HERITAGE FS & LA	MONROE	NC	09/21/90
8427	HERITAGE FS & LA	MONROE	NC	03/30/89
7235	HERITAGE FSB	OMAHA	NE	11/30/90
8248	HERITAGE FSB	OMAHA	NE	02/16/90
2601	HERITAGE NATIONAL BANK	RICHARDSON	TX	09/25/86
8191	HERITAGE NATIONAL BANK	RICHARDSON	TX	09/01/86

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
2764	HERITAGE NATIONAL BANK	AUSTIN	TX	12/10/87
7815	HERITAGE SAVINGS ASSOCIATION	LANCASTER	PA	07/06/90
7344	HERITAGE SAVINGS BANK, FSB	RICHMOND	VA	07/05/91
7805	HERITAGE SAVINGS BANK, FSB	RICHMOND	VA	10/19/90
7146	HERITAGE SAVINGS & LOAN	JERSEYVILLE	IL	08/24/90
7414	HERITAGE SAVINGS & LOAN ASSOCIATION	LAMAR	CO	08/23/91
8626	HERITAGE SAVINGS & LOAN ASSOCIATION	JERSEYVILLE	IL	08/24/89
8552	HERITAGE BANC SA	DUNCANVILLE	TX	03/31/89
8872	HERTIAGE SAVINGS & LOAN ASSOC	LAMAR	CO	04/20/90
7226	HIAWATHA SAVINGS & LOAN ASSN	HIAWATHA	KS	11/16/90
8214	HIAWATHA SAVINGS & LOAN ASSN	HIAWATHA	KS	03/09/90
4060	HIDALGO COUNTY BANK & TRUST	MERCEDES	TX	07/26/89
7375	HIDALGO SAVINGS & LOAN ASSN	EDINBURG	TX	08/09/91
7791	HIDALGO SAVINGS & LOAN ASSN	EDINBURG	TX	09/21/90
2291	HIGH LAKES COMMUNITY BANK	LA PINE	OR	10/23/81
2898	HIGHLAND PARK NATIONAL BANK	DALLAS	TX	08/25/88
4517	HIGHLANDS COMMUNITY BANK, NA	CLINTON TOWNSHIP	NJ	09/25/92
8541	HILL FINANCIAL S & LA	RED HILL	PA	03/09/89
6939	HILL FINANCIAL SA	RED HILL	PA	10/13/89
4392	HILLSBOROUGH BANK & TRUST COMPANY	MILFORD	NH	08/30/91
4394	HILTON HEAD BANK & TRUST COMPANY, N.A	HILTON HEAD ISLAND	SC	08/30/91
4030	HOBBY COMMUNITY BANK	HOBBY	TX	06/29/89
6399	HOHENWALD BANK AND TRUST COMPANY	HOHENWALD	TN	09/03/82
7734	HOLLYWOOD FEDERAL	HOLLYWOOD	FL	02/22/91
1298	HOLLYWOOD FSB	HOLLYWOOD	FL	08/19/94
7212	HOME FEDERAL	WORCHESTER	MA	11/09/90
8665	HOME FEDERAL	WORCHESTER	MA	06/08/90
7446	HOME FEDERAL BANK FOR SAVINGS	WAUKEGAN	IL	09/13/91
8296	HOME FEDERAL BANK FOR SAVINGS	WAUKEGAN	IL	12/14/90
8584	HOME FEDERAL S & L ASSOC OF MEMPHIS	MEMPHIS	TN	07/20/89
7066	HOME FEDERAL S & L ASSOC OF MEMPHIS	MEMPHIS	TN	06/15/90
7749	HOME FEDERAL SAVINGS & LOAN ASSN	ALGONA	IA	04/26/91
2154	HOME FEDERAL SAVINGS & LOAN ASSN	ALGONA	IA	01/31/92
2119	HOME FEDERAL SAVINGS & LOAN ASSOCIATION	HARLAN	IA	09/27/91
6991	HOME FEDERAL SAVINGS & LOAN ASSOCIATION	CENTRALIA	IL	05/08/90
6909	HOME FEDERAL SAVINGS & LOAN ASSOC	MOUNTAIN HOME	AR	08/25/89
8316	HOME FS & LA	MOUNTAIN HOME	AR	03/02/89
8370	HOME FS & LA CENTRALIA	CENTRALIA	IL	03/16/89
8363	HOME FS & LA OF JOLIET	JOLIET	IL	03/16/89
7214	HOME FS & LA OF JOLIET	JOLIET	IL	11/09/90
1305	HOME FSB	NORFOLK	VA	09/30/94
4211	HOME NATIONAL BANK OF MILFORD	MILFORD	MA	06/01/90
8879	HOME OWNERS SAVINGS BANK FSB	BOSTON	MA	04/27/90
7161	HOME OWNERS SAVINGS BANK FSB	BOSTON	MA	09/07/90
8535	HOME PLAN S & LA	JOHNSTON	IA	02/27/89
8232	HOME SAVINGS ASSOCIATION	KANSAS CITY	MO	03/15/91
2202	HOME SAVINGS ASSOCIATION	KANSAS	MO	03/27/92
7963	HOME SAVINGS BANK	NORFOLK	VA	07/10/92
8883	HOME SAVINGS BANK	SALT LAKE CITY	UT	05/18/90
3533	HOME SAVINGS BANK	BROOKLYN	NY	12/31/85
6947	HOME SAVINGS BANK	ANCHORAGE	AK	01/12/90
2162	HOME SAVINGS BANK	SALT LAKE CITY	UT	02/28/92
8302	HOME SAVINGS BANK	ANCHORAGE	AK	03/02/89
7080	HOME SAVINGS & LOAN ASSOC., F.A	NEW ORLEANS	LA	06/22/90
8577	HOME SAVINGS & LOAN ASSOC., F.A	NEW ORLEANS	LA	08/07/89
5935	HOME STATE BANK	TRENT	TX	04/07/88
4495	HOME STATE BANK, LONGTON, KANSAS	LONGTON	KS	06/04/92
7728	HOME UNITY	LAFAYETTE HILL	PA	06/05/92
1233	HOME UNITY FED	LAFAYETTE HILL	PA	08/27/93
7913	HOMEBANK FEDERAL SAVINGS BANK	GILFORD	NH	10/10/91
1295	HOMEBANK FSA	GILFORD	NH	07/22/94
7933	HOMEFED BANK	SAN DIEGO	CA	07/06/92
1243	HOMEFED BANK, F.A	SAN DIEGO	CA	12/03/93
1236	HOMESTEAD FSA	SAN FRANCISCO	CA	09/17/93
1261	HOMESTEAD FSA	MIDDLETOWN	PA	04/08/94
7978	HOMESTEAD SAVINGS	SAN FRANCISCO	CA	10/30/92
7926	HOMESTEAD SAVINGS ASSOCIATION	MIDDLETOWN	PA	08/30/91
7544	HOMESTEAD/MIDFIRST SLA	WOODWARD	OK	10/10/86
4518	HOMETOWN BANK	EDISON	NJ	09/25/92
8887	HOMETOWN FEDERAL SAVINGS ASSOCIATION	DELPHI	IN	06/08/90
7257	HOMETOWN FEDERAL SAVINGS ASSOCIATION	DELPHI	IN	12/14/90
8276	HOMETOWN SAVINGS & LOAN ASSOCIATION, F.A	WINFIELD	IL	08/03/90

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
7301	HOMETOWN SAVINGS & LOAN ASSOC, F.A	WINFIELD CITY	IL	05/31/91
8583	HORIZON FINANCIAL, FA	SOUTHAMPTON	PA	06/08/89
7021	HORIZON FINANCIAL, FA	SOUTHHAMPTON	PA	05/25/90
8390	HORIZON FS & LA	METAIRIE	LA	02/17/89
7011	HORIZON FS & LA	METAIRIE	LA	05/18/90
8227	HORIZON SAVINGS BANK, F.S.B	WILMETTE	IL	01/11/90
7282	HORIZON SAVINGS BANK, F.S.B	WILMETTE	IL	03/08/91
5924	HOUSTON COMMERCE BANK	HOUSTON	TX	01/28/88
2649	HUB CITY BANK & TRUST COMPANY	LAFAYETTE	LA	02/20/87
4151	HUFFMAN BANK	HUFFMAN	TX	02/15/90
4221	HULEN NATIONAL BANK	FORT WORTH	TX	06/07/90
8494	HUMBLE S & LA	HUMBLE	TX	03/09/89
6919	HUMBLE SAVINGS & LOAN ASSOCIATION	HUMBLE	TX	09/15/89
4552	HUNTINGTON PACIFIC THRIFT & LOAN	HUNTINGTON BEACH	CA	12/04/92
8829	HUNTINGTON S & LA	HUNTINGTON BEACH	CA	02/09/90
7099	HUNTINGTON S & LA	HUNTINGTON BEACH	CA	06/22/90
7133	ILLINOIS SAVINGS BANK	PEORIA	IL	08/17/90
8537	ILLINOIS SAVINGS BANK	PEORIA	IL	03/16/89
4176	IMPERIAL BANK	CORAL GABLES	FL	03/30/90
7285	IMPERIAL FEDERAL SAVINGS ASSN	SAN DIEGO	CA	04/19/91
8206	IMPERIAL SAVINGS ASSN.	SAN DIEGO	CA	02/23/90
4462	INDEPENDENCE BANK	PLANO	TX	03/19/92
4446	INDEPENDENCE BANK	LOS ANGELES	CA	01/30/92
8310	INDEPENDENCE FS & LA	BATESVILLE	AR	02/17/89
7164	INDEPENDENCE FS & LA	BATESVILLE	AR	09/07/90
8526	INDEPENDENCE S & LA	VALLEJO	CA	03/31/89
6941	INDEPENDENCE SAVINGS & LOAN ASSOC	VALLEJO	CA	10/20/89
5974	INDEPENDENT BANK—EAST N.A.	ROCKWALL	TX	06/30/89
5977	INDEPENDENT BANK, N.A	COPPELL	TX	07/14/89
5757	INDEPENDENT NATIONAL BANK	COVINA	CA	10/09/86
4166	INDEPENDENT NATIONAL BANK	PHOENIX	AZ	03/15/90
6455	INDIAN SPRINGS STATE BANK	KANSAS CITY	KS	01/27/84
2980	INDUSTRIAL BANK	HOUSTON	TX	03/23/89
2546	INDUSTRIAL NATL. BANK OF EAST CHICAGO	EAST CHICAGO	IN	04/03/86
4274	INGRAM STATE BANK	INGRAM	TX	09/14/90
7526	INTERCAPITAL/GREAT WESTERN	JACKSONVILLE	FL	02/14/86
7341	INTERNATIONAL SAVINGS & LOAN ASSN	N. MIAMI BEACH	FL	07/05/91
7880	INTERNATIONAL SAVINGS & LOAN ASSN	MIAMI BEACH	FL	10/12/90
5965	INTERSTATE BANK OF COMMERCE	MIAMI	FL	03/31/89
7150	INVESTMENT FS & LA	WOODLAND HILLS	CA	08/24/90
8823	INVESTMENT FS & LA	CHATSORTH	CA	01/11/90
8860	INVESTOR FSB	NASHVILLE	TN	03/09/90
7314	INVESTOR FSB	NASHVILLE	TN	06/07/91
7315	INVESTOR OF FLORIDA SAVINGS BANK	DEERFIELD BEACH	FL	06/07/91
4547	INVESTORS BANK & TRUST CO	GRETNA	LA	11/13/92
1215	INVESTORS FSB	RICHMOND	VA	07/10/92
8843	INVESTORS OF FLORIDA SAVINGS BANK	DEERFIELD BEACH	FL	06/01/90
7917	INVESTORS SAVINGS BANK	RICHMOND	VA	12/13/91
7569	INVESTORS SLA/MIDWEST FED	EL RENO	OK	03/25/88
2445	INWOOD STATE BANK	INWOOD	IA	02/19/85
4405	IONA SAVINGS BANK	TILTON	NH	10/11/91
4246	IREDELL STATE BANK	IREDELL	TX	07/12/90
7954	IRVING FB	CHICAGO	IL	11/20/92
1254	IRVING FB FOR SAVINGS	CHICAGO	IL	03/18/94
2163	IRVING SAVINGS & LOAN ASSN	PATERSON	NJ	02/07/92
8272	IRVING SAVINGS & LOAN ASSN	PATERSON	NJ	01/18/91
7936	IRVINGTON FEDERAL SAVINGS & LOAN ASSOCIA	BALTIMORE	MD	02/28/92
1230	IRVINGTON FSB	GLEN BURNIE	MD	08/20/93
2976	ISLAND BANK	SOUTH PADRE ISLAND	TX	03/16/89
7681	JACKSON COUNTY FEDERAL BANK, FSB (C381)	MEDFORD	OR	01/02/92
2403	JACKSON COUNTY NATIONAL BANK	TUCKERMAN	AR	08/09/84
4487	JACKSON EXCHANGE BANK AND TRUST COMPANY	JACKSON	MO	05/07/92
1262	JACKSONVILLE FSA	JACKSONVILLE	FL	04/08/94
7964	JACKSONVILLE FSB	JACKSONVILLE	FL	06/26/92
7323	JASPER FS & LA	JASPER	TX	06/14/91
8473	JASPER FS & LA	JASPER	TX	03/16/89
4588	JEFFERSON BANK & TRUST	LAKEWOOD	CO	07/02/93
7868	JEFFERSON FEDERAL SAVINGS & LOAN ASSN	BIRMINGHAM	AL	03/08/91
2177	JEFFERSON FEDERAL SAVINGS & LOAN ASSN	BIRMINGHAM	AL	03/13/92
8043	JEFFERSON GUARANTY BANK	METAIRIE	LA	02/01/88
4565	JEFFERSON NATIONAL BANK	WATERTOWN	NY	02/26/93
8476	JEFFERSON S & LA	BEAUMONT	TX	03/16/89

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
7147	JEFFERSON S & LA	BEAUMONT	TX	08/24/90
2805	JENNINGS BANK	JENNINGS	KS	04/14/88
8237	JENNINGS FEDERAL SAVINGS ASSOCIATION	JENNINGS	LA	05/18/90
7388	JENNINGS FEDERAL SAVINGS ASSOCIATION	JENNINGS	LA	08/02/91
7844	JOHN HANSEN SAVINGS BANK	BELTSVILLE	MD	04/26/91
1286	JOHN HANSON FSB	BELTSVILLE	MD	06/10/94
7511	JOHN SEVIER/NEW/CHARTER	SEVIERVILLE	TN	11/16/84
2534	JOHNSON COUNTY BANK	TECUMSEAH	NE	02/07/86
7407	JONESBORO FEDERAL SAVINGS ASSOCIATION	JONESBORO	LA	08/16/91
8884	JONESBORO FEDERAL SAVINGS ASSOCIATION	JONESBORO	LA	05/18/90
2483	KANSAS AMERICAN BANK	OVERLAND PARK	KS	07/25/85
8638	KARNES COUNTY FS & LA	KARNES CITY	TX	01/18/90
7248	KARNES COUNTY FS & LA	KARNES CITY	TX	12/07/90
4012	KATY NATIONAL BANK	KATY	TX	05/04/89
4447	KEMPTON STATE BANK	KEMPTON	IL	02/07/92
7589	KEY SLA/COMMERCIAL FEDERAL	ENGLEWOOD	CO	11/18/88
2829	KINGSLAND NATIONAL BANK	KINGSLAND	TX	06/16/88
5991	KIRBY STATE BANK	SAN ANTONIO	TX	09/14/89
7517	KNOX FSLA/NEW/CHARTER	KNOXVILLE	TN	11/16/84
8490	LA HACIENDA SAVINGS ASSOCIATION	SAN DIEGO	TX	03/02/89
6985	LA HACIENDA SAVINGS ASSOC	SAN ANTONIO	TX	05/04/90
2723	LA MARQUE BANK	LA MARQUE	TX	09/10/87
5987	LA SALLE STATE BANK	LA SALLE	LA	09/07/89
8594	LAFAYETTE S & L ASSOC., F. A	GRETNA	LA	07/27/89
7033	LAFAYETTE S & L ASSOC., F.A	GRENTINA	LA	06/01/90
8010	LAGO NATIONAL BANK	LAGO VISTA	TX	04/21/86
5781	LAGO VISTA NATIONAL BANK	LAGO VISTA	TX	12/18/86
2691	LAKE AUSTIN NATIONAL BANK	AUSTIN	TX	05/21/87
5970	LAKE COUNTRY NATIONAL BANK	BURNET	TX	06/08/89
2521	LAKE NATIONAL BANK	LAKE OSARK	MO	12/13/85
7145	LAKELAND FSB	DETROIT LAKES	MN	08/24/90
8238	LAKELAND FSB	DETROIT LAKES	MN	03/16/90
2626	LAKELAND STATE BANK	PEQUOT LAKES	MN	12/19/86
4235	LAKELAND STATE BANK	AUSTIN	TX	06/21/90
2913	LAKELAND STATE BANK	CAMDEN COUNTY	MO	09/01/88
2971	LAKEWAY NATIONAL BANK	AUSTIN	TX	03/09/89
4496	LANDMARK BANK FOR SAVINGS	WHITMAN	MA	06/12/92
4448	LANDMARK BANK OF FORT WORTH	FORT WORTH	TX	02/06/92
2625	LANDMARK NATIONAL BANK	DENVER	CO	12/18/86
7088	LANDMARK SAVINGS BANK, FSB	HOT SPRINGS	AR	06/22/90
8311	LANDMARK SAVINGS BANK, FSB	HOT SPRINGS	AR	03/02/89
4373	LANDMARK THRIFT & LOAN ASSOCIATION	SAN DIEGO	CA	07/12/91
2704	LANESBORO STATE BANK	LANESBORO	MN	06/25/87
7398	LARCHMONT FS & LA	LARCHMONT	NY	08/09/91
7575	LARUE FEDERAL SLA	HODGENVILLE	KY	06/03/88
2633	LATIMER BANK & TRUST	LATIMER	IA	01/15/87
1244	LEMONT FSA	LEMONT	IL	02/25/94
7935	LEMONT SAVINGS ASSOCIATION	LEMONT	IL	02/28/92
2765	LEWIS AND CLARK STATE BANK	LAKE OSWEGO	OR	12/11/87
4016	LEWIS COUNTY SAVINGS & LOAN CO	WESTON	WV	05/12/89
4015	LEXINGTON STATE BANK	LEXINGTON	TX	05/11/89
5986	LIBERTY BANK	PHOENIX	AZ	09/01/89
2655	LIBERTY BANK	HOUSTON	TX	03/05/87
2703	LIBERTY BANK AND TRUST COMPANY	GREENWOOD	LA	06/24/87
2925	LIBERTY BANK & TRUST COMPANY	WARSAW	IN	10/03/88
8450	LIBERTY BELL SA	BEAVER FALLS	PA	03/09/89
6943	LIBERTY BELL SAVINGS AND LOAN	BEAVER FALLS	PA	12/15/89
4165	LIBERTY CITY STATE BANK	KILGORE	TX	03/15/90
7354	LIBERTY COUNTY FS & LA	LIBERTY	TX	07/19/91
8499	LIBERTY COUNTY FS & LA	LIBERTY	TX	03/09/89
7584	LIBERTY FEDERAL	RATON	NM	10/07/88
6902	LIBERTY FEDERAL SAVINGS AND LOAN ASSOC	NEW PORT RICHEY	FL	08/10/89
8350	LIBERTY FS & LA	NEW PORT RICHEY	FL	03/16/89
1257	LIBERTY FSB	WARRENTON	VA	03/25/94
8578	LIBERTY FSB	RANDALLSTOWN	MD	02/09/90
4359	LIBERTY NATIONAL BANK	LOVINGTON	NM	05/23/91
4023	LIBERTY NATIONAL BANK	DALLAS	TX	05/25/89
2155	LIBERTY SAVINGS BANK	MARIETTA	OH	01/31/92
8683	LIBERTY SAVINGS BANK	MARIETTA	OH	05/03/91
7264	LIBERTY SAVINGS BANK, FSB	RANDALLSTOWN	MD	01/04/91
8837	LIBERTY SAVINGS & LOAN ASSN	HUNTINGTON PARK	CA	11/16/90
7316	LIBERTY SAVINGS & LOAN ASSOC	HUNTINGTON PARK	CA	06/07/91

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
7556	LIBERTY SLA	LEESVILLE	LA	04/24/87
6969	LIBERTYVILLE FEDERAL SAVINGS & LOAN ASSO	LIBERTYVILLE	IL	04/27/90
8367	LIBERTYVILLE FS & LA	LIBERTYVILLE	IL	03/31/89
7960	LIBERY SAVINGS BANK	WARRENTON	VA	07/17/92
1249	LIFE FSB	CLEARWATER	FL	03/11/94
1258	LIFE FSB	BATON ROUGE	LA	03/25/94
7977	LIFE SAVINGS BANK	BATON ROUGE	LA	01/29/93
8896	LIFE SAVINGS BANK	CLEARWATER	FL	10/11/91
7549	LIFE SAVINGS/TCF BANKING	BELOIT	KS	02/27/87
7064	LINCOLN FS & LA	MT. CARMEL	TN	06/15/90
8451	LINCOLN FS & LA	MT. CARMEL	TN	03/09/89
2812	LINCOLN NATIONAL BANK	ARLINGTON	TX	05/05/88
8531	LINCOLN S & LA	MIAMI	FL	03/16/89
7047	LINCOLN S & LA	MIAMI	FL	06/08/90
8560	LINCOLN SAVINGS & LOAN	LOS ANGELES	CA	04/14/89
7283	LINCOLN SAVINGS & LOAN	IRVINE	CA	03/08/91
2480	LINN COUNTY STATE BANK	LINNEUS	MO	07/19/85
2974	LIVINGSTON BANK	DENHAM SPRINGS	LA	03/16/89
7696	LOCAL AMERICAN BANK OF TULSA (SW024)	TULSA	OK	02/08/94
4321	LOCKHART STATE BANK	LOCKHART	TX	02/07/91
2563	LONE ROCK BANK, NATIONAL ASSOCIATION	LONE ROCK	IA	05/29/86
2819	LONE STAR BANK	BAYTOWN	TX	05/26/88
4291	LONE STAR NATIONAL BANK	DALLAS	TX	11/02/90
7654	LONG ISLAND SB (C274)	SYOSSET	NY	08/09/89
4621	LOS ANGELES THRIFT AND LOAN COMPANY	LOS ANGELES	CA	03/31/95
2760	LOUISIANA BANK AND TRUST COMPANY	CROWLEY	LA	12/10/87
8677	LOUISIANA SAVINGS ASSN.	LAKE CHARLES	LA	12/14/89
2967	LOUISIANA BANK AND TRUST COMPANY	SHREVEPORT	LA	02/16/89
2775	LOUISIANA COMMERCIAL BANK	MADISONVILLE	LA	01/21/88
8838	LOUISIANA FEDERAL SAVINGS BANK	KENNER	LA	11/09/90
7447	LOUISIANA FEDERAL SAVINGS BANK	KENNER	LA	09/13/91
7448	LOUISIANA SAVINGS ASSN.	LAKE CHARLES	LA	09/13/91
4118	LOVE FIELD NATIONAL BANK	DALLAS	TX	11/16/89
4393	LOWELL INSTITUTION FOR SAVINGS	LOWELL	MA	08/30/91
7898	LUDINGTON SAVINGS BANK	LUDINGTON	MI	05/17/91
2161	LUDINGTON SAVINGS BANK	LUDINGTON	MI	02/07/92
4618	LUDLOW SAVINGS BANK	LUDLOW	MA	10/20/94
8051	M BANK	DALLAS	TX	01/26/89
3970	M BANK BONNETT	DALLAS	TX	11/02/94
2476	MADISON BANK	MADISON	KS	07/02/85
2751	MADISON BANK AND TRUST COMPANY	RICHMOND	LA	12/03/87
8364	MADISON COUNTY FS & LA	GRANITE	IL	03/16/89
7012	MADISON COUNTY FS & LA	GRANITE CITY	IL	05/18/90
7236	MADISON GUARANTY S & LA	MCCRORY	AR	11/30/90
8313	MADISON GUARANTY S & LA	AUGUSTA	AR	03/02/89
4352	MADISON NATIONAL BANK	WASHINGTON	DC	05/10/91
4353	MADISON NATIONAL BANK OF VIRGINIA	MCLEAN	VA	05/10/91
7660	MAGIC VALLEY (C299)	WESLACO	TX	08/09/89
7593	MAGNOLIA FEDERAL SAVINGS & LOAN	KNOXVILLE	TN	06/07/85
4311	MAINE NATIONAL BANK	PORTLAND	ME	01/06/91
8710	MAINE NATIONAL BANK	PORTLAND	ME	01/06/91
3972	MAINE SAVINGS ASSET PURCHASE	HARTFORD	CT	05/11/95
4320	MAINE SAVINGS BANK	PORTLAND	ME	02/01/91
7529	MAINLAND	HOUSTON	TX	04/04/86
7762	MAINSTAY FEDERAL SAVINGS BANK	RED BANK	NJ	07/20/90
2120	MAINSTAY FEDERAL SAVINGS BANK	RED BANK	NJ	09/27/91
7538	MAJOR FEDERAL/BEACON FED	CINCINNATI	OH	07/25/86
4490	MALDEN TRUST COMPANY	MALDEN	MA	05/15/92
7820	MALIBU SAVINGS BANK	MALIBU	CA	01/11/91
7366	MALIBU SAVINGS BANK	MALIBU	CA	07/19/91
8333	MANHATTAN BEACH S & LA	MANHATTAN BEACH	CA	02/12/89
6933	MANHATTAN BEACH SAVINGS	MANHATTAN BEACH	CA	02/10/89
4330	MANILA BANK	LOS ANGELES	CA	03/08/91
7503	MANNING/ST. PAUL FSLA	CHICAGO	IL	02/03/83
8799	MARIAN BANK	PHILADELPHIA	PA	04/16/92
1226	MARINE VIEW FSB	MIDDLETOWN	NJ	08/06/93
7928	MARINE VIEW SAVINGS BANK	MIDDLETOWN	NJ	11/01/91
7671	MARINER FEDERAL (C277)	SEATTLE	WA	08/09/89
4596	MARITIME BANK OF CALIFORNIA	LOS ANGELES	CA	08/27/93
5806	MARKET NATIONAL BANK	DENVER	CO	02/05/87
2686	MARLIN NATIONAL BANK	MARLIN	TX	05/14/87
3962	MARQUETTE NAT'L BANK ASSET PURCHASE	MINNEAPOLIS	MN	05/07/92

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
5943	MARSHALL COUNTY BANK	BRITTON	SD	08/19/88
7112	MARSHALL SAVINGS ASSN.	MARSHALL	TX	06/29/90
8253	MARSHALL SAVINGS ASSN.	MARSHALL	TX	01/18/90
4507	MASSACHUSETTS BANK & TRUST CO	BROCKTON	MA	07/31/92
4494	MAYFAIR BANK	CHICAGO	IL	06/04/92
5962	MBANK—ABILENE	ABILENE	TX	03/29/89
4000	MBANK—ALAMO, SAN ANTONIO	SAN ANTONIO	TX	03/29/89
2982	MBANK—AUSTIN	AUSTIN	TX	03/29/89
2983	MBANK—BRENHAM	BRENHAM	TX	03/29/89
2984	MBANK—CORSICANA	CORSICANA	TX	03/29/89
2985	MBANK—DALLAS	DALLAS	TX	03/29/89
2986	MBANK—DENTON COUNTY	DENTON COUNTY	TX	03/29/89
2999	MBANK—FORT WORTH	FORT WORTH	TX	03/29/89
2987	MBANK—GREENVILLE	GREENVILLE	TX	03/29/89
2988	MBANK—HOUSTON	HOUSTON	TX	03/29/89
2989	MBANK—JEFFERSON CITY	JEFFERSON CITY	TX	03/29/89
2990	MBANK—LONGVIEW	LONGVIEW	TX	03/29/89
2991	MBANK—MARSHALL	MARSHALL	TX	03/29/89
2992	MBANK—MID CITIES	MID CITIES	TX	03/29/89
2993	MBANK—ODESSA	ODESSA	TX	03/29/89
2994	MBANK—ORANGE	ORANGE	TX	03/29/89
2995	MBANK—ROUND ROCK	ROUND ROCK	TX	03/29/89
2996	MBANK—SHERMAN	SHERMAN	TX	03/29/89
2997	MBANK—WICHITA FALLS	WICHITA FALLS	TX	03/29/89
2998	MBANK—WOODLANDS	WOODLANDS	TX	03/29/89
2581	MC CUNE STATE BANK	MC CUNE	KS	07/23/86
2807	MCALLEN STATE BANK	MCALLEN	TX	04/19/88
2719	MCNULTY BANKING COMPANY	ST. PETERSBURG	FL	08/14/87
4606	MECHANICS NATIONAL BANK	PARAMOUNT	CA	04/01/94
4383	MECHANICS & FARMER SAVINGS BANK, FSB	BRIDGEPORT	CT	08/09/91
5992	MEDCENTRE BANK, N.A	SAN ANTONIO	TX	09/14/89
2930	MEDICAL CENTER STATE BANK	OKLAHOMA CITY	OK	10/27/88
6735	MEDICINE BOW STATE BANK	MEDICINE BOW	WY	08/08/86
4207	MEMORIAL BANK, NATIONAL ASSOCIATION	HOUSTON	TX	05/24/90
8806	MERABANK FSB	PHOENIX	AZ	01/31/90
7201	MERABANK FSB	PHOENIX	AZ	09/28/90
1206	MERABANK TEXAS	EL PASO	TX	04/03/92
7859	MERABANK TEXAS	EL PASO	TX	05/31/91
2839	MERCANTILE BANK	SAN ANTONIO	TX	06/30/88
2139	MERCANTILE SAVINGS BANK	SOUTHAVEN	MS	10/28/91
7896	MERCANTILE SAVINGS BANK	SOUTHHAVEN	MS	04/19/91
7389	MERCER SAVINGS BANK	TRENTON	NJ	08/02/91
7720	MERCER SAVINGS BANK, SLA	TRENTON	NJ	09/21/90
4449	MERCHANT NATIONAL BANK	FORT MYERS	FL	02/07/92
2335	MERCHANTS AND FARMERS STATE BANK	BLYTHE	CA	02/18/83
4550	MERCHANTS BANK	KANSAS CITY	MO	11/20/92
4202	MERCHANTS BANK OF BOSTON, A CO-OPERATIVE	BOSTON	MA	05/18/90
2975	MERCHANTS MARINE BANK	PORT ISABEL	TX	03/16/89
4432	MERCHANTS NATIONAL BANK	LEOMINSTER	MA	12/13/91
2958	MERCHANTS STATE BANK	DALLAS	TX	01/19/89
4323	MERCHANTS TRUST & SAVINGS BANK	KENNER	LA	02/14/91
7415	MERCHANTS & MERCHANTS FSB	SPRINGFIELD	OH	08/23/91
7187	MERCURY SAVINGS	HUNTINGTON BEACH	CA	09/21/90
8801	MERCURY SAVINGS	HUNTINGTON BEACH	CA	02/23/90
7666	MERCURY (SW004)	WICHITA FALLS	TX	08/09/89
8488	MERIDAN SAVINGS ASSOCIATION	ARLINGTON	TX	04/06/89
4612	MERIDEN TRUST & SAFE DEP CO	MERIDEN	CT	07/07/94
6962	MERIDIAN SAVING ASSOCIATION	ARLINGTON	TX	04/13/90
8464	MERITBANC SAVINGS ASSOCIATION	SILSBEE	TX	03/16/89
7173	MERITBANC SAVINGS ASSOCIATION	HOUSTON	TX	09/14/90
4556	MERITOR SAVINGS BANK	PHILADELPHIA	PA	12/11/92
6953	MESA FEDERAL SAVINGS & LOAN ASSN	GRAND JUNCTION	CO	02/02/90
8335	MESA FS & LA OF COLORADO	GRAND JUNCTION	CO	03/09/89
7507	METRO	LAKE CHARLES	LA	12/03/83
2356	METRO BANK	MIDLAND	TX	08/02/83
8050	METRO NATIONAL BANK	DENVER	CO	09/01/88
4546	METRO NORTH STATE BANK	KANSAS CITY	MO	11/13/92
8685	METROBANK	PALISADES PARK	NJ	06/28/91
1211	METROBANK FS & LA	PALISADES PARK	NJ	04/10/92
4625	METROBANK OF PHILADELPHIA NA	PHILADELPHIA	PA	03/08/96
2298	METROPOLITAN BANK AND TRUST COMPANY	TAMPA	FL	02/12/82
2613	METROPOLITAN BANK & TRUST COMPANY	BATON ROUGE	LA	11/07/86

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
4480	METROPOLITAN BANK, N.A.	WASHINGTON	DC	05/01/92
7680	METROPOLITAN FEDERAL, FSB (C342)	FARGO	ND	01/01/92
8624	METROPOLITAN FINANCIAL FS & LA	DALLAS	TX	08/10/89
7094	METROPOLITAN FINANCIAL FS & LA	DALLAS	TX	06/22/90
8679	METROPOLITAN FS & LA	NASHVILLE	TN	04/19/91
2203	METROPOLITAN FS & LA	NASHVILLE	TN	03/27/92
7196	METROPOLITAN FS & LA	DENVILLE	NJ	09/28/90
5937	METROPOLITAN INDUSTRIAL BANK	DENVER	CO	04/15/88
4314	METROPOLITAN NATIONAL BANK	FARMERS BRANCH	TX	01/24/91
4287	METROPOLITAN NATIONAL BANK	MCALLEN	TX	10/19/90
8438	METROPOLITIAN FS & LA	DENVILLE	NJ	04/27/89
2933	MIAMI NATIONAL BANK	MIAMI	OK	11/10/88
4167	MIAMI NATIONAL BANK	MIAMI	FL	03/22/90
8346	MIAMI SAVINGS BANK	MIAMI	FL	03/16/89
7131	MIAMI SAVINGS BANK	MIAMI	FL	08/17/90
6982	MID AMERICA FS & LA	PARSONS	KS	05/04/90
4601	MID CITY BANK NATIONAL ASSOCIATION	BREA	CA	10/21/93
8576	MID KANSAS S & L ASSOCIATION, F. A	WICHITA	KS	10/19/89
7274	MID KANSAS S & LA ASSOCIATION, F.A	WICHITA	KS	02/15/91
8419	MID MISSOURI S & LA	BOONVILLE	MO	06/29/89
6968	MID MISSOURI SAVINGS & LOAN ASSOCIATION	BOONVILLE	MO	04/27/90
6935	MID STATE SLA/KANKAKEE	CHAMPAIGN	IL	02/24/89
8029	MID VALLEY BANK	OMAK	WA	08/30/86
8385	MID-AMERICA FS & LA	PARSONS	KS	03/02/89
7258	MID-AMERICA FS & LA	COLUMBUS	OH	12/14/90
4402	MIDCOUNTY BANK AND TRUST COMPANY	NORWOOD	MA	09/27/91
2745	MIDDLE PARK BANK	GRANBY	CO	11/10/87
4399	MID-JERSEY NATIONAL BANK	SOMERVILLE	NJ	09/20/91
4572	MIDLAND BANK OF KANSAS	MISSION	KS	04/02/93
3905	MIDLAND CONSOLIDATED OFFICE	MIDLAND	TX	09/01/88
7612	MIDLAND CONSOLIDATED-FRF–CP	MIDLAND	TX	04/01/90
8444	MIDLAND-BUCKEYE FS & LA	ALLIANCE	OH	03/30/89
7160	MIDLAND-BUCKEYE FS & LA	ALLIANCE	OH	09/07/90
4132	MIDLOTHIAN NATIONAL BANK	MIDLOTHIAN	TX	12/13/89
8371	MID-STATE S & LA	CHAMPAIGN	IL	02/12/89
2292	MIDTOWN NATIONAL BANK	PUEBLO	CO	10/30/81
4206	MIDWAY NATIONAL BANK	DALLAS	TX	05/24/90
7184	MIDWEST FEDERAL SAVINGS BANK	MINOT	ND	09/21/90
8690	MIDWEST FEDERAL SAVINGS BANK	MINOT	ND	01/04/90
7203	MIDWEST FEDERAL SAVINGS & LOAN	MINNEAPOLIS	MN	10/05/90
8521	MIDWEST FEDERAL SAVINGS & LOAN	MINNEAPOLIS	MN	02/17/89
7655	MIDWEST FEDERAL (C210)	MINOT	ND	08/09/89
8433	MIDWEST FS & LA	NEBRASKA CITY	NE	02/17/89
7013	MIDWEST FS & LA	NEBRASKA CITY	NE	05/18/90
7237	MIDWEST HOME FSB	BELLEVILLE	IL	11/30/90
8365	MIDWEST HOME FSB	BELLEVILLE	IL	03/16/89
7086	MIDWESTERN S A	MACOMB	IL	06/22/90
8366	MIDWESTERN SA	MACOMB	IL	03/16/89
4245	MILFORD SAVINGS BANK	MILFORD	MA	07/06/90
2489	MINEOLA STATE BSNK	MINEOLA	IA	08/06/85
6433	MINERAL BANK OF NEVADA	LAS VEGAS	NV	06/30/83
2914	MINGO TRUST AND SAVINGS BANK	MINGO	IA	09/01/88
6983	MISSION SA OF TEXAS	SAN ANTONIO	TX	05/04/90
8480	MISSION SA OF TEXAS	SAN ANTONIO	TX	03/02/89
4415	MISSION VALLEY BANK, N.A	SAN CLEMENTE	CA	10/18/91
4454	MISSION VIEJO NATIONAL BANK	MISSION VIEJO	CA	02/28/92
7259	MISSISSIPPI SAVINGS BANK, FSB	BATESVILLE	MS	12/14/90
8880	MISSISSIPPI SAVINGS BANK, F.S.B	BATESVILLE	MS	05/08/90
2494	MISSOURI DELTA BANK	HAYTI	MO	08/29/85
2603	MISSOURI FARMERS BANK—MAITLAND, MO	MOUND CITY	MO	10/02/86
7165	MISSOURI SAVINGS ASSOCIATION	CLAYTON	MO	09/07/90
8416	MISSOURI SAVINGS ASSOCIATION	CLAYTON	MO	06/29/89
6949	MODERN FEDERAL SAVINGS & LOAN	GRAND JUNCTION	CO	01/26/90
8337	MODERN FS & LA	GRAND JUNCTION	CO	03/09/89
2281	MOHAWK BANK & TRUST CO	GREENFIELD	MA	02/16/80
2495	MONCOR BANK, N.A	HOBBS	NM	08/30/85
2497	MONCOR BANK,N.A	ROSWELL	NM	09/12/85
4144	MONROE SAVINGS BANK, FSB	ROCHESTER	NY	01/26/90
7521	MONTANA FSB	KALISPELL	MT	08/16/85
2640	MONTGOMERY COUNTY BANK, NATIONAL ASSOCIA	HOUSTON	TX	01/29/87
4243	MONTGOMERY NATIONAL BANK	ROCKY HILL	NJ	06/29/90
2178	MONYCOR SAVINGS BANK	BARRON	WI	03/13/92

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
7765	MONYCOR SAVINGS BANK	BARRON	WI	07/12/91
2770	MORAN NATIONAL BANK	MORAN	TX	01/14/88
2685	MOREAUVILLE STATE BANK	MOUREAUVILL E	LA	05/08/87
2667	MOROCCO STATE BANK	MOROCCO	IN	03/20/87
8688	MOULTRIE FEDERAL SAVINGS BANK	MOULTRIE	GA	06/15/90
7265	MOULTRIE SAVINGS BANK, FSB	MOULTRIE	GA	01/04/91
4282	MOUNTAIN RIDGE STATE BANK	WEST ORANGE	NJ	10/05/90
2582	MOUNTAIN VALLEY BANK	CONIFER	CO	07/24/86
8523	MOUNTAINWEST S & LA, A FEDERAL ASSN	OGDEN	UT	02/17/89
7029	MOUNTAINWEST S & LA, A FEDERAL ASSN	OGDEN	UT	05/25/90
2317	MT PLEASANT BANK AND TRUST COMPANY	MT PLEASANT	IA	08/06/82
7566	MT. WHITNEY/GUARDIAN SLA	EXETER	CA	02/26/88
5950	MT. ZION STATE BANK	MT. ZION	IL	11/04/88
8458	MURRAY SAVINGS ASSOCIATION	DALLAS	TX	04/06/89
7051	MURRAY SAVINGS ASSOCIATION	DALLAS	TX	06/08/90
2788	MUSTANG COMMUNITY BANK	MUSTANG	OK	02/18/88
2729	MUSTANG NATIONAL BANK	MUSTANG	OK	09/17/87
7376	MUTUAL AIDE FEDERAL SAVINGS & LOAN ASSOC	MANASQUAN	NJ	08/16/91
8874	MUTUAL AIDE FEDERAL SAVINGS & LOAN ASSOC	MANASQUAN	NJ	05/04/90
3293	MUTUAL SAVINGS BANK	NEW YORK	NY	11/04/81
7355	MUTUAL SAVINGS & LOAN ASSOCIATION	WEATHERFORD	TX	07/12/91
8221	MUTUAL SAVINGS & LOAN ASSOCIATION	WEATHERFORD	TX	06/01/90
7220	NASAU FEDERAL SAVINGS & LOAN ASSN	BROOKLYN	NY	11/16/90
4407	NASHUA TRUST COMPANY	NASHUA	NH	10/10/91
8235	NASSAU FEDERAL SAVINGS & LOAN ASSN	BROOKLYN	NY	03/16/90
7408	NASSAU S & LA	PRINCETON	NJ	08/23/91
8287	NASSAU S & LA	PRINCETON	NJ	03/09/90
8706	NATIONAL BANCSHARES CORPORATION	WASHINGTON	DC	11/01/89
5995	NATIONAL BANK OF ARIZONA	SCOTTSDALE	AZ	09/28/89
4033	NATIONAL BANK OF COMMERCE OF BROWNSVILLE	BROWNSVILLE	TX	07/13/89
5794	NATIONAL BANK OF FEDERICK	FEDERICK	OK	01/22/87
2363	NATIONAL BANK OF ODESSA	ODESSA	TX	09/30/83
5713	NATIONAL BANK OF TEXAS	AUSTIN	TX	07/02/86
2818	NATIONAL BANK OF TEXAS	HOUSTON	TX	05/19/88
2862	NATIONAL BANK, FORT SAM HOUSTON	FORT SAM HOUSTON	TX	07/29/88
4452	NATIONAL CITY BANK	CORAL SPRINGS	FL	02/21/92
4230	NATIONAL CITY BANK OF DENVER	DENVER	CO	06/14/90
2845	NATIONAL FIDELITY BANK	SHREVEPORT	LA	07/28/88
4117	NATIONAL INDUSTRIAL BANK	MERIDAN	CT	11/10/89
2307	NATIONAL SECURITY BANK	TYLER	TX	04/16/82
2378	NAT'L BANK & TRUST CO OF TRAVERSE CITY	TRAVERSE CITY	MI	03/09/84
4212	NBC BANK—AUSTIN, N.A	AUSTIN	TX	06/01/90
4213	NBC BANK—BOERNE, N.A	BOERNE	TX	06/01/90
4215	NBC BANK—HOUSTON, N.A	HOUSTON	TX	06/01/90
4216	NBC BANK—KERRVILLE, N.A	KERRVILLE	TX	06/01/90
4217	NBC BANK—RIO GRANDE VALLEY, N.A	MISSION	TX	06/01/90
4218	NBC BANK—SAN ANTONIO, N.A	SAN ANTONIO	TX	06/01/90
4219	NBC BANK—SEGUIN, N.A	SEGUIN	TX	06/01/90
4214	NBC BANK—SOUTH TEXAS, N.A	CORPUS CHRISTI	TX	06/01/90
4220	NBC BANK—UVALDE, N.A	UVALDE	TX	06/01/90
2183	NEW AGE FS & LA	ST. LOUIS	MO	03/19/92
8894	NEW ASC FS & LA	ST. LOUIS	MO	08/23/91
7225	NEW ATHENS S & LA	NEW ATHENS	IL	11/16/90
8297	NEW ATHENS S & LA	NEW ATHENS	IL	03/02/90
4594	NEW ATLANTIC BANK, N.A	NORFOLK	VA	08/12/93
4374	NEW BANK OF NEW ENGLAND (BRIDGE BANK)	BOSTON	MA	07/13/91
8599	NEW BRAUNFELS S & L ASSOC F.A	NEW BRAUNFELS	TX	07/27/89
7038	NEW BRAUNFELS S & L ASSOC. F.A	NEW BRAUNFELS	TX	06/01/90
2668	NEW CITY BANK	ORANGE	CA	03/20/87
4375	NEW CONNECTICUT BANK & TRUST (BRIDGE BANK)	HARTFORD	CT	07/13/91
4300	NEW ENGLAND ALLBANK FOR SAVINGS	GARDNER	MA	12/12/90
1247	NEW ENGLAND FSA	WELLESLEY	MA	03/04/94
7965	NEW ENGLAND FSB	WELLESLEY	MA	07/17/92
4580	NEW ENGLAND SAVINGS BANK	NEW LONDON	CT	05/21/93
8579	NEW GUARANTY FS & L ASSOC	TAYLOR	MI	07/27/89
6970	NEW GUARANTY SAVINGS	TAYLOR	MI	04/27/90
4412	NEW HAMPSHIRE SAVINGS BANK	CONCORD	NH	10/10/91
4457	NEW HERITAGE BANK	LAWRENCE	MA	03/06/92
4376	NEW MAINE NATIONAL BANK (BRIDGE BANK)	PORTLAND	ME	07/13/91
2168	NEW METROPOLITAN	HIALEAH	FL	02/28/92
8607	NEW METROPOLITAN	HIALEAH	FL	07/19/91
8354	NEW METROPOLITIAN FS & LA	HIALEAH	FL	02/12/89

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
7074	NEW MEXICO FEDERAL SAVINGS ASSOC	ALBUQUERQUE	NM	06/15/90
8580	NEW MEXICO FEDERAL SAVINGS ASSOC	ALBUQUERQUE	NM	07/20/89
2578	NEW MEXICO NATIONAL BANK	ALBUQUERQUE	NM	07/17/86
8440	NEW MEXICO S & LA	ALBUQUERQUE	NM	02/12/89
7536	NEW ORLEANS/HORIZON FEDERAL	NEW ORLEANS	LA	06/20/86
4029	NEW ULM STATE BANK	NEW ULM	TX	06/29/89
7693	NEW WEST FSLA	STOCKTON	CA	01/10/94
2741	NEW WORLD NATIONAL BANK	PITTSBURGH	PA	10/22/87
2337	NEWPORT HARBOUR NATIONAL BANK	NEWPORT BEACH	CA	03/11/83
7797	NEWTON SAVINGS BANK	NEWTON	NJ	05/03/91
2190	NEWTON SAVINGS BANK, FSA	NEWTON	NJ	03/20/92
6917	NILE VALLEY FEDERAL SAVINGS & LOAN ASSOC	SCOTTSBLUFF	NE	09/15/89
8434	NILE VALLEY FS & LA	SCOTTSBLUFF	NE	02/17/89
2618	NORMAN BANK OF COMMERCE	NORMAN	OK	11/20/86
7020	NORTH AMERICAN FEDERAL SAVINGS ASSOC	SAN ANTONIO	TX	05/22/90
8601	NORTH AMERICAN FEDERAL SAVINGS ASSOC	SAN ANTONIO	TX	07/27/89
5857	NORTH AMERICAN NATIONAL BANK	LITTLETON	CO	05/07/87
7577	NORTH AMERICAN SLA	COSTA MESA	CA	06/06/88
4493	NORTH AMERICAN THRIFT AND LOAN	CORONA DEL MAR	CA	05/29/92
4102	NORTH BANK, NATIONAL ASSOC	OKLAHOMA CITY	OK	10/12/89
8817	NORTH CAROLINA FS & LA	CHARLOTTE	NC	03/02/90
7179	NORTH CAROLINA FS & LA	CHARLOTTE	NC	09/21/90
5851	NORTH CENTRAL NATIONAL BANK	AUSTIN	TX	04/23/87
7317	NORTH JERSEY S & LA	PASSAIC	NJ	06/07/91
8435	NORTH JERSEY S & LA	PASSAIC	NJ	02/17/89
7501	NORTH KANSAS	BELOIT	KS	11/19/82
4433	NORTH RIDGE BANK	OAKLAND PARK	FL	12/20/91
4136	NORTH SIDE STATE BANK	TULSA	OK	12/14/89
7309	NORTH TEXAS FEDERAL SAVINGS & LOAN ASSN	WICHITA FALLS	TX	05/31/91
8216	NORTH TEXAS FEDERAL SAVINGS & LOAN ASSN	WICHITA FALLS	TX	07/13/90
4027	NORTHERN BANK & TRUST	FORT COLLINS	CO	06/15/89
7534	NORTHLAKE/HORIZON FED	COVINGTON	LA	06/20/86
2513	NORTHSHORE BANK	HOUSTON	TX	11/08/85
4269	NORTHSIDE BANK	SAN ANTONIO	TX	09/06/90
4152	NORTHWAY NATIONAL BANK	DALLAS	TX	02/15/90
2465	NORTHWEST BANK	WHITE SETTLEMENT	TX	05/23/85
5923	NORTHWEST BANK	DALLAS	TX	01/21/88
2834	NORTHWEST BANK & TRUST	HOUSTON	TX	06/23/88
4364	NORTHWEST BANK, N.A	SAN ANTONIO	TX	06/06/91
2289	NORTHWEST COMMERCE BANK	NORTH BEND	OR	06/19/81
2696	NORTHWEST COMMERCIAL BANK, N. A	HOUSTON	TX	06/11/87
4387	NORTHWEST NATIONAL BANK	FAYETTEVILLE	AR	08/16/91
4477	NORWALK BANK	NORWALK	CT	04/24/92
8818	NOWLIN SA	FORT WORTH	TX	02/23/90
7409	NOWLIN SA	NORTH RICHLAND	TX	08/16/91
4408	NUMERICA SAVINGS BANK FSB	MANCHESTER	NH	10/10/91
7606	NUOLNEY	OLNEY	TX	12/01/89
2121	NUTLEY SAVINGS & LOAN ASSOCIATION	NUTLEY	NJ	09/27/91
2952	OAK HILL NATIONAL BANK	AUSTIN	TX	01/12/89
2936	OAK LAWN BANK, N.A	DALLAS	TX	12/01/88
2811	OAK PARK BANK	OAK PARK HEIGHTS	MN	04/29/88
7804	OAK TREE SAVINGS BANK, SSB	NEW ORLEANS	LA	10/13/91
2414	OAKLAND SAVINGS BANK	OAKLAND	IA	09/07/84
1299	OAKTREE FED SAVINGS	NEW ORLEANS	LA	08/26/94
2960	OAKWOOD NATIONAL BANK	ENID	OK	01/26/89
7083	OCCIDENTAL/NEBRASKA FSB	OMAHA	NE	06/22/90
8430	OCCIDENTAL/NEBRASKA FSB	OMAHA	NE	02/17/89
7659	OHIO VALLEY (C371)	STEUBENVILLE	OH	08/09/89
2325	OKLAHOMA NATIONAL BANK AND TRUST COMPANY	OKLAHOMA CITY	OK	10/03/82
7416	OLD BOROUGH SAVINGS & LOAN ASSN	TRENTON	NJ	08/23/91
8282	OLD BOROUGH SAVINGS & LOAN ASSN	TRENTON	NJ	12/14/90
7941	OLD STONE FSB	PROVIDENCE	RI	01/29/93
1290	OLD STONE SB	PROVIDENCE	RI	07/08/94
2204	OLYMPIC FEDERAL SAVINGS & LOAN ASSN	BERWYN	IL	03/27/92
8695	OLYMPIC FEDERAL SAVINGS & LOAN ASSN	BERWYN	IL	12/14/90
4500	OLYMPIC INTERNAT'L BANK & TRUST CO	BOSTON	MA	06/26/92
4570	OLYMPIC NATIONAL BANK	LOS ANGELES	CA	04/02/93
2422	ONEIDA BANK & TRUST COMPANY	ONEIDA	TN	10/12/84
2572	ORANGE COAST THRIFT AND LOAN ASSOCIATION	LOS ALAMITOS	CA	06/27/86
4129	ORANGE STATE BANK	MIAMI	FL	12/08/89
2955	ORLEANS BANK AND TRUST COMPANY	NEW ORLEANS	LA	01/12/89
2681	OSCEOLA STATE BANK & TRUST COMPANY	OSCEOLA	IA	04/23/87

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
8529	OTERO S & LA	COLORADO SPRINGS	CO	03/09/89
7030	OTERO S & LA	COLORADO SPRINGS	CO	05/25/90
7780	OVERLAND PARK S & LA	OVERLAND PARK	KS	11/13/92
2308	PACIFIC COAST BANK	SAN DIEGO	CA	04/29/82
8830	PACIFIC COAST S & LA	SAN FRANCISCO	CA	03/16/90
7356	PACIFIC COAST S & LA	SAN FRANCISCO	CA	07/12/91
4624	PACIFIC HERITAGE BANK	TORRANCE	CA	07/28/95
8320	PACIFIC SAVINGS BANK	COSTA MESA	CA	02/07/89
6940	PACIFIC SAVINGS BANK	COSTA MESA	CA	10/13/89
7603	PACIFIC SW	CORPUS CHRISTI	TX	12/01/89
8002	PACIFIC UNION NATIONAL BANK * TRUST CO	MENLO PARK	CA	11/21/85
7269	PADRE FS & LA	CORPUS CHRISTI	TX	01/11/91
8511	PADRE FS & LA	CORPUS CHRISTI	TX	03/02/89
7983	PALM BEACH FEDERAL	PALM BEACH GARDENS	FL	12/08/92
1240	PALM BEACH FSA	PALM BEACH GARDENS	FL	10/08/93
7290	PALO DURO FS & LA	AMARILLO	TX	05/17/91
8491	PALO DURO S & LA	AMARILLO	TX	02/12/89
4579	PALOS VERDES NATIONAL BANK	ROLLING HILL ESTATES	CA	05/20/93
1272	PAN AMERICAN FSB	SAN MATEO	CA	04/29/94
2339	PAN AMERICAN NATIONAL BANK	UNION CITY	NJ	03/18/83
8841	PAN AMERICAN SAVINGS BANK	SAN MATEO	CA	07/12/91
2622	PANHANDLE BANK AND TRUST	BORGER	TX	12/04/86
7231	PARISH FEDERAL SAVINGS & LOAN ASSOC	DENHAM	LA	11/30/90
8593	PARISH FEDERAL SAVINGS & LOAN ASSOC	DENHAM SPRINGS	LA	07/20/89
4103	PARK AVENUE BANK, NATIONAL ASSOC	OKLAHOMA CITY	OK	10/19/89
2536	PARK BANK	ST. PETERSBURG	FL	02/14/86
5983	PARK CENTRAL BANK	FORT WORTH	TX	08/24/89
8496	PARK CITIES SAVINGS ASSOCIATION	DALLAS	TX	04/06/89
6903	PARK CITIES SAVINGS ASSOC	DALLAS	TX	08/10/89
5981	PARK FORTY FIVE NATIONAL BANK	SPRING	TX	08/03/89
5601	PARK WEST BANK, N. A	FARMERS BRANCH	TX	08/15/85
2828	PARKWAY BANK AND TRUST	DALLAS	TX	06/09/88
2156	PELICAN HOMESTEAD SAVINGS ASSOCIATION	METAIRIE	LA	01/31/92
2700	PELICAN STATE BANK	MANSFIELD	LA	06/24/87
7540	PENINSULA SAL/1ST FEDERAL	SOLDOTNA	AK	08/08/86
8824	PENINSULA SAVINGS & LOAN ASSOC	SAN FRANCISCO	CA	05/04/90
7100	PENINSULA SAVINGS & LOAN ASSOC	SAN FRANCISCO	CA	06/22/90
5391	PENN SQUARE BANK, N.A.	OKLAHOMA CITY	OK	07/07/82
4368	PEOPLES BANK	HEWITT	TX	06/13/91
6540	PEOPLES BANK & TRUST CO	WARTBURG	TN	02/08/85
2288	PEOPLES BANKING COMPANY	BOSTON	GA	03/17/81
7399	PEOPLE'S FEDERAL SAVINGS BANK	BAY ST. LOUIS	MS	08/09/91
7889	PEOPLES FEDERAL SAVINGS BANK	BAY ST. LOUIS	MS	02/08/91
7750	PEOPLES FEDERAL SAVINGS & LOAN ASSN	NEW KENSINGTON	PA	03/01/91
7434	PEOPLES FEDERAL SAVINGS & LOAN ASSN	NEW KENSINGTON	PA	09/06/91
7260	PEOPLES FS & LA	BARTESVILLE	OK	12/14/90
8274	PEOPLES FS & LA	BARTLESVILLE	OK	03/09/90
6993	PEOPLES FS & LA OF THIBODAUX	THIBODAUX	LA	05/11/90
8410	PEOPLES FS & LA OF THIBODAUX	THIBODAUX	LA	03/16/89
6946	PEOPLES HERITAGE FS & LA	SALINA	KS	01/12/90
8575	PEOPLES HERITAGE SAVINGS, A FS & LA	SALINA	KS	08/10/89
8651	PEOPLES HOMESTEAD SAVINGS BANK, F.S.B	MONROE	LA	10/19/89
7390	PEOPLES HOMESTEAD SAVINGS BANK, F.S.B	MONROE	LA	08/02/91
4234	PEOPLES NATIONAL BANK	CALDWELL	TX	06/21/90
5610	PEOPLES NATIONAL BANK OF ROCKLAND COUNTY	RAMAPO (NONSEY)	NY	09/13/85
5655	PEOPLES NATIONAL BANK & TRUST	ALBIA	IA	02/07/86
8591	PEOPLES S & L ASSOC, FA	HAMPTON	VA	06/29/89
7006	PEOPLES S & L ASSOC, FA	HAMPTON	VA	05/18/90
6981	PEOPLES S & LA	PARSONS	KS	05/04/90
8384	PEOPLES S & LA	PARSONS	KS	03/02/89
6951	PEOPLES SAVINGS ASSOCIATION	ST. JOSEPH	MI	02/02/90
8414	PEOPLES SAVINGS ASSOCIATION, FA	ST. JOSEPH	MI	03/09/89
2191	PEOPLES SAVINGS & LOAN ASSOCIATION	OTTUMA	IA	03/20/92
7910	PEOPLES SAVINGS & LOAN ASSOCIATION	OTTUMWA	IA	11/22/91
6990	PEOPLES SAVINGS & LOAN ASSOCIATION, FA	STREATOR	IL	05/08/90
8614	PEOPLES SAVINGS & LOAN ASSOC, F.A	STREATOR	IL	07/20/89
7583	PEOPLES SLA/PIONEER FSLA	LA GRANDE	OR	09/23/88
2458	PEOPLES STATE BANK	ODEBOLT	IA	04/26/85
4306	PEOPLES STATE BANK	DALLAS	TX	12/14/90
2682	PEOPLES STATE BANK	TURKEY	TX	04/30/87
2404	PEOPLES STATE BANK OF CLAY COUNTY	POLAND	IN	08/10/84
6901	PEOPLES STATE BANK OF MAZEPPA	MAZEPPA	MN	08/20/87

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
5947	PEOPLES STATE BANK OF MEEKER	MEEKER	CO	09/23/88
2637	PEOPLES STATE BANK & TRUST COMPANY	HOLDENVILLE	OK	01/29/87
8039	PEOPLES STATE BANK & TRUST CO	ELLINWOOD	KS	10/13/87
6721	PERMIAN BANK	ODESSA	TX	07/18/86
8513	PERMIAN S & LA	KERMIT	TX	03/02/89
7129	PERMIAN S & LA	KERMIT	TX	08/10/90
8330	PERPETUAL SAVINGS ASSOCIATION A FS & L	SANTA ANA	CA	04/06/89
2152	PERPETUAL SAVINGS BANK, FSB	MCLEAN	VA	01/10/92
6911	PERPETUAL SAVINGS & LOAN ASSOC	SANTA ANA	CA	08/25/89
5702	PETROBANK, N.A	HOUSTON	TX	06/12/86
7008	PHENIX FS & LA, FA	PHENIX CITY	AL	05/18/90
8306	PHENIX FS & LA, FA	PHENIX CITY	AL	03/09/89
1278	PIEDMONT FSA	MANASSAS	VA	05/13/94
7946	PIEDMONT FSB	MANASSAS	VA	09/10/92
7275	PIMA S & LA	TUCSON	AZ	02/15/91
8858	PIMA S & LA	TUCSON	AZ	03/02/90
4611	PIONEER BANK	FULLERTON	CA	07/08/94
2739	PIONEER BANK OF FOUNTAIN	FOUNTAIN	CO	10/21/87
2911	PIONEER NATIONAL BANK	ARLINGTON	TX	09/01/88
8288	PIONEER SAVINGS BANK, FSB	CLEARWATER	FL	02/02/90
7279	PIONEER SAVINGS BANK, FSB	CLEARWATER	FL	03/01/91
8573	PIONEER SAVINGS F.A	PLYMOUTH	IN	07/13/89
7016	PIONEER SAVINGS F.A	PLYMOUTH	IN	05/18/90
7222	PIONEER SAVINGS & LOAN ASSOCIATION CO	MARIETTA	OH	11/16/90
7706	PIONEER SAVINGS & LOAN ASSOCIATION CO	MARIETTA	GA	06/29/90
7996	PIONEER SLA	PRAIRIE VILLAGE	KS	04/02/93
2532	PIONEER STATE BANK	SALT LAKE CITY	UT	01/24/86
5945	PISGAH SAVINGS BANK	PISGAH	IA	09/01/88
4469	PLACER BANK OF COMMERCE	ROSEVILLE	CA	03/27/92
7069	PLANO S & L ASSOC, F.A	PLANO	TX	06/15/90
8587	PLANO SAVINGS AND LOAN	PLANO	TX	09/29/89
2388	PLANTERS TRUST & SAVINGS BK OF OPELOUSAS	OPELOUSAS	LA	05/18/84
6998	PLATTE VALLEY FS & LA	GERING	NE	05/11/90
8431	PLATTE VALLEY FS & LA	GERING	NE	02/17/89
4599	PLAZA BANK, N.A. OF NEW BRAUNFELS	NEW BRAUNFELS	TX	10/14/93
4141	PLAZA DEL ORO NATIONAL BANK	HOUSTON	TX	01/11/90
5824	PLAZA NATIONAL BANK	DEL RIO	TX	03/12/87
8023	PLAZA NATIONAL BANK	WASHINGTON	DC	12/10/86
7911	PLYMOUTH FEDERAL SAVINGS BANK	PLYMOUTH	MA	09/27/91
4515	PLYMOUTH FIVE CENTS SAVINGS BANK	PLYMOUTH	MA	09/18/92
1250	PLYMOUTH FSA	PLYMOUTH	MA	03/11/94
1275	POLIFLY FS & LA	NEW MILFORD	NJ	05/06/94
7982	POLIFLY SLA	HASBROUCK HGTS	NJ	11/20/92
4378	PONTCHARTRAIN STATE BANK	METAIRIE	LA	07/19/91
2779	PORT CITY BANK	HOUSTON	TX	01/28/88
7492	POTOMAC FSB	SILVER SPRING	MD	02/25/94
7484	POTOMAC FSB	SILVER SPRING	MD	08/28/92
7488	POWDER MILL BANK	MORRIS PLAINS	NJ	05/22/92
7486	PRAIRIE COUNTY BANK	HAZEN	AR	03/24/83
7494	PRAIRIE STATE BANK	GRAND PRAIRIE	TX	09/14/89
7489	PREFERRED SAVINGS & LOAN ASSN	HIGH POINT	NC	03/08/91
7495	PREFFERED SAVINGS & LOAN ASSN	HIGH POINT	NC	09/27/91
7493	PREMIER BANK	NORTHRIDGE	CA	04/08/93
8000	PREMIER BANK, N.A	DALLAS	TX	03/31/89
7497	PRESIDIO FSLA	PORTERVILLE	CA	08/08/86
4028	PRESTON NORTH NATIONAL BANK	DALLAS	TX	06/22/89
6645	PRINCETON STATE BANK	PRINCETON	MO	12/19/85
4422	PRIVATE BANK AND TRUST, N.A	CORAL GABLES	FL	10/25/91
7783	PROFESSIONAL SAVINGS BANK	CORAL GABLES	FL	07/27/90
2179	PROFESSIONAL SAVINGS BANK	CORAL GABELS	FL	03/13/92
7417	PROGRESSIVE FEDERAL SAVINGS BANK	NATCHITICHES	LA	08/23/91
8246	PROGRESSIVE FEDERAL SAVINGS BANK	NATCHITICHES	LA	07/13/90
4458	PROGRESSIVE NATIONAL BANK OF RAYNE	RAYNE	LA	03/12/92
7900	PROGRESSIVE SAVINGS BANK	PASADENA	CA	05/24/91
2180	PROGRESSIVE SAVINGS BANK	PASADENA	CA	03/13/92
7775	PROSPECT PARK SAVINGS BANK	WEST PATERSON	NJ	04/19/91
1268	PROSPECT PARK, FSB	W. PATERSON	NJ	04/22/94
7140	PROVIDENT FEDERAL	CASPER	WY	08/17/90
8669	PROVIDENT FEDERAL	CASPER	WY	02/23/90
2557	RAINSVILLE BANK	RAINSVILLE	AL	05/09/86
7567	RAMONA FSLA/MIDWEST FSLA	ORANGE	CA	02/26/88
7604	RANCHERS	JOHNSON CITY	TX	12/01/89

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
5405	RANCHLANDER NATIONAL BANK	MELVIN	TX	11/19/82
7318	RANCHO BERNARDO SAVINGS BANK	SAN DIEGO	CA	06/07/91
8881	RANCHO BERNARDO SAVINGS BANK	SAN DIEGO	CA	10/26/90
4404	REAGAN STATE BANK	BIG LAKE	TX	10/03/91
4473	RED BIRD BANK OF DALLAS	DALLAS	TX	04/09/92
2707	RED OAK STATE BANK	RED OAK	TX	07/09/87
7291	RED RIVER FEDERAL S & LA	COUSHATTA	LA	05/17/91
8631	RED RIVER FEDERAL S & LA	COUSHATTA	LA	12/14/89
2205	RED RIVER FS & LA	LAWTON	OK	03/27/92
8609	RED RIVER FS & LA	LAWTON	OK	04/26/91
2663	RED RIVER NATIONAL BANK	CLARKSVILLE	TX	03/19/87
8413	REGENCY SAVINGS BANK, FSB	ANN ARBOR	MI	02/12/89
7585	REGENCY SB/GREAT LAKES	ANN ARBOR	MI	10/14/88
4597	REGENT THRIFT & LOAN ASSOC	SAN FRANCISCO	CA	09/16/93
7296	REMINGTON FEDERAL SAVINGS ASSN	ELGIN	TX	05/30/91
8816	REMINGTON SAVINGS ASSOCIATION	ELGIN	TX	05/25/90
2749	REPUBLIC BANK	OKLAHOMA CITY	OK	11/19/87
8139	REPUBLIC BANK	BLANCHARD	LA	09/01/86
2609	REPUBLIC BANK	BLANCHARD	LA	10/31/86
7106	REPUBLIC BANK FOR SAVINGS	JACKSON	MS	06/29/90
8423	REPUBLIC BANK FOR SAVINGS, FA	JACKSON	MS	04/06/89
6492	REPUBLIC BANK OF KANSAS CITY	KANSAS CITY	MO	06/18/84
7851	REPUBLIC FEDERAL SAVINGS BANK	ROCKVILLE	MD	03/22/91
2165	REPUBLIC FEDERAL SAVINGS BANK	ROCKVILLE	MD	02/28/92
1216	REPUBLIC FSB	MATTESON	IL	11/06/92
2837	REPUBLIC NATIONAL BANK	NORMAN	OK	06/30/88
7955	REPUBLIC SB	MATTESON	IL	06/05/92
5955	RESOURCE BANK, N.A	HOUSTON	TX	12/08/88
8462	RESOURCE SA	DENISON	TX	04/06/89
7227	RESOURCE SA	DENISON	TX	11/16/90
4193	RICHARDSON NATIONAL BANK	RICHARDSON	TX	05/03/90
4224	RICHMARK BANK	HOUSTON	TX	06/07/90
2917	RIVER CITY BANK	CASTLE HILLS	TX	09/15/88
8400	RIVER CITY FEDERAL SAVINGS BANK	BATON ROUGE	LA	03/16/89
6929	RIVER CITY FEDERAL SAVINGS BANK	BATON ROUGE	LA	10/06/89
2826	RIVER PLAZA NATIONAL BANK	FORT WORTH	TX	06/02/88
4498	RIVERHEAD SAVINGS BANK	WHITE PLAINS	NY	06/12/92
2491	RIVERSIDE NATIONAL BANK OF HOUSTON	HOUSTON	TX	08/01/85
5593	RIVERSIDE NATIONAL BANK OF HOUSTON	HOUSTON	TX	08/01/85
2123	RIVERSIDE SAVINGS BANK, SLA	RIVERSIDE	NJ	10/04/91
7777	RIVERSIDE SAVINGS BANK, SLA	RIVERSIDE	NJ	11/02/90
4318	ROCKPORT BANK, N.A	AR. COUNTY (ROCKPORT)	TX	01/31/91
7678	ROCKY MOUNTAIN BANK (C376)	CHEYENNE	WY	09/30/91
4209	ROCKY MOUNTAIN NATIONAL BANK	DENVER	CO	05/31/90
7095	ROCKY MOUNTAIN S & LA	WOODLAND PARK	CO	06/22/90
8339	ROCKY MOUNTAIN S & LA	WOODLAND PARK	CO	03/09/89
2722	ROCKY MOUNTAIN STATE BANK	SALT LAKE CITY	UT	08/28/87
2951	ROLLING HILLS STATE BANK	PIEDMONT	OK	01/12/89
5993	ROSE CAPITAL BANK	TYLER	TX	09/21/89
2562	ROSELAND STATE BANK	ROSELAND	NE	05/29/86
5948	ROUND ROCK NATIONAL BANK	ROUND ROCK	TX	10/27/88
7266	ROYAL OAK FS & LA	RANDALLSTOWN	MD	01/04/91
7001	ROYAL OAK S & LA	MANTECA	CA	05/11/90
8332	ROYAL OAK S & LA	MANTECA	CA	04/06/89
8533	ROYAL PALM SAVINGS BANK	WEST PALM BEACH	FL	03/16/89
7048	ROYAL PALM SAVINGS BANK	WEST PALM BEACH	FL	06/08/90
8500	RUSK FS & LA	RUSK	TX	03/16/89
7113	RUSK FS & LA	RUSK	TX	06/29/90
4335	SABINAL BANK	SABINAL	TX	03/21/91
7307	SABINE VALLEY S & LA	CENTER	TX	05/31/91
8503	SABINE VALLEY S & LA	CENTER	TX	03/16/89
5691	SADDLEBACK NATIONAL BANK	LAGUNA HILLS	CA	05/15/86
4554	SAILORS AND MERCHANTS B&T CO	VIENNA	VA	12/11/92
7130	SALAMANCA FEDERAL SAVINGS ASSOC	SALAMANCA	NY	08/17/90
8670	SALAMANCA FEDERAL SAVINGS ASSOC	SALAMANCA	NY	11/30/89
2778	SAM HOUSTON NATIONAL BANK OF WALKER CITY	HUNTSVILLE	TX	01/21/88
8550	SAN ANTONIO SA	SAN ANTONIO	TX	03/02/89
6959	SAN ANTONIO SAVINGS ASSOCIATION	SAN ANTONIO	TX	03/09/90
8213	SAN BARBARA SAVINGS & LOAN ASSOC	SAN BARBARA	CA	04/27/90
1228	SAN CLEMENTE FSB	SAN CLEMENTE	CA	08/06/93
7932	SAN CLEMENTE SB	SAN CLEMENTE	CA	06/12/92
2124	SAN JACINTO SAVINGS ASSOCIATION, PA	BELLAIRE	TX	09/27/91

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
7789	SAN JACINTO SAVINGS ASSOC	BELLAIRE	TX	11/30/90
7514	SAN MARINO/HOME OF TUCSON	SAN MARINO	CA	12/07/84
8439	SANDIA FS & LA	ALBUQUERQUE	NM	02/10/89
7278	SANDIA FS & LA	ALBUQUERQUE	NM	03/01/91
2821	SANDY STATE BANK	SANDY	UT	05/27/88
7400	SANTA BARBARA SAVINGS & LOAN ASSOC	SANTA BARBARA	CA	08/09/91
2125	SANTA PAULA S & LA	SANTA PAULA	CA	09/27/91
7042	SARATOGA S & L ASSOCIATION	SAN JOSE	CA	06/01/90
8618	SARATOGA S & L ASSOCIATION	SAN JOSE	CA	11/09/89
2503	SARATOGA STATE BANK	SARATOGA	WY	10/11/85
7510	SAVANNAH/NEW/CHARTER	SAVANNAH	TN	11/16/84
2109	SAVERS FS & LA	LITTLE ROCK	AR	09/20/91
8309	SAVERS FS & LA	LITTLE ROCK	AR	02/10/89
8054	SAVINGS ASSOCIATION INSURANCE FUND	WASHINGTON	DC	08/08/89
7200	SAVINGS OF TEXAS ASSOCIATION	JACKSONVILLE	TX	09/28/90
8489	SAVINGS OF TEXAS ASSOCIATION	JACKSONVILLE	TX	03/16/89
4429	SAYBROOK BANK AND TRUST CO	OLD SAYBROOK	CT	12/06/91
6570	SCROGGIN AND COMPANY BANK	OAK	NE	05/31/85
6945	SEABANK SAVINGS	MYRTLE BEACH	SC	12/19/89
8559	SEABROOK SAVINGS, FSB	MYRTLE BEACH	SC	04/27/89
4512	SEACOAST SAVINGS BANK	DOVER	NH	08/28/92
4328	SEAFIRST BANK	PORT ST. LUCIE	FL	03/08/91
2656	SEALY NATIONAL BANK	SEALY	TX	03/05/87
7531	SEAPOINTE/MONTEREY PARK	CARLSBAD	CA	05/30/86
4158	SEARCH NATIONAL BANK	DALLAS	TX	03/01/90
8592	SEASON'S FEDERAL SAVINGS BANK	RICHMOND	VA	10/19/89
7189	SEASONS FEDERAL SAVINGS BANK	RICHMOND	VA	09/28/90
7980	SECOND NATIONAL FSB	SALISBURY	MD	12/04/92
1302	SECOND NATIONAL, FSB	SALISBURY	MD	09/15/94
2928	SECURITY BANK	DALLAS	TX	10/20/88
2968	SECURITY BANK	HOUSTON	TX	02/16/89
2319	SECURITY BANK AND TRUST COMPANY	CAIRO	IL	08/27/82
2823	SECURITY BANK OF AURORA	AURORA	CO	06/02/88
2824	SECURITY BANK OF BOULDER	BOULDER	CO	06/02/88
2794	SECURITY BANK OF DENVER, N.A	DENVER	CO	03/10/88
6701	SECURITY BANK OF GLENROCK	GLENROCK	WY	06/06/86
8035	SECURITY BANK OF RICH HILL	RICH HILL	MO	06/08/87
3692	SECURITY BANK OF RICH HILL	RICH HILL	MO	06/04/87
4018	SECURITY BANK & TRUST CO	WHARTON	TX	05/18/89
2490	SECURITY BANK & TRUST COMPANY	MIDWEST CITY	OK	08/08/85
1287	SECURITY FEDERAL	VINELAND	NJ	06/17/94
7134	SECURITY FEDERAL S & L ASSOC	PEORIA	IL	08/17/90
8615	SECURITY FEDERAL S & L ASSOC	PEORIA	IL	08/17/89
2181	SECURITY FEDERAL SAVIGNS & LOAN ASSN	ALBUQUERQUE	NM	03/13/92
6989	SECURITY FEDERAL SAVINGS ASSOC	GARDEN GROVE	CA	05/04/90
8625	SECURITY FEDERAL SAVINGS ASSOC	GARDEN GROVE	CA	11/16/89
8848	SECURITY FEDERAL SAVINGS & LOAN ASSN	ALBUQUERQUE	NM	05/03/91
8671	SECURITY FEDERAL SAVINGS, F.S.B	COLUMBIA	SC	11/30/89
7276	SECURITY FEDERAL SAVINGS, F.S.B	COLUMBIA	SC	02/15/91
1207	SECURITY FIRST FS & LA	DAYTONA BEACH	FL	04/10/92
7190	SECURITY FS & LA	RICHMOND	VA	09/28/90
1266	SECURITY FS & LA	JACKSON	MS	04/15/94
8284	SECURITY FS & LA	RICHMOND	VA	03/02/90
1276	SECURITY FSA	PANAMA CITY	FL	05/06/94
7875	SECURITY FSB OF FLORIDA	PANAMA CITY	FL	01/31/92
7937	SECURITY FSLA	JACKSON	FL	10/16/92
7294	SECURITY HOMESTEAD FED SAV ASSOC	NEW ORLEANS	LA	05/24/91
8389	SECURITY HOMESTEAD FED. SAV. ASSOC	NEW ORLEANS	LA	08/07/89
4263	SECURITY NATIONAL BANK	AUSTIN	TX	08/30/90
2608	SECURITY NATIONAL BANK	ANCHORAGE	AK	10/23/86
4184	SECURITY NATIONAL BANK	ELGIN	TX	04/19/90
5468	SECURITY NATIONAL BANK OF LUBBOCK	LUBBOCK	TX	04/13/84
5809	SECURITY NATIONAL BANK OF MIDLAND	MIDLAND	TX	02/12/87
4120	SECURITY NATIONAL BANK OF SHREVEPORT	SHREVEPORT	LA	11/17/89
7284	SECURITY S & LA	SCOTTSDALE	AZ	03/15/91
8319	SECURITY S & LA	SCOTTSDALE	AZ	02/17/89
8468	SECURITY SAVINGS ASSOCIATION, FSA	TEXARKANA	TX	03/16/89
7250	SECURITY SAVINGS ASSOCIATION, FSA	TEXARKANA	TX	12/07/90
8807	SECURITY SAVINGS BANK, FSB	CARLSBAD	NM	05/04/90
7228	SECURITY SAVINGS BANK, FSB	CARLSBAD	NM	11/16/90
8849	SECURITY SAVINGS & LOAN ASSN	WATERBURY	CT	04/12/91
2192	SECURITY SAVINGS & LOAN ASSOCIATION	WATERBURY	CT	03/20/92

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
7984	SECURITY SLA	VINELAND	NJ	12/04/92
2716	SECURITY STATE BANK	DAVENPORT	OK	08/06/87
2418	SECURITY STATE BANK	WEATHERFORD	OK	09/21/84
2332	SECURITY STATE BANK	MOORELAND	OK	12/16/82
2733	SECURITY STATE BANK	OXFORD	NE	10/01/87
2469	SECURITY STATE BANK	EDGAR	NE	05/31/85
6637	SECURITY STATE BANK	BROKEN BOW	NE	12/05/85
2715	SECURITY STATE BANK	ROOSEVELT	OK	08/06/87
7656	SECURITY S&L (C215)	JACKSON	MS	08/09/89
7673	SECURITY TRUST (C345)	OAKRIDGE	TN	07/15/91
6763	SEDGWICK COUNTY BANK	JULESBURG	CO	11/05/86
4010	SEMINOLE NATIONAL BANK	HOLLYWOOD	FL	04/27/89
5464	SEMINOLE STATE NATIONAL BANK	SEMINOLE	TX	03/16/84
4444	SENTINEL BANK	HARTFORD	CT	01/31/92
8840	SENTINEL S & LA	PHOENIX	AZ	02/02/90
7073	SENTINEL S & LA	PHOENIX	AZ	06/15/90
2193	SENTRY FEDERAL SAVINGS ASSOCIATION	NORFOLK	VA	03/20/92
7863	SENTRY FEDERAL SAVINGS BANK	HYANNIS	MA	09/21/90
7773	SENTRY FEDERAL SAVINGS BANK	NORFOLK	VA	05/03/91
7377	SENTRY FEDERAL SAVINGS BANK	HYANNIS	MA	07/26/91
7015	SHAWNEE FS & LA	TOPEKA	KS	05/18/90
8378	SHAWNEE FS & LA	TOPEKA	KS	03/02/89
2381	SHELBY NATIONAL BANK OF SHELBYVILLE	SHELBYVILLE	IN	04/19/84
1241	SHENANDOAH FSA	MARTINSBURG	WV	10/15/93
8899	SHENANDOAH FSB	MARTINSBURG	WV	05/08/92
4478	SHORE BANK AND TRUST COMPANY	LYNN	MA	04/24/92
8604	SIERRA FEDERAL SAVINGS & LOAN ASSOC FA	BEVERLY HILLS	CA	07/20/89
6988	SIERRA FEDERAL SAVINGS & LOAN ASSOC FA	BEVERLY HILLS	CA	05/04/90
7559	SIERRA SLA/NEVADA SLA	MINDEN	NV	10/23/87
7527	SIERRA/COMMERCIAL FEDERAL	DENVER	CO	02/28/86
8329	SIGNAL S & LA	SIGNAL HILL	CA	02/12/89
6934	SIGNAL SLA	SIGNAL HILL	CA	02/10/89
4189	SIGNATURE BANK, NATIONAL ASSOCIATION	DALLAS	TX	04/26/90
7271	SILVER SAVINGS ASSN, FA	SILVER CITY	NM	01/18/91
8633	SILVER SAVINGS ASSN, FA	SILVER CITY	NM	12/21/89
7695	SILVERADO REMIC	DENVER	CO	01/21/94
7590	SILVERADO/MILE HIGH	DENVER	CO	12/09/88
8360	SIOUX VALLEY S & LA	CHEROKEE	IA	04/06/89
6908	SIOUX VALLEY SAVINGS & LOAN ASSOC	CHER0KEE	IA	08/18/89
6955	SKOKIE FS & LA	SKOKIE	IL	02/02/90
8536	SKOKIE FS & LA	SKOKIE	IL	03/16/89
2345	SMITH COUNTY BANK	CARTHAGE	TN	05/06/83
7174	SOONER FEDERAL SAVINGS ASSOCIATION	TULSA	OK	09/14/90
8655	SOONER FEDERAL SAVINGS ASSOC	TULSA	OK	11/16/89
7325	SOUHTWESTERN FEDERAL SAVINGS ASSOC	EL PASO	TX	06/14/91
2455	SOUTH COAST BANK	COSTA MESA	CA	04/12/85
2702	SOUTH DENVER NATIONAL BANK	DENVER	CO	06/24/87
8349	SOUTH FLORIDA SAVINGS, A FS & LA	DAVIE	FL	02/12/89
8391	SOUTH SAVINGS & LOAN ASSOC. F.A	SLIDELL	LA	08/07/89
7324	SOUTH SAVINGS & LOAN ASSOC., F.A	SLIDELL	LA	06/14/91
2287	SOUTH SIDE BANK	CHICAGO	IL	03/14/81
4384	SOUTHCOAST BANK CORPORATION	WEST PALM BEACH	FL	08/09/91
4401	SOUTHEAST BANK OF WEST FLORIDA	PENSACOLA	FL	09/19/91
4400	SOUTHEAST BANK, N.A	MIAMI	FL	09/19/91
7340	SOUTHEAST TEXAS S & L	WOODVILLE	TX	06/28/91
8508	SOUTHEAST TEXAS S & LA	WOODVILLE	TX	03/16/89
7303	SOUTHEASTERN FEDERAL SAVINGS BANK	LAUREL	MS	05/31/91
7135	SOUTHEASTERN SA	DAYTON	TX	10/26/90
8501	SOUTHEASTERN SA	DAYTON	TX	03/09/89
8876	SOUTHEASTERN SAVINGS BANK	LAUREL	MS	04/20/90
2110	SOUTHEASTERN SAVINGS BANK, INC	CHARLOTTE	NC	09/20/91
7842	SOUTHEASTERN SAVINGS BANK, INC	CHARLOTTE	NC	11/16/90
6930	SOUTHERN FEDERAL	THOMASVILLE	GA	01/19/89
8891	SOUTHERN FEDERAL BANK FOR SAVINGS	GULFPORT	MS	06/22/90
7410	SOUTHERN FEDERAL BANK FOR SAVINGS	GULFPORT	MS	08/16/91
8348	SOUTHERN FLORIDA BANC FS & LA	BOCA RATON	FL	02/17/89
6927	SOUTHERN FLORIDA BANC FEDERAL S & L	BOCA RATON	FL	10/06/89
1269	SOUTHERN FSA OF GA	ATLANTA	GA	04/22/94
7962	SOUTHERN FSLA	ATLANTA	GA	07/10/92
2126	SOUTHERN SAVINGS BANK, FSB	NEW ORLEANS	LA	09/27/91
7710	SOUTHERN SAVINGS BANK, SSB	NEW ORLEANS	LA	12/28/90
8481	SOUTHMOST S & LA	BROWNSVILLE	TX	03/02/89

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
7104	SOUTHMOST S & LA	BROWNSVILLE	TX	10/26/90
7052	SOUTHSIDE FEDERAL S & L ASSOC	AUSTIN	TX	06/08/90
8498	SOUTHSIDE FEDERAL S & L ASSOC	AUSTIN	TX	08/17/89
4463	SOUTHSIDE NATIONAL BANK	NACOGDOCHES	TX	03/19/92
4475	SOUTHSTATE BANK FOR SAVINGS	BROCKTON	MA	04/24/92
4325	SOUTHWEST NATIONAL BANK	ALBUQUERQUE	NM	02/21/91
4240	SOUTHWEST NATIONAL BANK	AUSTIN	TX	06/28/90
5949	SOUTHWEST NATIONAL BANK	HOUSTON	TX	11/03/88
8522	SOUTHWEST S & LA	PHOENIX	AZ	02/17/89
7367	SOUTHWEST S & LA	PHOENIX	AZ	07/19/91
7378	SOUTHWEST SAVINGS ASSOCIATION	DALLAS	TX	07/26/91
8280	SOUTHWEST SAVINGS ASSOCIATION	DALLAS	TX	05/18/90
8561	SOUTHWEST SAVINGS & LOAN ASSOCIATION	LOS ANGELES	CA	04/27/89
7229	SOUTHWEST SAVINGS & LOAN ASSOCIATION	LOS ANGELES	CA	11/16/90
6373	SOUTHWESTERN BANK	TUCSON	AZ	09/25/81
8663	SOUTHWESTERN FEDERAL SAVINGS ASSOC	EL PASO	TX	11/30/89
7449	SOVEREIGN SAVINGS BANK	PALM HARBOR	FL	09/13/91
7854	SOVEREIGN SAVINGS BANK	PALM HARBOR	FL	03/15/91
6421	SPARTA-SANDERS STATE BANK	SPARTA	KY	04/15/83
7039	SPINDLETOP SA	BEAUMONT	TX	06/01/90
8471	SPINDLETOP SA	BEAUMONT	TX	03/16/89
8479	SPRING BRANCH S & LA	HOUSTON	TX	03/09/89
7154	SPRING BRANCH S & LA	HOUSTON	TX	08/31/90
7902	SPRINGFIELD FSLA	SPRINGFIELD	PA	06/14/91
2194	SPRINGFIELD FSLA	SPRINGFIELD	PA	03/20/92
7979	STANDARD FEDERAL SAVINGS BANK	GAITHERSBURG	MD	10/21/92
8892	STANDARD FEDERAL SAVINGS BANK	COLUMBIA	SC	08/02/91
8512	STANDARD FEDERAL SAVINGS & LOAN ASSN	HOUSTON	TX	02/12/89
7662	STANDARD FEDERAL (C340)	CHICAGO	IL	08/09/89
1312	STANDARD FSB	GAITHERSBURG	MD	06/30/95
1307	STANDARD FSB	GAITHERSBURG	MD	11/18/94
1238	STANDARD FS&LA	COLUMBIA	SC	09/24/93
7419	STANDARD SA	HOUSTON	TX	08/26/91
7600	STATE—LUBBOCK	LUBBOCK	TX	12/01/89
6553	STATE BANK OF ALEXANDRIA	ALEXANDRIA	NE	04/10/85
2643	STATE BANK OF ALLISON	ALLISON	IA	02/05/87
6409	STATE BANK OF BARNUM	BARNUM	MN	02/09/83
2427	STATE BANK OF BOYD	BOYD	MN	10/24/84
2752	STATE BANK OF COMMERCE	SLIDELL	LA	12/03/87
2632	STATE BANK OF CUBA	CUBA	IL	01/09/87
6532	STATE BANK OF DANNEBROG	DANNEBROG	NE	01/07/85
2492	STATE BANK OF FARMERSVILLE	FARMERSVILLE	IL	08/09/85
2525	STATE BANK OF FROST	FROST	MN	12/20/85
5909	STATE BANK OF GREENWALD	GREENWALD	MN	10/02/87
6600	STATE BANK OF HERNDON	HERNDON	KS	08/14/85
2755	STATE BANK OF JANSEN	JANSEN	NE	12/03/87
2384	STATE BANK OF MILLS	MILLS	WY	05/04/84
2798	STATE BANK OF MORGAN	MORGAN	MN	03/18/88
4505	STATE BANK OF SPRINGFIELD	SPRINGFIELD	MN	07/17/92
8028	STATE BANK OF WESTPHALIA	WESTPHALIA	KS	08/15/86
7411	STATE FS & LA	TULSA	OK	08/16/91
8202	STATE FS & LA	TULSA	OK	02/16/90
8426	STATE MUTUAL FS & LA	JACKSON	MS	04/06/89
6994	STATE MUTUAL FS & LA	JACKSON	MS	05/11/90
7506	STATE OF CLOVIS	CLOVIS	NM	11/03/83
7894	STATE SAVINGS	JACKSON HIEGHTS	NY	03/22/91
2206	STATE SAVINGS	JACKSON HEIGHTS	NY	03/27/92
7516	STATE SLA/SANDIA FSLA	SALT LAKE CITY	UT	04/12/85
7277	STATESMAN BANK FOR SAVINGS, FSB	WATERLOO	IA	03/01/91
7858	STATESMAN BANK FOR SAVINGS, FSB	WATERLOO	IA	07/27/90
4548	STATEWIDE THRIFT & LOAN	REDWOOD CITY	CA	11/13/92
7525	STATE/FREEDOM FEDERAL	CORVALLIS	OR	12/06/85
2728	STEEPLECHASE NATIONAL BANK	HOUSTON	TX	09/17/87
6488	STEWARDSHIP BANK OF OREGON	PORTLAND	OR	06/08/84
2607	STILLWATER COMMUNITY BANK	STILLWATER	OK	10/23/86
2544	STOCKHOLM STATE BANK	STOCKHOLM	SD	03/27/86
5905	STOCKMEN'S BANK AND TRUST COMPANY	GILLETTE	WY	09/20/87
2462	STORY COUNTY BANK	STORY CITY	IA	05/08/85
5997	STRAWN SECURITY BANK	STRAWN	TX	10/05/89
6576	STRONG'S BANK	DODGEVILLE	WI	06/14/85
7234	ST. CHARLES FEDERAL SAVINGS ASSN	ST. CHARLES	IL	11/30/90
8654	ST. CHARLES FEDERAL SAVINGS ASSOCIATION	ST. CHARLES	IL	01/11/90

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
7109	ST. LOUIS COUNTY SAVINGS ASSOCIATION	FERGUSON	MO	06/28/90
8225	ST. LOUIS COUNTY SAVINGS ASSOCIATION	FERGUSON	MO	01/11/90
4003	ST. TAMMANY NATIONAL BANK	MANDEVILLE	LA	04/06/89
8547	SUBURBAN	SAN ANTONIO	TX	03/02/89
7175	SUBURBAN	SAN ANTONIO	TX	09/14/90
4380	SUBURBAN NATIONAL BANK	HILLSBOROUGH TWNSHIP	NJ	07/26/91
4395	SUFFIELD BANK	SUFFIELD	CT	09/06/91
5984	SUMMIT BANK	SAN ANTONIO	TX	08/24/89
7059	SUMMIT FIRST FEDERAL SAVINGS & LOAN ASSN	SUMMIT	IL	10/26/90
7735	SUMMIT FIRST FEDERAL SAVINGS & LOAN ASSN	SUMMIT	LA	07/13/90
4471	SUMMIT NATIONAL BANK	TORRINGTON	CT	04/03/92
7555	SUMMIT SLA/UNITED SLA	PARK CITY	UT	04/10/87
7043	SUN COUNTRY SB OF NEW MEXICO, FSB	ALBUQUERQUE	NM	05/31/90
8443	SUN COUNTRY SB OF NEW MEXICO, FSB	ALBUQUERQUE	NM	03/09/89
8528	SUN S & LA	PARKER	CO	03/09/89
7123	SUN S & LA	PARKER	CO	07/20/90
8379	SUN SAVINGS ASSOCIATION, F.A	KANSAS CITY	KS	02/17/89
7000	SUN SAVINGS ASSOCIATION, F.A	KANSAS CITY	KS	05/11/90
8861	SUN SAVINGS BANK	FORT DODGE	IA	03/16/90
7110	SUN SAVINGS BANK	FORT DODGE	IA	06/28/90
7537	SUN SAVINGS/FLAGSHIP FEDERAL	SAN DIEGO	CA	07/18/86
8563	SUN STATE SAVINGS & LOAN	PHOENIX	AZ	06/14/89
7240	SUN STATE SAVINGS & LOAN	PHOENIX	AZ	11/30/90
7601	SUNBELT	DALLAS	TX	12/01/89
5805	SUNBELT NATIONAL BANK	DALLAS	TX	02/05/87
1212	SUNBELT SAVINGS	DALLAS	TX	04/10/92
8612	SUNBELT SAVINGS	DALLAS	TX	04/26/91
7530	SUNBELT/HORIZON FEDERAL	LAKE PROVIDENCE	LA	05/02/86
7543	SUNRISE/BEACH FEDERAL	BOYNTON BEACH	FL	09/12/86
8008	SUNSHINE BANK	SUNSHINE	FL	04/24/86
6694	SUNSHINE STATE BANK	SOUTH MIAMI	FL	05/23/86
7699	SUPERIOR BANK (C389)	COUNTRYSIDE	IL	04/01/94
7368	SUPERIOR FEDERAL SAVINGS BANK	NACOGDOCHES	TX	07/19/91
2127	SUPERIOR FEDERAL SAVINGS BANK	CLEVELAND	OH	09/27/91
7714	SUPERIOR FEDERAL SAVINGS BANK	CLEVELAND	OH	10/23/90
8290	SUPERIOR FEDERAL SAVINGS BANK	NACOGDOCHES	TX	08/10/90
4607	SUPERIOR NATIONAL BANK	KANSAS CITY	KS	04/14/94
8650	SURETY FEDERAL SAVINGS ASSOCIATION	EL PASO	TX	10/19/89
7319	SURETY FEDERAL SAVINGS ASSOCIATION	EL PASO	TX	06/07/91
7857	SURETY FEDERAL SAVINGS & LOAN ASSOCIATIO	MORGANTOWN	NC	07/12/91
1231	SURETY FS & LA, FA	MORGANTOWN	NC	08/27/93
2664	SWEENY BANK	SWEENEY	TX	03/19/87
7143	SWEETWATER FEDERAL SAVINGS & LOAN ASSOC.	SWEETWATER	WY	08/22/90
2472	SWIFT COUNTY BANK	BENSON	MN	06/14/85
3960	TAB ASSET PURCHASE	FORT WORTH	TX	02/01/92
4053	TAB/AMARILLO	AMARILLO	TX	07/20/89
4058	TAB/AUSTIN	AUSTIN	TX	07/20/89
4045	TAB/BRECKENRIDGE	BRECKENRIDGE	TX	07/20/89
4042	TAB/DALLAS	DALLAS	TX	07/20/89
4038	TAB/DALLAS—LBJ	DALLAS	TX	07/20/89
4035	TAB/DALLAS—PRESTONWOOD	DALLAS	TX	07/20/89
4043	TAB/DENISON	DENISON	TX	07/20/89
4040	TAB/DUNCANVILLE	DUNCANVILLE	TX	07/20/89
4046	TAB/FARMERS BRANCH	FARMERS BRANCH	TX	07/20/89
4036	TAB/FORT WORTH	FORT WORTH	TX	07/20/89
4037	TAB/FORUM—ARLINGTON	ARLINGTON	TX	07/20/89
4057	TAB/FREDRICKSBURG	FREDRICKSBURG	TX	07/20/89
4039	TAB/GREATER SOUTHWEST	GRAND PRAIRIE	TX	07/20/89
4051	TAB/HOUSTON—GALLERIA	HOUSTON	TX	07/20/89
4056	TAB/LEVELLAND	LEVELLAND	TX	07/20/89
4049	TAB/LONGVIEW	LONGVIEW	TX	07/20/89
4044	TAB/MCKINNEY	MCKINNEY	TX	07/20/89
4054	TAB/MIDLAND	MIDLAND	TX	07/20/89
4048	TAB/PLANO	PLANO	TX	07/20/89
4050	TAB/RICHARDSON	RICHARDSON	TX	07/20/89
4052	TAB/SOUTHWEST	STAFFORD	TX	07/20/89
4055	TAB/TEMPLE	TEMPLE	TX	07/20/89
4047	TAB/TYLER	TYLER	TX	07/20/89
4041	TAB/WICHITA FALLS	WICHITA FALLS	TX	07/20/89
2670	TALLULAH STATE BANK AND TRUST COMPANY	TALLULAH	LA	03/27/87
8007	TALMAGE STATE BANK	TALMAGE	KS	02/27/86
4595	TARRANT BANK	FORT WORTH	TX	08/25/93

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
4367	TASCOSA NATIONAL BANK OF AMARILLO	AMARILLO	TX	06/13/91
7092	TAYLOR FED S & L ASSOC.	TAYLOR	TX	06/22/90
8588	TAYLOR FED S & L ASSOC.	TAYLOR	TX	08/17/89
7304	TENNESSEE FEDERAL SAVINGS BANK	COOKEVILLE	TN	05/31/91
8406	TERREBONNE SAVINGS & LOAN ASSOC. F.A.	HOUMA	LA	08/07/89
7244	TERREBORNE SAVINGS & LOAN ASSOC. F.A.	HOUMA	LA	12/07/90
7564	TERRITORY SLA/COMMERCIAL	SEMINOLE	OK	01/29/88
5954	TEXANA NATIONAL BANK OF BELTON	BELTON	TX	12/01/88
2617	TEXANA NATIONAL BANK OF COLLEGE STATION	COLLEGE STATION	TX	11/20/86
7423	TEXARKANA FEDERAL SAVINGS & LOAN ASSN.	TEXARKANA	AR	08/30/91
8897	TEXARKANA FEDERAL SAVINGS & LOAN ASSN.	TEXARKANA	AR	12/07/90
8705	TEXAS AMERICAN BRIDGE BANK	DALLAS	TX	07/21/89
2599	TEXAS BANK AND TRUST COMPANY	LUBBOCK	TX	09/19/86
8193	TEXAS BANK AND TRUST COMPANY	LUBBOCK	TX	09/05/86
2329	TEXAS BANK OF AMARILLO.	AMARILLO	TX	11/05/82
2945	TEXAS BANK OF PLANO	PLANO	TX	12/15/88
8047	TEXAS BANK #1	DALLAS	TX	06/14/88
8048	TEXAS BANK #2	HOUSTON	TX	06/14/88
4349	TEXAS BANK & TRUST OF TEMPLE	TEMPLE	TX	05/09/91
7326	TEXAS COMMERCIAL SAVINGS	SULPHER SPRINGS	TX	06/14/91
7839	TEXAS COMMERCIAL SAVINGS ASSN.	SULPHER SPRINGS	TX	09/21/90
7293	TEXAS FEDERAL SAVINGS & LOAN	SAN ANTONIO	TX	05/22/91
2598	TEXAS INDEPENDENCE BANK	PASADENA	TX	09/18/86
8192	TEXAS INDEPENDENCE BANK	PASADENA	TX	09/05/86
5866	TEXAS INVESTMENT BANK NATIONAL ASSOCIATI	HOUSTON	TX	05/21/87
5938	TEXAS NATIONAL BANK	AUSTIN	TX	04/21/88
2835	TEXAS NATIONAL BANK	VICTORIA	TX	06/23/88
4223	TEXAS NATIONAL BANK	EL PASO	TX	06/07/90
5959	TEXAS NATIONAL BANK	HOUSTON	TX	02/16/89
2946	TEXAS NATIONAL BANK	DALLAS	TX	12/15/88
5867	TEXAS NATIONAL BANK—WESTHEIMER	HOUSTON	TX	05/28/87
4369	TEXAS PREMIER BANK OF VICTORIA, N.A.	VICTORIA	TX	06/13/91
8873	TEXAS SAVINGS & LOAN ASSOCIATION	SAN ANTONIO	TX	04/20/90
7697	TEXAS TRUST (SW023)	LLANO	TX	02/22/94
7136	TEXAS WESTERN FED. SAV. ASSOCIATION	HOUSTON	TX	08/17/90
8658	TEXAS WESTERN FED. SAV. ASSOC.	HOUSTON	TX	11/16/89
8814	TEXASBANC SAVINGS	CONROE	TX	02/23/90
7379	TEXASBANC SAVINGS	CONROE	TX	08/02/91
5918	THE ALEXANDER STATE BANK	ALEXANDER	KS	11/19/87
6707	THE AMERICAN BANK	ALMA	WI	06/20/86
2840	THE AMERICAN BANK	PALESTINE	TX	07/14/88
2511	THE AURORA BANK	AURORA	CO	11/01/85
4461	THE BANK FOR SAVINGS	MALDEN	MA	03/20/92
4434	THE BANK MART	BRIDGEPORT	CT	12/13/91
6602	THE BANK OF BRONSON	BRONSON	KS	08/23/85
2567	THE BANK OF COMMERCE	SHREVEPORT	LA	06/12/86
2459	THE BANK OF COMMERCE	CHANUTE	KS	05/02/85
4020	THE BANK OF EDMOND N.A.	EDMOND	OK	05/18/89
4366	THE BANK OF HORTON	HORTON	KS	06/13/91
2935	THE BANK OF KERRVILLE	KERRVILLE	TX	11/17/88
2496	THE BANK OF LORETTO	LORETTO	TN	09/04/85
2780	THE BANK OF LOUISBURG	LOUISBURG	KS	02/03/88
2616	THE BANK OF NORTHERN CALIFORNIA	SAN JOSE	CA	11/14/86
2523	THE BANK OF PANAMA	PANAMA	NE	12/19/85
6725	THE BANK OF PARK COUNTY	BAILEY	CO	07/24/86
6726	THE BANK OF PARK COUNTY	BAILEY	CO	07/24/86
2368	THE BANK OF RED OAK	RED OAK	OK	12/16/83
4156	THE BANK OF RUIDOSO	RUIDOSO	NM	02/23/90
4602	THE BANK OF SAN DIEGO	SAN DIEGO	CA	10/29/93
4438	THE BANK OF VERDE VALLEY	COTTONWOOD	AZ	01/16/92
2832	THE BANK OF WESTMINSTER	WESTMINSTER	CO	06/22/88
6379	THE BANK OF WOODSON	WOODSON	TX	03/01/82
8388	THE BARBER COUNTY S & LA	MEDICINE LODGE	KS	03/02/89
6979	THE BARBER COUNTY S & LA	MEDICINE LODGE	KS	05/04/90
4179	THE BAZINE STATE BANK	BAZINE	KS	04/12/90
2313	THE BELLE-BLAND BANK	BLAND	MO	07/02/82
8201	THE BEN FRANKLIN FS & LA	PORTLAND	OR	02/21/90
7166	THE BEN FRANKLIN FS & LA	PORTLAND	OR	09/07/90
2694	THE BENTON STATE BANK	BENTON	KS	06/11/87
4340	THE BLUEVILLE BANK OF GRAFTON	GRAFTON	WV	04/05/91
2331	THE BOLLINGER COUNTY BANK	LUTESVILLE	MO	12/10/82
3501	THE BOWERY SAVINGS BANK	NEW YORK	NY	10/01/85

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
2314	THE BOWIE COUNTY STATE BANK	HOOKS	TX	07/28/82
4559	THE BREMEN STATE BANK	BREMEN	KS	12/18/92
5985	THE BURR OAK STATE BANK	BURR OAK	KS	08/31/89
4450	THE CENTRAL SAVINGS BANK	LOWELL	MA	02/14/92
2730	THE CITIZENS BANK	DRUMRIGHT	OK	09/24/87
2509	THE CITIZENS BANK	OGDEN	UT	10/18/85
4418	THE CITIZENS BANK OF PAGOSA SPRING	PAGOSA SPRING	CO	10/25/91
2610	THE CITIZENS STATE BANK	DONNA	TX	11/06/86
6362	THE CITIZENS STATE BANK	VIOLA	KS	06/04/80
6700	THE CITIZENS STATE BANK OF MCCRACKEN	MCCRACKEN	KS	06/05/86
2516	THE CLARKSDALE BANK OF CLARKSDALE	CLARKSDALE	MO	11/21/85
2399	THE COFFEEN NATIONAL BANK	COFFEEN	IL	07/12/84
8045	THE COMMERCIAL BANK	ANDALUSIA	AL	02/01/88
2351	THE COMMERCIAL BANK OF CALIFORNIA	LOS ANGELES	CA	05/27/83
2571	THE COMMERCIAL STATE BANK	POCAHONTAS	IA	06/27/86
2448	THE COMMERCIAL STATE BANK	AFTON	IA	03/08/85
4004	THE COMMONWEALTH BANK	BELLAIRE	TX	04/12/89
2396	THE CORNING BANK	CORNING	AR	06/15/84
4357	THE COSMOPOLITAN NATIONAL BANK OF CHICAGO	CHICAGO	IL	05/17/91
2647	THE COUNTY BANK	MANATEE COUNTY	FL	02/13/87
6584	THE CROSSROADS STATE BANK	OKLAHOMA CITY	OK	07/11/85
5982	THE DAKOTA BANK	GRAND FORKS	ND	08/24/89
6524	THE DAYTON BANK & TRUST COMPANY	DAYTON	TN	11/30/84
6370	THE DES PLAINES BANK	DES PLAINES	IL	03/14/81
2364	THE DESCHUTES BANK	REDMOND	OR	10/07/83
2515	THE DILL STATE BANK	DILL CITY	OK	11/21/85
2360	THE DOUGLAS STATE BANK	KANSAS CITY	KS	09/02/83
8546	THE DUNCAN S & LA	DUNCAN	OK	03/16/89
7138	THE DUNCAN S & LA	DUNCAN	OK	08/17/90
2507	THE EARLY BANK	EARLY	TX	10/18/85
2586	THE EASTON STATE BANK	LEAVENWORTH	KS	08/08/86
2464	THE ENERGY BANK, NATIONAL ASSOCIATION	DALLAS	TX	05/16/85
6571	THE FAIRFIELD STATE BANK	FAIRFIELD	NE	05/31/85
4396	THE FAMILY BANK	ALLENSTOWN	NH	09/06/91
2420	THE FARMERS AND MERCHANTS BANK	TECUMSEH	OK	10/05/84
2397	THE FARMERS NATIONAL BANK OF AURELIA	AURELIA	IA	06/21/84
2757	THE FARMERS NATIONAL BANK OF CORDELL	CORDELL	OK	12/03/87
2442	THE FARMERS NATIONAL BANK OF ERICK	ERICK	OK	02/07/85
2638	THE FARMERS NATIONAL BANK OF REMINGTON	REMINGTON	IN	01/29/87
2434	THE FARMERS STATE BANK	SELDEN	KS	12/20/84
5994	THE FARMERS STATE BANK	LYMAN	NE	09/22/89
2973	THE FARMERS STATE BANK	BOGUE	KS	03/16/89
2787	THE FARMERS & MERCHANTS BANK OF HILL CITY	HILL CITY	KS	02/18/88
4289	THE FARMERS & MERCHANTS BANK OF SHEYENNE	SHEYENNE	ND	10/26/90
5638	THE FARMERS & MERCHANTS NB OF HENNESSEY	HENNESSEY	OK	12/05/85
2977	THE FARMERS & MERCHANTS STATE BANK	BALLINGER	TX	03/16/89
2207	THE FEDERAL SAVINGS BANK	SWAINSBORO	GA	03/27/92
7781	THE FEDERAL SAVINGS BANK	SWAINSBORO	GA	03/22/91
2353	THE FIRST CENTRAL BANK	SMITHVILLE	TN	07/08/83
2297	THE FIRST NA BK & TRUST CO OF TUSCOLA	TUSCOLA	IL	02/06/82
2838	THE FIRST NATIONAL BANK	SHERMAN	TX	06/30/88
5929	THE FIRST NATIONAL BANK AND TRUST CO OF	CUSHING	OK	03/10/88
5765	THE FIRST NATIONAL BANK AND TRUST CO OF	ENID	OK	11/06/86
5697	THE FIRST NATIONAL BANK AND TRUST COMPANY	NORMAN	OK	05/26/86
2574	THE FIRST NATIONAL BANK AND TRUST CO. OF	OKLAHOMA CITY	OK	07/11/86
2587	THE FIRST NATIONAL BANK AND TRUST OF OKL	OKLAHOMA CITY	OK	07/14/86
2306	THE FIRST NATIONAL BANK IN HUMBOLDT	HUMBOLDT	IA	04/02/82
2762	THE FIRST NATIONAL BANK IN RHOME	RHOME	TX	12/10/87
5614	THE FIRST NATIONAL BANK IN TERRAL	TERRAL	OK	09/27/85
2553	THE FIRST NATIONAL BANK OF BANDERA	BANDERA	TX	04/24/86
2844	THE FIRST NATIONAL BANK OF BLOOMING PRAI	BLOOMING PRAIRIE	MN	07/21/88
2737	THE FIRST NATIONAL BANK OF BRUSH	BRUSH	CO	10/08/87
5706	THE FIRST NATIONAL BANK OF CHANUTE	CHANUTE	KS	06/19/86
2357	THE FIRST NATIONAL BANK OF DANVERS	DANVERS	IL	08/05/83
5586	THE FIRST NATIONAL BANK OF DARROUZETT	DARROUZETT	TX	07/18/85
4200	THE FIRST NATIONAL BANK OF GEORGETOWN	GEORGETOWN	TX	05/17/90
4017	THE FIRST NATIONAL BANK OF GORDON	GORDON	TX	05/18/89
5951	THE FIRST NATIONAL BANK OF GRACEMONT	GRACEMONT	OK	11/10/88
5902	THE FIRST NATIONAL BANK OF HARMON	HARMON	OK	09/03/87
2477	THE FIRST NATIONAL BANK OF JACKSONVILLE	JACKSONVILLE	AL	07/05/85
4265	THE FIRST NATIONAL BANK OF LEVELLAND	LEVELLAND	TX	08/30/90
2717	THE FIRST NATIONAL BANK OF LUTHER	LUTHER	OK	08/13/87

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
5795	THE FIRST NATIONAL BANK OF MARLBORO	MARLBORO	MA	01/23/87
2365	THE FIRST NATIONAL BANK OF MIDLAND	MIDLAND	TX	10/14/83
2718	THE FIRST NATIONAL BANK OF NAVASOTA	NAVASOTA	TX	08/13/87
2481	THE FIRST NATIONAL BANK OF ONAGA	ONAGA	KS	07/23/85
4350	THE FIRST NATIONAL BANK OF POTH	POTH	TX	05/09/91
2634	THE FIRST NATIONAL BANK OF RUSH	RUSH SPRINGS	OK	01/15/87
2385	THE FIRST NATIONAL BANK OF RUSHFORD	RUSHFORD	MN	05/07/84
4140	THE FIRST NATIONAL BANK OF SAN MARCOS	SAN MARCOS	TX	01/04/90
4157	THE FIRST NATIONAL BANK OF SANGER	SANGER	TX	03/01/90
2636	THE FIRST NATIONAL BANK OF SKIATOOK	SKIATOOK	OK	01/15/87
2328	THE FIRST NATIONAL BANK OF SO CHARLESTON	SOUTH CHARLESTON	WV	11/05/82
2457	THE FIRST NATIONAL BANK OF SPRINGFIELD	SPRINGFIELD	CO	04/18/85
2504	THE FIRST NATIONAL BANK OF ST. JOSEPH	ST. JOSEPH	MO	10/11/85
5903	THE FIRST NATIONAL BANK OF TIPTON	TIPTON	OK	09/02/87
4358	THE FIRST NATIONAL BANK OF TOMS RIVER	TOMS RIVER	NJ	05/22/91
2527	THE FIRST NATIONAL BANK OF WHITE CITY	WHITE CITY	KS	01/09/86
5868	THE FIRST NATIONAL BANK OF WILMONT	WILMONT	MN	05/29/87
5889	THE FIRST NATIONAL BANK OF YUKON	YUKON	OK	07/29/87
5732	THE FIRST NATIONAL BANK & TRUST CO OF EL	EL RENO	OK	08/08/86
2669	THE FIRST STATE BANK IN BILLINGS	BILLINGS	OK	03/26/87
4024	THE FIRST STATE BANK	FORGAN	OK	05/31/89
8190	THE FIRST STATE BANK	FRISCO	TX	09/01/86
2471	THE FIRST STATE BANK	EDNA	KS	06/13/85
2816	THE FIRST STATE BANK	CHILDRESS	TX	05/12/88
5960	THE FIRST STATE BANK	ABILENE	TX	02/17/89
2653	THE FIRST STATE BANK	ROCKFORD	IA	03/04/87
2693	THE FIRST STATE BANK	FRISCO	TX	06/04/87
5940	THE FIRST STATE BANK	ROCKWALL	TX	05/26/88
2784	THE FIRST STATE BANK	WHITE CLOUD	MI	02/12/88
2408	THE FIRST STATE BANK	THAYER	KS	08/22/84
2132	THE FIRST, FEDERAL ASSOCIATION	ORLANDO	FL	10/11/91
7126	THE GARNETT SAVINGS & LOAN ASSOC.	GARNETT	KS	08/10/90
8676	THE GARNETT SAVINGS & LOAN ASSOC.	GARNETT	KS	12/07/89
2585	THE GERING NATIONAL BANK & TRUST COMPANY	GERING	NE	07/28/86
6972	THE GUARDIAN FEDERAL S & L ASSOCIATION	BAKERS FIELD	CA	04/27/90
8564	THE GUARDIAN FEDERAL S&L ASSOC.	BAKERSFIELD	CA	06/29/89
2611	THE HOME BANK	SAVANNAH	MO	11/06/86
2791	THE HOME STATE BANK	RUSSELL	KS	03/03/88
2600	THE HOME STATE BANK	LA CROSSE	KS	09/25/86
5958	THE HOME STATE BANK	ARCADIA	KS	02/16/89
2570	THE HOME STATE BANK	ROCHESTER	TX	06/27/86
4381	THE HOUSATONIC BANK & TRUST COMPANY	ANSONIA	CT	07/26/91
4520	THE HOWARD SAVINGS BANK	LIVINGSTON	NJ	10/02/92
2615	THE HOXIE STATE BANK	HOXIE	KS	11/13/86
4208	THE HUNTSVILLE NATIONAL BANK	HUNTSVILLE	TX	05/31/90
2341	THE INA STATE BANK	INA	IL	04/08/83
4379	THE KERENS BANK	KERENS	TX	07/26/91
2641	THE LA PRYOR STATE BANK	ZAULA	TX	01/29/87
4336	THE LANDMARK BANK	HARTFORD	CT	03/28/91
2395	THE LAWRENCE COUNTY BANK	LAWRENCEBURG	TN	06/15/84
4114	THE LEE STATE BANK	BROWERVILLE	MN	11/09/89
2652	THE LEWISTOWN BANK	LEWISTOWN	IL	02/27/87
2831	THE LIBERTY BANK OF SEATTLE	SEATTLE	WA	06/17/88
2666	THE MADILL BANK AND TRUST COMPANY	MADILL	OK	03/20/87
2333	THE MADISON COUNTY BANK	FREDERICKTOWN	MO	01/21/83
5906	THE MAYFIELD STATE BANK	MAYFIELD	KS	09/24/87
4326	THE MCKINLEY BANK	NILES	OH	02/22/91
2591	THE MENDON STATE BANK	MENDON	IL	08/20/86
4225	THE MERCHANT BANK OF CALIFORNIA	BEVERLY HILLS	CA	06/08/90
4319	THE MERCHANTS BANK & TRUST COMPANY	NORWALK	CT	02/01/91
1122	THE METRO BANK OF HUNTINGTON, INC.	HUNTINGTON	WV	09/12/80
2283	THE MISSION STATE BANK AND TRUST COMPANY	MISSION	KS	08/08/80
2386	THE MISSISSIPPI BANK	JACKSON	MS	05/11/84
5907	THE MURDOCK STATE BANK	MURDOCK	KS	09/24/87
2548	THE NATIONAL BANK	DYERSVILLE	IA	04/10/86
2956	THE NATIONAL BANK OF BOSSIER CITY	BOSSIER CITY	LA	01/12/89
5478	THE NATIONAL BANK OF CARMEL	CARMEL	CA	05/08/84
4257	THE NATIONAL BANK OF WASHINGTON	WASHINGTON	DC	08/10/90
4324	THE NATIONAL BANK OF WORTHAM	WORTHAM	TX	02/14/91
5921	THE NORTH AMERICAN BANK	PHOENIX	AZ	01/08/88
5996	THE OLLA STATE BANK	OLLA	LA	10/05/89
1229	THE OVERLAND PARK FS & LA	OVERLAND PARK	KS	08/13/93

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
2680	THE PEOPLES BANK	COLLINSVILLE	AL	04/22/87
2759	THE PEOPLES BANK	OLIVE HILL	KY	12/03/87
6677	THE PEOPLES BANK OF MERCER	MERCER	MO	04/10/86
4283	THE PEOPLES BANK & TRUST CO	NATCHITOCHES	LA	10/05/90
2748	THE PEOPLES BANK & TRUST OF IBERIA PARIS	NEW IBERIA	LA	11/19/87
2456	THE PEOPLES NATIONAL BANK OF LAMPASAS	LAMPASAS	TX	04/18/85
4248	THE PERMANENT SAVINGS BANK	NIAGARA FALLS	NY	07/13/90
1251	THE PIONEER	PEARL VILLAGE	KS	03/11/94
2959	THE PLANTERS BANK AND TRUST COMPANY	HAYNESVILLE	LA	01/19/89
4564	THE PLANTERS NATIONAL BANK OF ROSEBUD	ROSEBUD	TX	02/25/93
4155	THE RED RIVER BANK	RED RIVER	NM	02/23/90
8024	THE REXFORD STATE BANK	REXFORD	KS	10/10/84
2421	THE REXFORD STATE BANK	REXFORD	KS	10/10/84
2284	THE ROCHELLE BANK AND TRUST COMPANY	ROCHELLE	IL	10/11/80
4560	THE RUSHVILLE NATIONAL BANK	RUSHVILLE	IN	12/18/92
4390	THE SAN SABA NATIONAL BANK	SAN SABA	TX	08/29/91
7401	THE SAVINGS BANC, A SAVINGS & LOAN ASSOC	ARLINGTON	TX	08/09/91
8295	THE SAVINGS BANC, A SAVINGS & LOAN ASSOC	ARLINGTON	TX	05/11/90
4180	THE SEAMEN'S BANK FOR SAVINGS, FSB	NEW YORK	NY	04/18/90
2841	THE SECURITY BANK	WARNER	OK	07/14/88
2631	THE SECURITY NATIONAL BANK AND TRUST COM	NORMAN	OK	01/08/87
2921	THE SECURITY STATE BANK	COMANCHE	OK	09/22/88
6612	THE SEDAN STATE BANK	SEDAN	KS	09/25/85
4503	THE SOMERSWORTH BANK	SOMERSWORTH	NH	06/26/92
2672	THE SOUTHWESTERN BANK	HOUSTON	TX	04/09/87
4305	THE STATE BANK OF OMAHA	OMAHA	TX	12/14/90
2590	THE STATE EXCHANGE BANK	YATES CENTER	KS	08/14/86
2439	THE STEELE STATE BANK	CHEROKEE	IA	01/25/85
4032	THE STERLINGTON BANK	STERLINGTON	LA	07/13/89
2430	THE STRONG CITY STATE BANK	STRONG CITY	KS	11/29/84
8025	THE STRONG CITY STATE BANK	STRONG CITY	KS	11/29/84
2915	THE SYLVIA STATE BANK	SYLVIA	KS	09/08/88
2726	THE TALMAGE STATE BANK	TALMAGE	KS	09/17/87
2449	THE TAYLOR STATE BANK	EMINGTON	IL	03/15/85
8875	THE TENNESSEE SAVINGS BANK	COOKEVILLE	TN	08/03/90
4061	THE TEXAS BANK & TRUST COMPANY	SWEETWATER	TX	07/27/89
5917	THE TIMKEN STATE BANK	TIMKEN	KS	11/19/87
2405	THE TINGLEY STATE SAVINGS BANK	MOUNT AYR	IA	08/10/84
5925	THE TRUST BANK	HIALEAH	FL	01/29/88
6528	THE UEHLING STATE BANK	UEHLING	NE	12/18/84
4511	THE UNION SAVINGS BANK	PATCHOGUE	NY	08/28/92
2592	THE UNITED BANK	MINNEAPOLIS	KS	08/21/86
7436	THE UNITED SAVINGS & LOAN ASSOC OF TRENT	TRENTON	NJ	09/06/91
8853	THE UNITED SAVINGS & LOAN ASSOC. OF TREN	TRENTON	NJ	06/15/90
2808	THE VILLAGE BANK	GREAT FALLS	MT	04/22/88
4170	THE WALLER BANK, NATIONAL ASSOCIATION	WALLER	TX	03/22/90
4514	THE WASHINGTON BANK	FAIRFAX	VA	09/18/92
4351	THE WASHINGTON BANK OF MARYLAND	BALTIMORE	MD	05/10/91
4210	THE WILSHIRE BANK, NATIONAL ASSOCIATION	LOS ANGELES	CA	05/31/90
4227	THE WIMBERLY BANK	WIMBERLY	TX	06/14/90
4593	THE WOLFE CITY NAT'L BANK IN WOLFE CITY	WOLFE CITY	TX	07/29/93
4466	THEODORE ROOSEVELT NATIONAL BANK	WASHINGTON	DC	03/26/92
5988	THOUSAND OAKS NATIONAL BANK	PFLUGERVILLE	TX	09/07/89
8493	TIMBERLAND SA	NACOGDOCHES	TX	03/16/89
7391	TIMBERLAND, S.A.	NACOGDOCHES	TX	08/02/91
7292	TIME SAVINGS & LOAN ASSOCIATION	SAN FRANCISCO	CA	05/17/91
8815	TIME SAVINGS & LOAN ASSOCIATION	SAN FRANCISCO	CA	06/01/90
8798	TOBIAS KNOBLAUCH PRIVATE BANK	READING	PA	04/16/92
2687	TODD COUNTY STATE BANK	LONG PRAIRIE	MN	05/14/87
8383	TOPEKA SAVINGS, A FS & LA	TOPEKA	KS	03/02/89
6999	TOPEKA SAVINGS, A FS & LA	TOPEKA	KS	05/11/90
2500	TOWER BANK, NATIONAL ASSOCIATION	HIALEAH GARDENS	FL	10/03/85
2919	TOWN AND COUNTRY BANK	BIXBY	OK	09/15/88
2894	TOWN AND COUNTRY NATIONAL BANK	HARLINGEN	TX	08/14/88
3950	TRACY COLLINS, SLC	SALT LAKE CITY	UT	12/30/88
7950	TRANSOHIO SAVINGS BANK	CLEVELAND	OH	07/10/92
7672	TRANSOHIO (C287)	CLEVELAND	OH	08/09/89
1303	TRANSOHIO, FSB	CLEVELAND	OH	09/15/94
4006	TRAVIS BANK & TRUST	AUSTIN	TX	04/20/89
7334	TRAVIS SAVINGS & LOAN ASSOCIATION	SAN ANTONIO	TX	06/21/91
8678	TRAVIS SAVINGS & LOAN ASSOCIATION	SAN ANTONIO	TX	06/29/90
4025	TREASURE STATE BANK	GLASGOW	MT	06/09/89

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
2833	TRI CITIES BANK & TRUST	GLEN HEIGHTS	TX	06/23/88
7560	TRI-COUNTY SLA	MAPLE SHADE	NJ	11/13/87
7876	TRIDENT FEDERAL SAVINGS & LOAN ASSN	NEWARK	NJ	01/04/91
7392	TRIDENT FEDERAL SAVINGS & LOAN ASSN	NEWARK	NJ	08/02/91
2918	TRINITY NATIONAL BANK	SAN ANTONIO	TX	09/15/88
4290	TRINITY NATIONAL BANK	BERBROOK	TX	11/02/90
4188	TRINITY NATIONAL BANK OF DALLAS	DALLAS	TX	04/25/90
8482	TRINITY VALLEY S & LA	CLEVELAND	TX	03/09/89
6926	TRINITY VALLEY SAVINGS & LOAN ASSOC	CLEVELAND	TX	10/06/89
6400	TRI-STATE BANK	MARKHAM	IL	10/08/82
5916	TRI-STATE NATIONAL BANK	BELLE FOURCHE	SD	11/10/87
8352	TROPICAL FS & LA	MIAMI	FL	03/17/89
4070	TROUP BANK & TRUST COMPANY	TROUP	TX	08/24/89
7808	TRUST BANK	TYSONS CORNER	VA	01/25/91
2195	TRUSTBANK FSB	TYSONS CORNER	VA	03/20/92
2372	TUCKER COUNTY BANK	PARSONS	WV	02/03/84
4194	TUCKER STATE BANK OF JACKSONVILLE	JACKSONVILLE	FL	05/04/90
2128	TUSKEGEE FEDERAL SAVINGS & LOAN ASSOC	TUSKEGEE INSTITUTE	AL	10/11/91
7870	TUSKEGEE FEDERAL SAVINGS & LOAN ASSOC	TUSKEGEE INSTITUTE	AL	11/30/90
7587	TWIN CITY/SECOR BANK	WEST MONROE	LA	11/10/88
4147	TYLER NATIONAL BANK	TYLER	TX	02/01/90
1288	UKRANIAN FS & LA	PHILADELPHIA	PA	06/24/94
7940	UKRANIAN SAVINGS & LOAN ASSOCIATION	PHILADELPHIA	PA	03/12/92
7582	ULTIMATE SB/CITIZENS FEDERAL	RICHMOND	VA	09/16/88
7548	UMPQUA SLA	ROSEBURG	OR	01/16/87
1123	UN AMER BANK KNOXVILLE	KNOXVILLE	TN	03/22/83
8331	UNIFIED SAVINGS, A FS & LA	NORTHRIDGE	CA	04/06/89
6924	UNIFIED SAVINGS, AFS & LA	NORTHRIDGE	CA	09/22/89
7062	UNIFIRST BANK FOR SAVINGS, A FS & LA	JACKSON	MS	06/15/90
8623	UNIFIRST BANK FOR SAVINGS, A FS & LA	JACKSON	MS	08/10/89
4421	UNION BANK	SAN ANTONIO	TX	10/31/91
2843	UNION BANK AND TRUST	BARTLESVILLE	OK	07/21/88
2802	UNION BANK AND TRUST COMPANY	OKLAHOMA CITY	OK	03/31/88
2937	UNION BANK OF HOUSTON	HOUSTON	TX	12/01/88
2813	UNION BANK & TRUST	DALLAS	TX	05/05/88
6681	UNION COUNTY BANK	MAYNARDVILLE	TN	04/22/86
6708	UNION DEPOSIT BANK	UNION	KY	06/26/86
7698	UNION FSB (C–354)	INDIANAPOLIS	IN	03/14/94
5436	UNION NATIONAL BANK OF CHICAGO	CHICAGO	IL	07/08/83
7591	UNION SAVINGS & LOAN ASSOCIATION	GOLIAD	TX	08/09/89
2366	UNION TRUST BANK	SAN JUAN	PR	12/09/83
7087	UNIPOINT FEDERAL SAVINGS BANK	TRUMANN	AR	06/22/90
8318	UNIPOINT FEDERAL SAVINGS BANK	TRUMANN	AR	03/02/89
2348	UNITED AMERICAN BANK IN HAMILTON COUNTY	CHATTANOOGA	TN	05/27/83
6854	UNITED BANK-HOUSTON	HOUSTON	TX	04/30/87
2376	UNITED BANK OF OREGON	MILWAUKIE	OR	03/02/84
6869	UNITED BANK OF TEXAS	AUSTIN	TX	06/04/87
4255	UNITED BANK OF WACO, NATIONAL ASSOC	WACO	TX	08/02/90
2688	UNITED BANK, LIBBY	LIBBY	MT	05/14/87
4567	UNITED BANK, NATIONAL ASSOCIATION	LANCASTER	TX	03/18/93
4327	UNITED CITIZENS BANK, N.A	COLLEGE STATION	TX	02/28/91
4139	UNITED COMMUNITY BANK	WESTLAKE VILLAGE	CA	12/20/89
2148	UNITED FEDERAL SAVINGS BANK	PRESTONSBURG	KY	11/22/91
8247	UNITED FEDERAL SAVINGS BANK	DES MOINES	IA	03/22/91
8696	UNITED FEDERAL SAVINGS BANK	PRESTONSBURG	KY	08/30/91
7122	UNITED FEDERAL SAVINGS BANK & LOAN ASSN.	VIDALIA (NEW ORLEANS)	LA	07/20/90
7191	UNITED FEDERAL SAVINGS & LOAN ASSN	NEW ORLEANS	LA	09/28/90
2182	UNITED FEDERAL SAVINGS & LOAN ASSN	JONESBORO	AR	03/13/92
8809	UNITED FEDERAL SAVINGS & LOAN ASSN	NEW ORLEANS	LA	03/16/90
7867	UNITED FEDERAL SAVINGS & LOAN ASSN	JONESBORO	AR	06/28/91
2208	UNITED FS & LA	SMYRNA	GA	03/27/92
7877	UNITED FS & LA	SMYRNA	GA	05/31/91
1289	UNITED FSA OF IOWA	DES MOINES	IA	06/24/94
7570	UNITED FSLA//MIDWEST FEDERAL	DURANT	OK	03/25/88
6976	UNITED GUARANTY FEDERAL SAVINGS BANK	TULLAHOMA	TN	05/04/90
8453	UNITED GUARANTY FEDERAL SAVINGS BANK	TULLAHOMA	TN	03/09/89
7435	UNITED HOME FEDERAL	TOLEDO	OH	09/06/91
2776	UNITED MERCANTILE BANK	SHREVEPORT	LA	01/21/88
4464	UNITED MERCANTILE BANK & TRUST CO., N.A	PASADENA	CA	03/20/92
4115	UNITED NATIONAL BANK OF PLANO	PLANO	TX	11/10/89
6471	UNITED OF AMERICAN BANK	CHICAGO	IL	04/27/84
2662	UNITED OKLAHOMA BANK	OKLAHOMA CITY	OK	03/17/87

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
4284	UNITED PEOPLES BANK	LAMPASAS	TX	10/11/90
8374	UNITED SAVINGS ASSOCIATION	SILVIS	IL	02/12/89
2111	UNITED SAVINGS BANK	VIENNA	VA	09/20/91
7261	UNITED SAVINGS BANK, FSB	LIBERTY	TX	12/13/90
8882	UNITED SAVINGS BANK, FSB	PATTERSON	NJ	05/15/90
8241	UNITED SAVINGS BANK, F.S.B	WINDOM	MN	05/11/90
7121	UNITED SAVINGS BANK, F.S.B	WINDOM	MN	07/06/90
2151	UNITED SAVINGS OF AMERICA	MELBOURNE	FL	02/07/92
2129	UNITED SAVINGS OF AMERICA	CHICAGO	IL	09/27/91
5911	UNITED SERVICES BANK	HARTSHORNE	OK	10/08/87
2359	UNITED SOUTHERN BANK OF CLARKSVILLE	CLARKSVILLE	TN	08/26/83
2347	UNITED SOUTHERN BANK OF NASHVILLE	NASHVILLE	TN	05/27/83
7801	UNITED STATES BANK	VIENNA	VA	07/31/90
2809	UNITY BANK	DAYTON	OH	04/22/88
2316	UNITY BANK AND TRUST COMPANY	BOSTON (ROXBURY)	MA	09/15/82
7380	UNITY SAVINGS & LOAN ASSOCIATION	BEVERLY HILLS	CA	08/02/91
7881	UNITY SAVINGS & LOAN ASSOCIATION	BEVERLY HILLS	CA	02/08/91
4522	UNIVERSAL BANK	LANHAM	MD	10/16/92
8524	UNIVERSAL S & LA, A FS & LA	SCOTTSDALE	AZ	02/17/89
8474	UNIVERSAL SA	HOUSTON	TX	03/09/89
7581	UNIVERSAL SA	CHICKASHA	OK	07/29/88
7093	UNIVERSAL SA	HOUSTON	TX	06/22/90
6950	UNIVERSAL SAVINGS & LOAN ASSOCIATION	SCOTTSDALE	AZ	01/26/90
2433	UNIVERSITY BANK OF WICHITA	WICHITA	KS	12/11/84
4362	UNIVERSITY BANK, N.A	NEWTON	MA	05/31/91
6938	UNIVERSITY FEDERAL SAVINGS ASSOC	HOUSTON	TX	10/13/89
4065	UNIVERSITY NATIONAL BANK	SAN ANTONIO	TX	08/03/89
4160	UNIVERSITY NATIONAL BANK OF COLLEGE STAT	COLLEGE STATION	TX	03/08/90
8455	UNIVERSITY SA	HOUSTON	TX	02/10/89
2473	URBANA SAVINGS BANK	URBANA	IA	06/21/85
2531	UTAH FIRST BANK	SALT LAKE CITY	UT	01/24/86
4034	UTICA NATIONAL BANK & TRUST CO	TULSA	OK	07/20/89
8619	UVALDE FS & LA	UVALDE	TX	01/26/90
7205	UVALDE FS & LA	UVALDE	TX	10/19/90
4253	U. S. SAVINGS BANK OF AMERICA	SEABROOK	NH	07/27/90
2768	U.S. BANK	DENTON	TX	12/17/87
6657	VALENCIA BANK	SANTA ANA	CA	02/07/86
4397	VALLEY BANK	WHITE RIVER JUNCTION	VT	09/13/91
8049	VALLEY BANK OF BEL GRADE	BEL GRADE	MT	07/31/88
4479	VALLEY COMMERCIAL BANK	STOCKTON	CA	04/24/92
8652	VALLEY FEDERAL SAVINGS ASSOCIATION	MC ALLEN	TX	10/19/89
7111	VALLEY FEDERAL SAVINGS ASSOCIATION	MCALLEN	TX	06/29/90
8442	VALLEY FEDERAL SAVINGS BANK	ROSWELL	NM	03/09/89
7058	VALLEY FEDERAL SAVINGS BANK	ROSWELL	NM	06/08/90
6954	VALLEY FEDERAL SAVINGS & LOAN ASSN	GRAND JUNCTION	CO	02/02/90
7502	VALLEY FIRST/HOME FSLA	EL CENTRO	CA	01/14/83
1208	VALLEY FS & LA	VAN NUYES	CA	04/10/92
8336	VALLEY FS & LA OF GRAND JUNCTION	GRAND JUNCTION	CO	03/09/89
7213	VALLEY FS & LA OF HUTCHINSON	HUTCHINSON	KS	11/09/90
8377	VALLEY FS & LA OF HUTCHINSON	HUTCHINSON	KS	03/02/89
6936	VALLEY FSB	DAYTON	TN	02/24/89
4575	VALLEY NATIONAL BANK OF FREMONT COUNTY	HAMBURG	IA	04/29/93
2732	VALLEY STATE BANK	ENCINO	CA	09/28/87
6758	VALLEY STATE BANK	BAGGS	WY	10/17/86
4238	VALLEY VIEW NATIONAL BANK	VALLEY VIEW	TX	06/28/90
7345	VANGUARD FSB	VADERGRIFT	PA	07/05/91
8252	VANGUARD FSB	VANDERGRIFT	PA	02/23/90
4467	VANGUARD SAVINGS BANK	HOLYOKE	MA	03/27/92
2145	VERMILION SAVINGS & LOAN ASSN	ABBEVILLE	LA	11/01/91
7803	VERMILION SAVINGS & LOAN ASSN	ABBEVILLE	LA	05/10/91
7338	VERMONT FS & LA	TIMONIUM	MD	06/28/91
8268	VERMONT FS & LA	TIMONIUM	MD	02/09/90
4504	VERNON BANK	VERNON	CT	06/26/92
7561	VERNON FSLA/MONTFORT SA	DALLAS	TX	11/19/87
8556	VICTORIA SA	VICTORIA	TX	06/29/89
2100	VICTORIA SA	SAN ANTONIO	TX	10/25/91
7579	VICTOR/CIMMARON	MUSKOGEE	OK	07/29/88
4348	VILLAGE GREEN NATIONAL BANK	JERSEY VILLAGE	TX	05/09/91
6922	VILLAGE SAVINGS FSB.	HOUSTON	TX	09/22/89
8484	VILLAGE SAVINGS, FSB	HOUSTON	TX	03/09/89
1220	VISA FEDERAL SAVINGS	CITY OF INDUSTRY	CA	06/04/93
8485	VISION BANC SAVINGS ASSOCIATION	KINGSVILLE	TX	03/02/89

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
7249	VISION BANC SAVINGS ASSOCIATION	KINGSVILLE	TX	12/07/90
7986	VISTA BANK, FSB	CANOGA PARK	CA	01/29/93
7945	VISTA FEDERAL SAVINGS BANK	RESTON	VA	02/28/92
1273	VISTA FSA	RESTON	VA	04/29/94
1246	VOLUNTEER FSB	LITTLE FERRY	NJ	02/25/94
8242	VOLUNTEER SB	LITTLE FERRY	NJ	06/05/92
2361	WARREN COUNTY BANK	MCMINNVILLE	TN	09/16/83
4302	WASHINGTON COUNTY STATE BANK	BRENHAM	TX	12/13/90
2390	WASHINGTON NATIONAL BANK OF CHICAGO	CHICAGO	IL	05/18/84
7002	WASHINGTON S & LA	STOCKTON	CA	05/11/90
8327	WASHINGTON S & LA	STOCKTON	CA	04/06/89
2380	WATAUGA VALLEY BANK	ELIZABETHTON	TN	04/06/84
2924	WATSON STATE BANK	WATSON	MN	09/30/88
2939	WAUKONIS STATE BANK	WAUKOMIS	OK	12/08/88
2724	WAXAHACHIE BANK AND TRUST COMPANY	WAXAHACHIE	TX	09/10/87
2954	WEST BELT NATIONAL BANK	HOUSTON	TX	01/12/89
6473	WEST COAST BANK	LOS ANGELES	CA	04/27/84
2892	WEST HOUSTON NATIONAL BANK	HOUSTON	TX	08/11/88
2374	WEST OLYMPIA BANK	LOS ANGELES	CA	02/10/84
2747	WEST TEXAS STATE BANK OF CANYON	CANYON	TX	11/13/87
2443	WEST VALLEY BANK	WOODLAND HILLS	CA	02/08/85
6973	WESTCO SAVINGS BANK, FSB	CULVER CITY	CA	04/27/90
8562	WESTCO SAVINGS BANK, FSB	WILMINGTON	CA	04/27/89
2209	WESTERLEIGH SAVINGS	STATEN ISLAND	NY	03/27/92
8205	WESTERLEIGH SAVINGS	STATIN ISLAND	NY	05/31/91
2596	WESTERN BANK	MIDLAND	TX	09/04/86
8164	WESTERN BANK	MIDLAND	TX	09/01/86
4294	WESTERN BANK	DUCANVILLE	TX	11/15/90
2660	WESTERN BANK	EL PASO	TX	03/12/87
2736	WESTERN BANK - WESTWOOD	HOUSTON	TX	10/01/87
2735	WESTERN BANK-NORTH WILCREST NATIONAL ASS	HOUSTON	TX	10/01/87
5908	WESTERN BANK-WESTHEIMER	HOUSTON	TX	10/01/87
4615	WESTERN COMMUNITY BANK	CORONA	CA	07/29/94
7515	WESTERN COMM/FIRST UNITED	EL CERRITO	CA	03/08/85
8325	WESTERN EMPIRE S & LA	YORBA LINDA	CA	02/12/89
8855	WESTERN EMPIRE S & LA	YORBA LINDA	CA	02/16/90
7156	WESTERN EMPIRE S & LA	YORBA LINDA	CA	08/31/90
7652	WESTERN FEDERAL (C352)	MARINA DEL REY	CA	08/09/89
1300	WESTERN FSB	MARINA DEL RAY	CA	09/09/94
7685	WESTERN FSLA (C385)	MISSOULA	MT	06/18/92
8472	WESTERN GULF	BAY CITY	TX	03/09/89
7219	WESTERN GULF SAVINGS	BAY CITY	TX	11/09/90
2320	WESTERN NATIONAL BANK	SANTA ANA	CA	08/27/82
5914	WESTERN NATIONAL BANK	BRYAN	TX	10/22/87
2383	WESTERN NATIONAL BANK OF CASPER	CASPER	WY	05/04/84
4111	WESTERN NATIONAL BANK OF LOUISIANA	KAPLAN	LA	10/26/89
5432	WESTERN NATIONAL BANK OF LOVELL	LOVELL	WY	06/24/83
4272	WESTERN NATIONAL BANK OF TEXAS	FORT WORTH	TX	09/13/90
7931	WESTERN SAVINGS AND LOAN ASSOCIATION	GLENVIEW	IL	11/22/91
8603	WESTERN SAVINGS & LOAN	PHOENIX	AZ	06/04/89
7032	WESTERN SAVINGS & LOAN	PHOENIX	AZ	05/31/90
2196	WESTERN SAVINGS & LOAN ASSOCIATION	GLENVIEW	IL	03/20/92
7990	WESTERN SLA	MARINA DEL REY	CA	06/04/93
2499	WESTERN STATE BANK OF DENTON	DENTON	TX	09/27/85
4598	WESTERN UNITED NATIONAL BANK	LOS ANGELES	CA	09/24/93
4130	WESTHEIMER MEMORIAL BANK N.A	HOUSTON	TX	12/08/89
4586	WESTHEIMER NATIONAL BANK	HOUSTON	TX	07/01/93
5942	WESTLAKE THRIFT & LOAN ASSOC	WESTLAKE VILLAGE	CA	07/29/88
7381	WESTLAND FS & LA	RAWLINS	WY	07/26/91
2969	WESTPOINT NATIONAL BANK	SAN ANTONIO	TX	02/16/89
8859	WESTPORT FEDERAL SAVINGS BANK	HANFORD	CA	03/09/90
7141	WESTPORT FEDERAL SAVINGS BANK	HANFORD	CA	08/17/90
1267	WESTSIDE BANK	LOS ANGELES	CA	04/15/94
8917	WESTSIDE BANK LOS ANGELES, CA	LOS ANGELES	CA	09/24/93
2817	WESTSIDE NATIONAL BANK	HOUSTON	TX	05/13/88
7523	WESTSIDE/MARINER FSLA	SEATTLE	WA	08/30/85
8321	WESTWOOD S & LA	LOS ANGELES	CA	02/17/89
7149	WESTWOOD S & LA	LOS ANGELES	CA	08/24/90
1277	WHITE HORSE FS & LA	TRENTON	NJ	05/06/94
7914	WHITE HORSE SAVINGS & LOAN ASSOCIATION	TRENTON	NJ	11/22/91
8273	WHITESTONE SAVINGS	WHITESTONE	NY	03/16/90
7221	WHITESTONE SAVINGS	WHITESTONE	NY	11/16/90

FDIC INSTITUTION NAMES (1980 AND LATER)—IN ALPHABETICAL ORDER—Continued

FDIC Ref. No.	Bank name	City	State	Date closed
4342	WHITNEY BANK & TRUST	HAMDEN	CT	04/12/91
2697	WHITTER THRIFT AND LOAN	WHITTER	CA	06/12/87
2541	WILLIAMS SAVINGS BANK	WILLIAMS	IA	03/20/86
8854	WILLIAMSBURG FS & LA	SALT LAKE CITY	UT	01/26/90
7178	WILLIAMSBURG FS & LA	SALT LAKE CITY	UT	09/14/90
2827	WILLIAMSTOWN BANK, N.A	HOUSTON	TX	06/02/88
2774	WILLISTON BASIN STATE BANK	WILLISTON	ND	01/21/88
4228	WILLOW BEND NATIONAL BANK	PLANO	TX	06/14/90
4577	WILSHIRE CENTER BANK, NA	LOS ANGELES	CA	05/06/93
8674	WILSHIRE FEDERAL SAVINGS & LOAN ASSN	LOS ANGELES	CA	01/11/90
7101	WILSHIRE FEDERAL SAVINGS & LOAN ASSN	LOS ANGELES	CA	06/22/90
4509	WINCHENDON SAVINGS BANK	WINCHENDON	MA	08/13/92
8835	WINDSOR SAVINGS ASSOCIATION	AUSTIN	TX	06/29/90
7357	WINDSOR SAVINGS ASSOCIATION	AUSTIN	TX	06/01/95
4365	WOBURN FIVE CENTS SAVINGS BANK	WOBURN	MA	06/07/91
4281	WOODWAY BANK & TRUST, N.A	HOUSTON	TX	10/04/90
4492	WORKINGMEN'S CO-OPERATIVE BANK	BOSTON	MA	05/29/92
4426	WORTHINGTON STATE BANK	WORTHINGTON	IN	11/14/91
8037	YANKEE BANK	BOSTON	MA	09/01/87
5913	YANKEE BANK FOR FINANCE & SAVINGS F.S.B	BOSTON	MA	10/15/87
6626	YELLOWSTONE STATE BANK-LANDER	LANDER	WY	11/01/85
7188	YORKRIDGE-CALVERT FED SAVINGS ASSN	PIKESVILLE	MD	09/28/90
8666	YORKRIDGE-CALVERT FED SAVINGS ASSN	PIKESVILLE	MD	12/14/89
2112	YORKVILLE FEDERAL SAVINGS & LOAN ASSN	BRONX	NY	09/20/91
7864	YORKVILLE FEDERAL SAVINGS & LOAN ASSN	BRONX	NY	09/21/90
8278	YORKWOOD S & LA	MAPLEWOOD	NJ	03/09/90
2135	YORKWOOD S & LA	MAPLEWOOD	NJ	10/18/91

RTC INSTITUTION NAMES—IN ALPHABETICAL ORDER

RTC Ref No.	Bank name	City	State	Date closed
8236	ABQ FSB	ALBUQUERQUE	NM	3/1/91
7915	ABRAHAM LINCOLN FSA	DRESHER	PA	3/25/94
8396	ACADIA S&LA	CROWLEY	LA	10/6/89
7884	ACTION FSB	SOMMERS POINT	NJ	10/25/91
7948	ADVANCED FSB	NORTHRIDGE	CA	3/18/94
8463	ALAMO FSA OF TEXAS	SAN ANTONIO	TX	5/3/91
7761	ALEXANDER HAMILTON FS&LA	PATERSON	NJ	9/13/91
7939	ALPHA INDIAN ROCK FS&LA	PHILADELPHIA	PA	7/9/93
8338	ALPINE SAVINGS	STEAMBOAT SPRINGS	CO	6/22/90
8230	ALTUS FSB	MOBILE	AL	5/20/94
8910	AMADOR VALLEY S&LA	PLEASANTON	CA	9/10/93
7832	AMBASSADOR FS&LA	TAMARAC	FL	6/21/91
8262	AMERICAN FSA OF IOWA	DES MOINES	IA	2/8/91
8664	AMERICAN FSB	SANFORD	ME	9/13/91
8505	AMERICAN FSB	AUSTIN	TX	9/8/89
8441	AMERICAN FS&LA	ALBUQUERQUE	NM	6/8/90
8641	AMERICAN HOME S&LA, FA	EDMOND	OK	9/12/90
8565	AMERICAN INTERSTATE SA	LOS ANGELES	CA	5/4/90
8886	AMERICAN PIONEER FSB	ORLANDO	FL	9/20/91
7753	AMERICAN SA	MT. CARMEL	IL	6/7/91
8514	AMERICAN SAVINGS FS&LA	SALT LAKE CITY	UT	6/8/90
8525	AMERICAN SAVINGS OF CO	COLORADO SPRINGS	CO	5/18/90
7895	AMERICAN SB, FSB	ADA	OK	11/1/91
8368	AMERICAN SECURITY FS&LA	CHICAGO	IL	6/19/90
8903	AMERICAN S&LA	NEW YORK	NY	5/5/95
8465	AMERICAN S&LA OF BRAZORIA CO	LAKE JACKSON	TX	9/28/90
8397	AMERICAN S&LA, FA	NEW ORLEANS	LA	6/8/90
7816	AMERIFEDERAL SB, FSB	LAWRENCEVILLE	NJ	9/20/91
7722	AMERIFIRST FSB	MIAMI	FL	3/20/92
8572	AMERIMAC SB, FSB	HILLSBORO	IL	5/15/90
8470	AMERIWAY SA	HOUSTON	TX	5/14/90
7814	AMIGO FS&LA	BROWNSVILLE	TX	6/28/91
8376	ANCHOR FS&LA	KANSAS CITY	KS	6/22/90
8293	ANDREWS S&LA, FA	ANDREWS	TX	9/6/91
7751	ARCANUM FS&LA	ARCANUM	OH	9/20/91
8833	ARKANSAS FSB, FA	LITTLE ROCK	AR	9/6/91
8281	ARLINGTON HEIGHTS SA, FA	ARLINGTON HEIGHTS	IL	9/28/90
8328	ARROWHEAD PACIFIC FSB	SAN BERNARDINO	CA	5/4/90
8660	ASPEN SB, FSB	ASPEN	CO	6/8/90

RTC INSTITUTION NAMES—IN ALPHABETICAL ORDER—Continued

RTC Ref No.	Bank name	City	State	Date closed
7806	ATASCOSA FSB	JOURDANTON	TX	8/2/91
8254	ATLANTA FSA	ATLANTA	TX	6/14/91
7840	ATLANTIC FINANCIAL FSB	SAN FRANCISCO	CA	4/10/92
8661	ATLANTIC FINANCIAL SAVINGS	BALA CYNWYD	PA	11/15/91
8672	ATLANTIC PERMANENT FEDERAL	NORFOLK	VA	7/12/91
7752	AUGUSTA FSA	BALTIMORE	MD	3/20/92
8585	AUSTIN FS&LA	AUSTIN	TX	6/26/91
8305	BALDWIN COUNTY FSB	ROBERTSDALE	AL	8/10/90
8411	BALTIMORE FED. FIN., FSA	BALTIMORE	MD	4/20/90
8571	BANC IOWA SB	CEDAR RAPIDS	IA	8/10/90
8460	BANCPLUS FSA	PASADENA	TX	9/20/91
8888	BANK USA, SA	SILVIS	IL	11/9/90
8478	BANKERS S&LA	GALVESTON	TX	3/16/90
8292	BANNER BANC FS&LA	GARLAND	TX	9/28/90
7909	BAY FSB	WEST PALM BEACH	FL	7/15/94
8504	BAYSHORE FSA	LAPORTE	TX	9/20/91
7887	BEACH SB, FSB	FOUNTAIN VALLEY	CA	7/19/91
7736	BEACON FSA	BALDWIN	NY	10/18/91
8475	BEDFORD SA	BEDFORD	TX	4/20/90
7893	BELL FSB	UPPER DARBY	PA	3/20/92
8456	BENJAMIN FRANKLIN FSA	HOUSTON	TX	9/6/91
8549	BEXAR SA	SAN ANTONIO	TX	6/15/90
8208	BIRMINGHAM FSB	BIRMINGHAM	AL	8/6/93
8620	BLACK HAWK S&LA, FA	ROCK ISLAND	IL	6/29/90
8415	BLUE VALLEY FS&LA	KANSAS CITY	MO	6/15/90
8291	BOONSLICK S&LA	BOONVILLE	MO	5/24/91
8353	BRICKELLBANC SA	MIAMI	FL	6/8/90
8454	BRIGHT BANC SA	DALLAS	TX	2/2/90
8542	BROADVIEW FSB, FA	CLEVELAND	OH	5/18/90
8260	BROKEN ARROW SA	BROKEN ARROW	OK	6/7/91
8803	BROOKHAVEN FS&LA	BROOKHAVEN	MS	7/12/91
8656	BROOKSIDE FS&LA	LOS ANGELES	CA	11/16/90
7882	BURLESON CO. FSA	CALDWELL	TX	2/28/92
8553	CABRILLO FSB	SAN JOSE	CA	5/11/90
8865	CAGUAS CENTRAL FSB	CAGUAS	PR	8/31/90
7731	CAPITAL FB FOR SAVINGS	CHICAGO	IL	5/10/91
8622	CAPITAL FS&LA	LITTLE ROCK	AR	6/29/90
8694	CAPITAL-UNION FSA	BATON ROUGE	LA	6/21/91
8616	CAPITOL CITY FSA	AUSTIN	TX	9/14/90
8207	CAPITOL FS&LA	AURORA	CO	7/12/91
8598	CAPROCK FS&LA	LUBBOCK	TX	9/21/90
7949	CARROLLTON HOMESTEAD ASSN., FA	NEW ORLEANS	LA	4/8/94
8602	CARTERET FSB	MADISON	NJ	3/10/95
8420	CASS FS&LA OF ST. LOUIS	FLORISSANT	MO	6/22/90
8477	CENTENNIAL FS&LA	GREENVILLE	TX	3/2/90
7764	CENTER S&LA, FA	CLIFTON	NJ	9/20/91
8267	CENTRAL FSB	MINEOLA	NY	3/13/92
8422	CENTRAL SB	JACKSON	MS	9/28/90
8401	CENTRAL S&LA	NEW ORLEANS	LA	6/22/90
8469	CENTRAL TX S&LA	WACO	TX	11/2/90
7836	CENTRE SA, FA	ARLINGTON	TX	2/21/92
8229	CENTRUST BANK	MIAMI	FL	6/29/90
7772	CENTURY FSB	CHICAGO	IL	1/31/92
8543	CENTURY FSB	TRENTON	TN	6/15/90
8492	CENTURY S&LA	BAYTOWN	TX	8/18/89
8637	CERTIFIED FSA	GEORGETOWN	TX	7/19/91
8889	CHARTER FSA	STAMFORD	CT	6/21/91
8822	CHARTER SB, FSB	NEWPORT	CA	12/7/90
8870	CHARTER SB, FSB	HATTIESBURG	MS	7/26/91
7924	CHASE FS&LA	PHILADELPHIA	PA	7/30/93
8566	CHEROKEE VALLEY FSA	CLEVELAND	TN	9/23/94
8369	CHILLICOTHE FS&LA	CHILLICOTHE	IL	8/24/90
8608	CHISHOLM FSA	KINGFISHER	OK	3/20/92
8610	CIMARRON FSA	MUSKOGEE	OK	5/21/93
7967	CITADEL FS&LA	CHARLESTON	SC	4/29/94
7860	CITIZENS FSA	JACKSONVILLE	FL	4/29/94
8538	CITIZENS HOMESTEAD FSA	NEW ORLEANS	LA	6/7/91
8487	CITIZENS OF TX S&LA	BAYTOWN	TX	8/10/90
7827	CITIZENS SECURITY BANK, FA	BORGER	TX	8/16/91
8621	CITIZENS S&LA	SPRINGFIELD	IL	6/22/90
7834	CITIZENS & BUILDERS FS, FSB	PENSACOLA	FL	7/12/91
8334	CITY FS&LA	OAKLAND	CA	5/18/90

RTC INSTITUTION NAMES—IN ALPHABETICAL ORDER—Continued

RTC Ref No.	Bank name	City	State	Date closed
8303	CITY FS&LA	BIRMINGHAM	AL	9/14/90
8507	CITY SA	LEAGUE CITY	TX	8/31/90
7865	CITY SB, FSB	SOMERSET	NJ	1/11/91
8527	CITY S&LA	WESTLAKE VILLAGE	CA	8/25/89
7847	CITY S&LA, FA	SAN ANTONIO	TX	9/4/91
8581	CIVIC FSB	PORTSMOUTH	OH	8/2/91
8270	CLINTON S&LA	CLINTON	OK	7/19/91
8852	CLYDE FSA	NORTH RIVERSIDE	IL	5/31/91
7907	COASTAL FSB	NEW LONDON	CT	5/20/94
7852	COBB FSA	MARIETTA	GA	8/12/94
8298	COLONIAL FSA	PRAIRIE VILLAGE	KS	8/10/90
8659	COLONIAL FSA	ROSELLE PARK	NJ	7/5/91
7890	COLONIAL FSB	CRANSTON	RI	3/13/92
8386	COLONIAL SA OF AMERICA	LIBERAL	KS	9/22/89
8275	COLONIAL S&LA	CAPE GIRARDEAU	MO	11/9/90
8868	COLONY FSB	MONACA	PA	10/11/91
8567	COLORADO SB, FSB	STERLING	CO	6/29/90
8530	COLORADO S&LA	ENGLEWOOD	CO	2/9/90
7919	COLUMBIA BANKING FSA	ROCHESTER	NY	6/3/94
8632	COLUMBIA FED. HOMESTEAD ASSOC	METAIRIE	LA	8/30/91
7712	COLUMBIA FSA OF HAMILTON	HAMILTON	OH	11/1/91
8341	COLUMBIA FSB	WESTPORT	CT	4/12/90
8639	COLUMBIA FS&LA	NASSAU BAY	TX	9/13/91
7790	COLUMBIA S&LA	BEVERLY HILLS	CA	9/13/91
7745	COMFED SB	LOWELL	MA	9/13/91
8461	COMMERCE FSA	SAN ANTONIO	TX	7/12/91
8595	COMMERCIAL S&LA, FA	HAMMOND	LA	5/31/91
8457	COMMONWEALTH FSA	HOUSTON	TX	6/21/91
8269	COMMONWEALTH FSA	NEW ORLEANS	LA	7/12/91
7952	COMMONWEALTH FSB	MANASSAS	VA	5/6/94
8617	COMMONWEALTH FS&LA	FORT LAUDERDALE	FL	3/8/91
8317	COMMONWEALTH S&LA	OSCEOLA	AR	12/7/90
8628	COMMUNITY FSA	BRIDGEPORT	CT	9/14/90
8294	COMMUNITY FSB	EAST MOLINE	IL	11/2/90
8217	COMMUNITY FS&LA	ST. LOUIS	MO	12/14/90
8517	COMMUNITY FS&LA	NEWPORT NEWS	VA	5/18/90
8356	COMMUNITY FS&LA	TAMPA	FL	9/7/90
8519	COMMUNITY S&LA	FOND DU LAC	WI	2/9/90
8361	CONCORDIA FB FOR SAVINGS	LANSING	IL	5/29/90
8449	CONCORD-LIBERTY FS&LA	MONROEVILLE	PA	12/15/89
7879	CONNECTICUT FS&LA	HARTFORD	CT	2/7/92
8800	CONSTITUTION FSA	MONTEREY PARK	CA	6/29/90
8445	CONTINENTAL FS&LA	OKLAHOMA CITY	OK	8/9/91
8921	CONTINENTAL SAVINGS OF AMER, FSLA	SAN FRANCISCO	CA	4/28/95
8544	CONTINENTAL SAVINGS, FS&LA	BELLAIRE	TX	8/16/91
8257	COOPER RIVER FSA	NORTH CHARLESTON	SC	6/3/94
7776	CO-OPERATIVE FSB	WESTMONT	IL	12/13/91
7817	CORAL COAST FSB	BOYNTON BEACH	FL	7/15/94
8850	CORAL S&LA, FA	CORAL SPRINGS	FL	6/28/91
7807	COREAST FSB	RICHMOND	VA	3/6/92
8925	CORNERSTONE BANK, FSB	MISSION VIEJO	CA	12/16/94
8596	CORNERSTONE FSA	HOUSTON	TX	5/18/90
7818	COUNTY BANK, FSB	SANTA BARBARA	CA	3/27/92
8657	CREST FS&LA	KANKAKEE	IL	9/14/90
7974	CRESTLINE FS&LA	CRESTLINE	OH	7/30/93
8605	CROSS ROADS S&LA	CHECOTAH	OK	5/11/90
7856	DANBURY FS&LA	DANBURY	CT	3/13/92
7899	DAVY CROCKETT FSA	CROCKETT	TX	3/6/92
8495	DEEP EAST TX SA	JASPER	TX	11/2/90
7930	DELTA FSB	WESTMINSTER	CA	3/25/94
8425	DELTA FS&LA	DREW	MS	6/29/90
8394	DELTA S&LA, FA	KENNER	LA	9/28/90
8627	DENTON FS&LA	DENTON	TX	6/22/90
8831	DEPOSIT TRUST SB	MONROE	LA	12/7/90
8515	DESERET S&LA, FA	SALT LAKE CITY	UT	5/25/90
7723	DESOTO FS&LA	MANSFIELD	LA	9/6/91
7713	DRYADES S&LA	NEW ORLEANS	LA	9/9/94
8520	DURAND FS&LA	DURAND	WI	5/25/90
8653	DUVAL FSA	JACKSONVILLE	FL	8/16/91
8589	EAST TEXAS S&LA	TYLER	TX	6/8/90
7746	EASTERN FSA OF SAYVILLE	SAYVILLE	NY	9/27/91
7733	EDISON FSA	NEW YORK	NY	8/30/91

RTC INSTITUTION NAMES—IN ALPHABETICAL ORDER—Continued

RTC Ref No.	Bank name	City	State	Date closed
8895	EL PASO FSA	EL PASO	TX	9/20/91
8402	ELMWOOD FS&LA	HARAHAN	LA	9/8/89
8436	ELYSIAN FSB	HOBOKEN	NJ	6/29/90
8277	EMPIRE FSB	BUFFALO	NY	9/28/90
7866	EMPIRE SB, FSB	HAMMONTON	NJ	10/11/91
8918	ENCINO SB, FSB	ENCINO	CA	6/3/94
8836	ENSIGN FSB	NEW YORK	NY	7/19/91
8399	ENTERPRISE FS&LA	MARRERO	LA	9/8/89
8839	ENTERPRISE FS, FSA	CLEARWATER	FL	9/7/90
7743	ENTERPRISE SB	CHICAGO	IL	12/27/90
8805	ENTERPRISE S&LA	COMPTON	CA	3/5/93
8432	EQUITABLE FSB	FREMONT	NE	11/16/90
8804	EQUITABLE FS&LA	COLUMBUS	NE	6/22/90
8340	EQUITY FSB	DENVER	CO	9/14/90
8405	EVANGELINE FS&LA	LAFAYETTE	LA	8/18/89
7918	EVERGREEN FS&LA	CHARLESTON	WV	9/17/93
8548	EXCEL BANC SA	LAREDO	TX	12/14/90
7849	EXECUTIVE BANC SA, FA	NEW BRAUNFELS	TX	8/9/91
7830	EXECUTIVE SB, FSB	MARINA DEL REY	CA	2/28/92
8698	FAIRMONT FSA	FAIRMONT	MN	9/7/90
8667	FAMILY FSA	DALLAS	OR	6/22/90
8539	FAMILY FS&LA	SHREVEPORT	LA	6/15/90
8446	FAMILY SB, FSB	SAPULPA	OK	5/25/90
7809	FAMILY S&LA, FA	SEATTLE	WA	7/19/91
8243	FAR WEST FSB	PORTLAND	OR	4/15/94
7711	FAR WEST S&LA, FA	NEWPORT BEACH	CA	3/20/92
7961	FEDERAL SA OF VA	FALLS CHURCH	VA	3/11/94
7781	FEDERAL SB, FSB	SWAINSBORO	GA	3/27/92
8551	FIDELITY FSA	PORT ARTHUR	TX	11/30/90
8649	FIDELITY FSA	GALESBURG	IL	11/16/90
8421	FIDELITY FSB	CORINTH	MS	5/4/90
7833	FIDELITY FS&LA	AUSTIN	TX	2/7/92
8864	FIDELITY SB, FSB	DANVILLE	IL	8/22/90
8418	FINANCIAL FS&LA	JOPLIN	MO	4/27/90
7843	FINANCIAL OF HARTFORD, FSB	HARTFORD	CT	6/19/91
8347	FINANCIAL SECURITY FS&LA	DELRAY BEACH	FL	5/25/90
8846	FINANCIAL S&LA	FRESNO	CA	6/1/90
8844	FIRST AMERICA FSB	LONGMONT	CO	9/13/91
8692	FIRST AMERICA SB, FSB	FORT SMITH	AR	12/7/90
8866	FIRST AMERICAN FSB	SANTA FE	NM	11/30/90
7905	FIRST AMERICAN FSB	TUCSON	AZ	4/24/92
8259	FIRST AMERICAN FSB	GREENSBORO	NC	10/8/93
8681	FIRST ATLANTIC FSA	PLAINFIELD	NJ	9/13/91
8285	FIRST BANKERS TRUST, SA	MIDLAND	TX	5/10/91
8323	FIRST CALIFORNIA SAVINGS	ORANGE	CA	9/22/89
8483	FIRST CAPITAL SA OF TX	HOUSTON	TX	9/22/89
8808	FIRST CITIZENS S&LA, FA	FORT PIERCE	FL	9/20/91
7812	FIRST CITY FSB	LUCEDALE	MS	7/19/91
8407	FIRST CITY FS&LA	BATON ROUGE	LA	9/7/90
7903	FIRST COMMERCE SB, FSB	LOWELL	IN	2/7/92
8486	FIRST EQUITY SA	TOMBALL	TX	5/11/90
8299	FIRST FEDERAL SA	WARNER ROBINS	GA	8/17/90
7785	FIRST FEDERAL SB	HURON	SD	9/13/91
8263	FIRST FSA	LUBBOCK	TX	3/20/92
8234	FIRST FSA	WINNFIELD	LA	9/6/91
8244	FIRST FSA	LAS VEGAS	NV	6/21/91
7956	FIRST FSA	LEWISTON	ME	3/18/94
8634	FIRST FSA	BORGER	TX	6/28/91
8697	FIRST FSA OF BLUEFIELD	BLUEFIELD	WV	11/9/90
8810	FIRST FSA OF BREAUX BRIDGE	BREAUX BRIDGE	LA	6/21/91
8210	FIRST FSA OF CHICKASHA	CHICKASHA	OK	2/7/92
8228	FIRST FSA OF CONROE	CONROE	TX	7/19/91
8218	FIRST FSA OF NACOGDOCHES	NACOGDOCHES	TX	5/31/91
8286	FIRST FSA OF NEWTON	NEWTON	KS	10/28/91
7756	FIRST FSA OF RALEIGH	RALEIGH	NC	3/6/92
7888	FIRST FSA OF TOLEDO	TOLEDO	OH	9/27/91
8877	FIRST FSA OF TUSCOLA	TUSCOLA	IL	6/7/91
7748	FIRST FSA OF WAYNESBORO	WAYNESBORO	TN	8/9/91
7760	FIRST FSA OF WEWOKA	WEWOKA	OK	8/2/91
8251	FIRST FSA OF WICHITA FALLS	WICHITA FALLS	TX	6/7/91
8673	FIRST FSA OF YORK	YORK	NE	6/22/90
8668	FIRST FSB	DIAMONDVILLE	WY	6/15/90

RTC INSTITUTION NAMES—IN ALPHABETICAL ORDER—Continued

RTC Ref No.	Bank name	City	State	Date closed
8301	FIRST FSB OF AK, SB	ANCHORAGE	AK	1/12/90
8204	FIRST FSB OF ANNAPOLIS	ANNAPOLIS	MD	5/3/91
7934	FIRST FSB OF GA, FA	WINDER	GA	11/5/93
8381	FIRST FSB OF KANSAS	WELLINGTON	KS	12/14/90
7702	FIRST FSB OF SOUTH DAKOTA	RAPID CITY	SD	4/24/96
7892	FIRST FSB OF ZION	ZION	IL	11/1/91
8827	FIRST FSB, FSB	ASHBURN	GA	4/3/92
8398	FIRST FS&LA	NEW IBERIA	LA	9/28/90
8393	FIRST FS&LA	SHREVEPORT	LA	12/7/90
8315	FIRST FS&LA	MALVERN	AR	8/25/89
8357	FIRST FS&LA	ATLANTA	GA	5/25/90
8359	FIRST FS&LA	SUMMERVILLE	GA	6/22/90
8344	FIRST FS&LA	LARGO	FL	6/8/90
7701	FIRST FS&LA	MT. VERNON	OH	8/23/91
8404	FIRST FS&LA	BATON ROUGE	LA	8/17/90
8534	FIRST FS&LA	ESTHERVILLE	IA	6/15/90
7740	FIRST FS&LA	PONTIAC	MI	8/27/93
8409	FIRST FS&LA	EUNICE	LA	5/11/90
8606	FIRST FS&LA	BAKERSFIELD	CA	4/27/90
8893	FIRST FS&LA	BEAUMONT	TX	9/27/91
8233	FIRST FS&LA OF ANDALUSIA	ANDALUSIA	AL	9/27/91
8635	FIRST FS&LA OF BRENHAM	BRENHAM	TX	5/25/90
8630	FIRST FS&LA OF CENTRAL IN	ANDERSON	IN	10/5/90
8382	FIRST FS&LA OF COFFEYVILLE	COFFEYVILLE	KS	8/18/89
8532	FIRST FS&LA OF COLO. SPRINGS	COLORADO SPRINGS	CO	6/29/90
8223	FIRST FS&LA OF CRESTON, FA	CRESTON	IA	11/1/91
8554	FIRST FS&LA OF EAST ALTON	EAST ALTON	IL	5/4/90
7708	FIRST FS&LA OF FARGO, FA	FARGO	ND	11/1/91
8312	FIRST FS&LA OF FAYETTEVILLE	FAYETTEVILLE	AR	11/2/90
8380	FIRST FS&LA OF HUTCHINSON	HUTCHINSON	KS	4/20/90
8240	FIRST FS&LA OF PITTSBURGH	PITTSBURGH	PA	1/4/91
7732	FIRST FS&LA OF PITTSBURG, FA	PITTSBURG	KS	11/1/91
7951	FIRST FS&LA OF RUSSELL CO, FA	PHENIX CITY	AL	7/23/93
8863	FIRST FS&LA OF SAN ANTONIO	SAN ANTONIO	TX	1/4/91
8447	FIRST FS&LA OF SEMINOLE	SEMINOLE	OK	9/21/90
7744	FIRST FS&LA OF SEMINOLE CO. FA	SANFORD	FL	4/3/96
8417	FIRST FS&LA OF SOUTHEAST MO	CAPE GIRARDEAU	MO	5/18/90
8345	FIRST FS&LA OF THE FL KEYS	KEY WEST	FL	4/27/90
8231	FIRST FS&LA OF THIEF RIVER FALLS	THIEF RIVER FALLS	MN	8/9/91
8249	FIRST FS, FSA	NEW BRAUNFELS	TX	6/7/91
7796	FIRST FS, FSB	DALLAS	GA	9/27/91
8636	FIRST GARLAND FS&LA	GARLAND	TX	6/22/90
8821	FIRST GUARANTY FS&LA	HATTIESBURG	MS	6/14/91
7927	FIRST HOME FSA	PITTSBURGH	PA	6/30/93
8812	FIRST JACKSON FSB	JACKSON	MS	7/12/91
7707	FIRST JERSEY SAVINGS, FA	WYCKOFF	NJ	9/13/91
8395	FIRST LOUISIANA FSB, FA	LAFAYETTE	LA	11/30/90
8867	FIRST NETWORK FSB	LOS ANGELES	CA	9/14/90
7966	FIRST NEWPORT FSB	NEWPORT BEACH	CA	7/23/93
7891	FIRST NORTHERN COOP, BK, FSB	KEENE	NH	8/2/91
8387	FIRST OF KANSAS, FA	HAYS	KS	6/1/90
7938	FIRST OHIO SB	ST. BERNARD	OH	3/13/92
8408	FIRST SA OF LOUISIANA	LA PLACE	LA	9/15/89
8497	FIRST SA OF SE TX	SILSBEE	TX	11/30/90
8869	FIRST SAVINGS B&T, FSB	INDEPENDENCE	MO	7/6/90
8373	FIRST SAVINGS OF AMERICA	ORLAND PARK	IL	8/10/89
8568	FIRST SAVINGS OF AMERICUS	AMERICUS	GA	6/22/90
8308	FIRST SAVINGS OF ARKANSAS	LITTLE ROCK	AR	7/26/91
8640	FIRST SAVINGS OF LAREDO	LAREDO	TX	6/15/90
7885	FIRST SA, FA	PARAGOULD	AR	9/13/91
8226	FIRST SA, FA	BISMARK	ND	9/21/90
8307	FIRST SB OF AL, FA	HAMILTON	AL	12/15/89
7862	FIRST SB OF HEMPSTEAD, FSB	HEMPSTEAD	TX	7/26/91
8820	FIRST SB OF NEW ORLEANS, FSB	METAIRIE	LA	7/26/91
8466	FIRST SOUTH FSA	HOUSTON	TX	7/12/91
7957	FIRST SOUTH FSB	COLUMBIA	SC	9/24/93
8819	FIRST SOUTHWEST FS&LA	TYLER	TX	8/23/91
8279	FIRST STANDARD SA	FAIRMONT	WV	11/2/90
8467	FIRST STATE FSA	SAN ANTONIO	TX	5/4/90
7869	FIRST STATE SA	SEDALIA	MO	4/3/92
8314	FIRST STATE SB, FSB	MOUNTAIN HOME	AR	10/26/90
8203	FIRST S&L CO., FA	MASSILON	OH	7/19/91

RTC INSTITUTION NAMES—IN ALPHABETICAL ORDER—Continued

RTC Ref No.	Bank name	City	State	Date closed
8590	FIRST S&LA, FA	WACO	TX	6/15/90
7741	FIRST S&LA, FA	TEMPLE	TX	9/6/91
8351	FIRST VENICE S&LA	VENICE	FL	6/1/90
8271	FIRSTCENTRAL FSB	CHARITON	IA	9/7/90
7782	FLAGLER FS&LA	MIAMI	FL	3/27/92
8211	FLORIDA FSB, FSB	ST. PETERSBURG	FL	8/2/91
8662	FORTUNE FINANCIAL FS&LA	COPPERAS COVE	TX	10/19/90
8324	FOUNDERS FS&LA	LOS ANGELES	CA	1/18/91
8403	FOUNTAINBLEAU FSB	SLIDELL	LA	6/1/90
8856	FRANKLIN FSA	OTTAWA	KS	6/10/94
8687	FREEDOM SA, FA	COLUMBUS	OH	8/9/91
8342	FREEDOM S&LA	TAMPA	FL	10/13/89
8392	FRENCH MARKET HOMESTEAD, FSA	METAIRIE	LA	9/14/90
8682	FRONTIER FSB	BELLEVILLE	IL	11/29/90
8857	FRONTIER FS&LA	WALLA WALLA	WA	6/22/90
7792	FRONTIER SA	LAS VEGAS	NV	12/14/90
8502	FSA OF THE SOUTHWEST	KILGORE	TX	6/1/90
8215	FULTON FSA	ATLANTA	GA	7/26/91
7703	FUTURE FSB	LOUISVILLE	KY	8/30/91
8676	GARNETT S&LA	GARNETT	KS	8/10/90
8326	GATEWAY FSB	OAKLAND	CA	6/8/90
8220	GEM CITY FS&LA	QUINCY	IL	9/7/90
8629	GENERAL FSB	CORAL GABLES	FL	1/11/91
8545	GENERAL SA	HENDERSON	TX	6/29/90
7886	GEORGE WASHINGTON FSA	JONESBOROUGH	TN	7/5/91
7771	GERMANIABANK, FSB	ALTON	IL	7/26/91
8540	GERMANTOWN TRUST SB	GERMANTOWN	TN	5/18/90
8557	GIBRALTAR SAVINGS, FA	SIMI VALLEY	CA	6/29/90
8558	GIBRALTAR SAVINGS, FSB	SEATTLE	WA	6/29/90
8412	GIBRALTAR S&LA	ANNAPOLIS	MD	6/8/90
8459	GILL SA	SAN ANTONIO	TX	6/15/90
7837	GOLD COAST FSB	PLANTATION	FL	8/23/91
7906	GOLD RIVER SB	FAIR OAKS	CA	9/27/91
8510	GOLDEN CIRCLE SA, FSB	CORSICANA	TX	8/24/90
7989	GOLDEN STATE FSB	IRVINE	CA	4/8/94
8509	GOLDEN TRIANGLE S&LA	BRIDGE CITY	TX	10/12/90
7793	GOLDOME FSB	ST. PETERSBURG	FL	4/15/94
8825	GRAND PRAIRIE FS&LA	STUTTGART	AR	11/9/90
7705	GREAT AMERICAN FSA	SAN DIEGO	CA	5/13/94
8862	GREAT AMERICAN S&LA	CORINTH	MS	12/14/90
8224	GREAT AMERICAN S&LA	OAK PARK	IL	9/21/90
8428	GREAT ATLANTIC SB	MANTEO	NC	9/15/89
8885	GREAT LIFE FSA	SUNRISE	FL	6/21/91
8582	GREAT PLAINS SA, FA	WEATHERFORD	OK	8/17/90
8570	GREAT SOUTHERN FS&LA	SAVANNAH	GA	6/22/90
8878	GREAT WEST, A FSB	CRAIG	CO	8/16/91
8289	GREENWOOD FS&LA	GREENWOOD	MS	5/31/91
8597	GUADALUPE S&LA, FA	KERRVILLE	TX	6/8/90
7819	GUARANTY FSA	WARNER ROBINS	GA	3/13/92
8304	GUARANTY FS&LA	BIRMINGHAM	AL	5/4/90
8684	GUARANTY SB, FSB	FAYETTEVILLE	NC	6/14/91
7828	GUARDIAN FSA	HUNTINGTON BEACH	CA	7/29/94
8569	HABERSHAM FS&LA	CORNELIA	GA	9/21/89
8600	HALLMARK SA, FA	PLANO	TX	5/16/90
7788	HANSEN FSA	HAMMONTON	NJ	4/15/94
7838	HANSEN FSB	PALM BEACH GARDENS	FL	7/22/94
8851	HAVEN S&LA	WINTER HAVEN	FL	12/7/90
8586	HEARNE B&LA	HEARNE	TX	5/25/90
8826	HEARTLAND S&LA	LA MESA	CA	9/6/91
8689	HENDERSON HOME S&LA, FA	HENDERSON	KY	11/30/90
8872	HERITAGE FSA	LAMAR	CO	8/23/91
7815	HERITAGE FSA	LANCASTER	PA	5/31/91
7805	HERITAGE FSB	RICHMOND	VA	7/5/91
8248	HERITAGE FSB OF OMAHA	OMAHA	NE	11/30/90
8427	HERITAGE FS&LA	MONROE	NC	9/21/90
8626	HERITAGE S&LA, FA	JERSEYVILLE	IL	8/24/90
8552	HERITAGEBANC SA	DUNCANVILLE	TX	4/27/90
7791	HIDALGO FS&LA	EDINBURG	TX	8/9/91
8541	HILL FINANCIAL SA	RED HILL	PA	10/13/91
7734	HOLLYWOOD FSB	HOLLYWOOD	FL	8/19/94
8232	HOME FSA OF KANSAS CITY	KANSAS CITY	MO	3/27/92
7963	HOME FSB	NORFOLK	VA	9/30/94

RTC INSTITUTION NAMES—IN ALPHABETICAL ORDER—Continued

RTC Ref No.	Bank name	City	State	Date closed
8665	HOME FSB OF WORCESTER	WORCESTER	MA	11/9/90
8296	HOME FSB,FA	WAUKEGAN	IL	9/13/91
8584	HOME FS&LA	MEMPHIS	TN	6/15/90
8316	HOME FS&LA	MOUNTAIN HOME	AR	8/25/89
8370	HOME FS&LA	CENTRALIA	IL	5/8/90
7738	HOME FS&LA OF HARLAN	HARLAN	IA	9/27/91
7749	HOME FS&LA, FA	ALGONA	IA	1/31/92
8879	HOME OWNERS SB, FSB	BURLINGTON	MA	9/7/90
8363	HOME SAVINGS FS&LA	JOLIET	IL	11/9/90
8883	HOME SB, FSB	SALT LAKE CITY	UT	2/28/92
8302	HOME SB, FSB	ANCHORAGE	AK	1/12/90
8577	HOME S&LA	NEW ORLEANS	LA	6/22/90
7728	HOME UNITY FS&LA	LAFAYETTE HILL	PA	8/27/93
7913	HOMEBANK FSA	GILFORD	NH	7/22/94
7933	HOMEFED BANK, FA	SAN DIEGO	CA	12/3/93
7978	HOMESTEAD FSA	SAN FRANCISCO	CA	9/17/93
7926	HOMESTEAD FSA	MIDDLETOWN	PA	4/8/94
8276	HOMETOWN FSA	WINFIELD	IL	5/31/91
8887	HOMETOWN SB, FSB	DELPHI	IN	12/14/90
8583	HORIZON FINANCIAL, FA	SOUTHAMPTON	PA	5/25/90
8390	HORIZON FS&LA	METAIRIE	LA	5/18/90
8227	HORIZON SB, FSB	WILMETTE	IL	3/8/91
8494	HUMBLE S&LA	HUMBLE	TX	9/15/89
8829	HUNTINGTON S&LA	HUNTINGTON BEACH	CA	6/22/90
8537	ILLINOIS SB, FA	PEORIA	IL	8/17/90
8206	IMPERIAL FSA	SAN DIEGO	CA	4/19/91
8310	INDEPENDENCE FB, FSB	BATESVILLE	AR	9/7/90
8526	INDEPENDENCE S&LA	VALLEJO	CA	10/20/89
7880	INTERNATIONAL FS&LA	N. MIAMI BEACH	FL	7/5/91
8823	INVESTMENT FS&LA	CHATSWORTH	CA	8/24/90
7917	INVESTORS FSB	RICHMOND	VA	7/10/92
8843	INVESTORS FSB	DEERFIELD BEACH	FL	6/7/91
8860	INVESTORS SB, FSB	NASHVILLE	TN	6/7/91
7954	IRVING FB FOR SAVINGS, FSB	CHICAGO	IL	3/18/94
8272	IRVING FS&LA	PATERSON	NJ	2/21/92
7936	IRVINGTON FSB	GLEN BURNIE	MD	8/20/93
7964	JACKSONVILLE FSB	JACKSONVILLE	FL	4/8/94
8473	JASPER FS&LA	JASPER	TX	6/14/91
7868	JEFFERSON FS&LA	BIRMINGHAM	AL	3/13/92
8476	JEFFERSON S&LA	BEAUMONT	TX	8/24/90
8237	JENNINGS FSA	JENNINGS	LA	8/2/91
7844	JOHN HANSON FSB	BELTSVILLE	MD	6/10/94
8884	JONESBORO FSA	JONESBORO	LA	8/16/91
8638	KARNES COUNTY FS&LA	KARNES CITY	TX	12/7/90
8490	LA HACIENDA SA	SAN ANTONIO	TX	5/4/90
8594	LAFAYETTE S&LA	GRETNA	LA	6/1/90
8238	LAKELAND SB, FSB	DETROIT LAKES	MN	8/24/90
8311	LANDMARK SB, FSB	HOT SPRINGS	AR	6/22/90
7759	LARCHMONT FS&LA	LARCHMONT	NY	8/9/91
7935	LEMONT FSA	LEMONT	IL	2/25/94
8450	LIBERTY BELL SA	BEAVER FALLS	PA	12/15/89
8499	LIBERTY COUNTY FS&LA	LIBERTY	TX	7/19/91
7960	LIBERTY FSB	WARRENTON	VA	3/25/94
8837	LIBERTY FSB	MONTEBELLO	CA	6/7/91
8350	LIBERTY FS&LA	NEW PORT RICHEY	FL	8/10/89
8683	LIBERTY SB, FSB	MARIETTA	OH	1/31/92
8578	LIBERTY SB, FSB	RANDALLSTOWN	MD	1/4/91
8367	LIBERTYVILLE FS&LA	LIBERTYVILLE	IL	4/27/90
7977	LIFE FSB	BATON ROUGE	LA	3/23/94
8896	LIFE FSB	CLEARWATER	FL	3/11/94
8451	LINCOLN FS&LA	MT. CARMEL	TN	6/15/90
8560	LINCOLN SAVINGS	IRVINE	CA	3/8/91
8531	LINCOLN S&LA, FA	MIAMI	FL	6/8/90
8677	LOUISIANA SA	LAKE CHARLES	LA	9/13/91
8838	LOUISIANA SB, FSB	KENNER	LA	9/13/91
7898	LUDINGTON FSB	LUDINGTON	MI	2/7/92
8364	MADISON COUNTY FS&LA	GRANITE CITY	IL	5/18/90
8313	MADISON GUARANTY S&LA	MCCRORY	AR	11/30/90
7762	MAINSTAY FSB, FSB	RED BANK	NJ	9/27/91
7820	MALIBU SB, FSB	COSTA MESA	CA	7/19/91
7928	MARINE VIEW FSB	MIDDLETOWN	NJ	8/6/93
8253	MARSHALL SA, FA	MARSHALL	TX	6/29/90

RTC INSTITUTION NAMES—IN ALPHABETICAL ORDER—Continued

RTC Ref No.	Bank name	City	State	Date closed
8806	MERABANK FSB	PHOENIX	AZ	9/28/90
7896	MERCANTILE FSB	SOUTHAVEN	MS	10/25/91
7720	MERCER FSB	TRENTON	NJ	8/2/91
8871	MERCHANTS & MECHANICS FSB	SPRINGFIELD	OH	8/23/91
8801	MERCURY FS&LA	HUNTINGTON BEACH	CA	9/21/90
8488	MERIDIAN SA	ARLINGTON	TX	4/13/90
8464	MERITBANC SA	HOUSTON	TX	9/14/90
8335	MESA FS&LA OF CO	GRAND JUNCTION	CO	2/2/90
8685	METROBANK FS&LA	PALISADES PARK	NJ	4/10/92
8624	METROPOLITAN FINANCIAL FSB	DALLAS	TX	6/22/90
8438	METROPOLITAN FS&LA	DENVILLE	NJ	9/28/90
8679	METROPOLITAN FS&LA	NASHVILLE	TN	3/27/92
8346	MIAMI SB	MIAMI	FL	8/17/90
8385	MID AMERICA FS&LA	PARSONS	KS	5/4/90
8419	MID MISSOURI S&LA, FA	BOONVILLE	MO	4/27/90
7726	MID-AMERICA FS&LA	COLUMBUS	OH	12/15/90
8576	MID-KANSAS	WICHITA	KS	2/15/91
8444	MIDLAND BUCKEYE SAVINGS, FS&LA	ALLIANCE	OH	9/7/90
8690	MIDWEST FSB	MINOT	ND	9/21/90
8433	MIDWEST FS&LA	NEBRASKA CITY	NE	5/18/90
8365	MIDWEST HOME FSB	BELLEVILLE	IL	11/30/90
8521	MIDWEST SA	MINNEAPOLIS	MN	10/5/90
8366	MIDWESTERN SA	MACOMB	IL	6/22/90
8480	MISSION SA	SAN ANTONIO	TX	5/4/90
8880	MISSISSIPPI SB, FSB	BATESVILLE	MS	12/14/90
8416	MISSOURI SA, FA	CLAYTON	MO	9/7/90
8337	MODERN FS&LA	GRAND JUNCTION	CO	1/26/90
7765	MONYCOR FSB	BARRON	WI	3/13/92
8688	MOULTRIE SB, FSB	MOULTRIE	GA	1/4/91
8523	MOUNTAINWEST S&LA, A FS&LA	OGDEN	UT	5/25/90
8458	MURRAY FS&LA	DALLAS	TX	6/8/90
8874	MUTUAL AID FS&LA	MANASQUAN	NJ	8/16/91
8221	MUTUAL S&LA	WEATHERFORD	TX	7/12/91
8287	NASSAU FS&LA	PRINCETON	NJ	8/23/91
8235	NASSAU S&LA	BROOKLYN	NY	11/16/90
8894	NEW AGE FSA	ST. LOUIS	MO	3/19/92
8297	NEW ATHENS FS&LA	NEW ATHENS	IL	11/16/90
8599	NEW BRAUNFELS S&LA	NEW BRAUNFELS	TX	6/1/90
7965	NEW ENGLAND FSA	WELLESLEY	MA	3/4/94
8579	NEW GUARANTY FS&LA	TAYLOR	MI	4/27/90
7859	NEW MERABANK TEXAS, FSB	EL PASO	TX	4/3/92
8607	NEW METROPOLITAN FSB	HIALEAH	FL	2/28/92
8580	MEW MEXICO FSA	ALBUQUERQUE	NM	6/15/90
7797	NEWTON SB, FSB	FAIRFIELD	NJ	3/20/92
8434	NILE VALLEY FS&LA	SCOTTSBLUFF	NE	9/15/89
8601	NORTH AMERICAN FSA	SAN ANTONIO	TX	5/22/90
8817	NORTH CAROLINA S&LA, FA	CHARLOTTE	NC	9/21/90
8435	NORTH JERSEY FSA	PASSAIC	NJ	6/7/91
8216	NORTH TX FSA	WICHITA FALLS	TX	5/31/91
8818	NOWLIN FSA	FT. WORTH	TX	8/16/91
8890	NUTLEY SB, SLA	NUTLEY	NJ	9/27/91
7804	OAK TREE FSB	NEW ORLEANS	LA	8/26/94
8430	OCCIDENTAL SB	OMAHA	NE	6/22/90
8282	OLD BOROUGH FS&LA	TRENTON	NJ	8/23/91
7941	OLD STONE FSB	PROVIDENCE	RI	7/8/94
8695	OLYMPIC FSA	BERWYN	IL	3/27/92
8529	OTERO SAVINGS	COLORADO SPRINGS	CO	5/25/90
8830	PACIFIC COAST FSA	SAN FRANCISCO	CA	7/12/91
8320	PACIFIC SB	COSTA MESA	CA	10/13/89
8511	PADRE FS&LA	CORPUS CHRISTI	TX	1/11/91
7983	PALM BEACH FSA	PALM BEACH GARDENS	FL	10/8/93
8491	PALO DURO S&LA	AMARILLO	TX	5/17/91
8841	PAN AMERICAN FSB	SAN MATEO	CA	4/29/94
8593	PARISH FS&LA	DENHAM SPRINGS	LA	11/30/90
8496	PARK CITIES SA	DALLAS	TX	8/10/89
8258	PELICAN HOMESTEAD SA	METAIRIE	LA	1/31/92
8824	PENINSULA FSB	SOUTH SAN FRANCISCO	CA	6/22/90
7910	PEOPLES FSA	OTTUMWA	IA	3/20/92
8274	PEOPLES FSA	BARTLESVILLE	OK	12/14/90
7889	PEOPLES FSA, FA	BAY ST. LOUIS	MS	8/9/91
7750	PEOPLES FSB	NEW KENSINGTON	PA	9/6/91
8410	PEOPLES FS&LA OF THIBODAUX	THIBODAUX	LA	5/11/90

RTC INSTITUTION NAMES—IN ALPHABETICAL ORDER—Continued

RTC Ref No.	Bank name	City	State	Date closed
8575	PEOPLES HERITAGE	SALINA	KS	1/12/90
8651	PEOPLES HOMESTEAD SB, FSB	MONROE	LA	8/2/91
8414	PEOPLES SA, FA	ST. JOSEPH	MI	2/2/90
8384	PEOPLES S&LA	PARSONS	KS	5/4/90
8591	PEOPLES S&LA	HAMPTON	VA	5/18/90
8614	PEOPLES S&LA, FA	STREATOR	IL	5/8/90
8513	PERMIAN S&LA	KERMIT	TX	8/10/90
8330	PERPETUAL SA, FS&LA	SANTA ANA	CA	8/25/89
7920	PERPETUAL SB	VIENNA	VA	1/10/92
8306	PHENIX FS&LA, FA	PHENIX CITY	AL	5/18/90
7946	PIEDMONT FSA	MANASSAS	VA	5/13/94
8858	PIMA FS&LA	TUCSON	AZ	2/15/91
8288	PIONEER FSB	CLEARWATER	FL	3/1/91
7996	PIONEER FS&LA	PRAIRIE VILLAGE	KS	3/11/94
7706	PIONEER FS&LA	MARIETTA	OH	11/16/90
8573	PIONEER SAVINGS, FA	PLYMOUTH	IN	5/18/90
8587	PLANO S&LA, FA	PLANO	TX	6/15/90
8431	PLATTE VALLEY SAVINGS	GERING	NE	5/11/90
7911	PLYMOUTH FSA	PLYMOUTH	MA	3/11/94
7982	POLIFLY FS&LA	NEW MILFORD	NJ	5/6/94
7971	POTOMAC FSB	SILVER SPRING	MD	2/25/94
7841	PREFERRED SB, FSB	HIGH POINT	NC	9/27/91
7783	PROFESSIONAL FSB	CORAL GABLES	FL	3/13/92
8246	PROGRESSIVE SB, FSB	NATCHITOCHES	LA	8/23/91
7900	PROGRESSIVE SB, FSB	PASADENA	CA	3/13/92
7775	PROSPECT PARK FSB	WEST PATERSON	NJ	4/22/94
8669	PROVIDENT SA, FA	CASPER	WY	8/17/90
8881	RANCHO BERNARDO FSB	SAN DIEGO	CA	6/7/91
8631	RED RIVER FS&LA	COUSHATTA	LA	5/17/91
8609	RED RIVER FS&LA	LAWTON	OK	3/27/92
8816	REMINGTON FS&LA	ELGIN	TX	5/30/91
8423	REPUBLIC BANK FOR SAVINGS, FA	JACKSON	MS	6/29/90
7955	REPUBLIC FSB	MATTESON	IL	11/6/92
7851	REPUBLIC SB, FSB	ROCKVILLE	MD	2/28/92
8462	RESOURCE SA	DENISON	TX	11/16/90
8400	RIVER CITY FSB	BATON ROUGE	LA	10/6/89
7777	RIVERSIDE SB, S&LA	RIVERSIDE	NJ	10/4/91
8339	ROCKY MOUNTAIN SAVINGS	WOODLAND PARK	CO	6/22/90
8212	ROYAL OAK FS&LA	RANDALLSTOWN	MD	1/4/91
8332	ROYAL OAK S&LA	MANTECA	CA	5/11/90
8533	ROYAL PALM FS&LA	WEST PALM BEACH	FL	6/8/90
8500	RUSK FS&LA	RUSK	TX	6/29/90
8503	SABINE VALLEY FSA	CENTER	TX	5/31/91
8670	SALAMANCA FSA	SALAMANCA	NY	8/17/90
8550	SAN ANTONIO SA	SAN ANTONIO	TX	3/9/90
7932	SAN CLEMENTE FSB	SAN CLEMENTE	CA	8/6/93
7789	SAN JACINTO SA	HOUSTON	TX	9/27/91
8439	SANDIA FSA	ALBUQUERQUE	NM	3/1/91
8213	SANTA BARBARA FS&LA	SANTA BARBARA	CA	8/9/91
7704	SANTA PAULA S&LA	SANTA PAULA	CA	9/27/91
8618	SARTOGA S&LA	SAN JOSE	CA	6/1/90
8309	SAVERS SA	LITTLE ROCK	AR	9/20/91
8489	SAVINGS OF TX ASSOC	JACKSONVILLE	TX	9/28/90
8559	SEABANK FSB	MYRTLE BEACH	SC	12/19/89
8592	SEASONS FSB	RICHMOND	VA	9/28/90
7980	SECOND NATIONAL FSA	SALISBURY	MD	9/16/94
8245	SECURITY 1ST FS&LA	DAYTONA BEACH	FL	4/10/92
8671	SECURITY FS	COLUMBIA	SC	2/15/91
7875	SECURITY FSA	PANAMA CITY	FL	5/6/94
8468	SECURITY FSA	TEXARKANA	TX	12/7/90
8625	SECURITY FSA	GARDEN GROVE	CA	5/4/90
8284	SECURITY FSA	RICHMOND	VA	9/28/90
8807	SECURITY FSB	CARLSBAD	NM	11/16/90
7984	SECURITY FSB	VINELAND	NJ	6/17/94
7937	SECURITY FS&LA	JACKSON	MS	4/15/94
8615	SECURITY FS&LA	PEORIA	IL	8/17/90
8848	SECURITY FS&LA	ALBUQUERQUE	NM	3/13/92
8849	SECURITY FS&LA	WATEBURY	CT	3/20/92
8389	SECURITY HOMESTEAD FSA	NEW ORLEANS	LA	5/24/91
8319	SECURITY S&LA	SCOTTSDALE	AZ	3/15/91
8840	SENTINEL FS&LA	PHOENIX	AZ	6/15/90
7773	SENTRY FSA	NORFOLK	VA	3/20/92

RTC INSTITUTION NAMES—IN ALPHABETICAL ORDER—Continued

RTC Ref No.	Bank name	City	State	Date closed
7863	SENTRY SB, FSB	HYANNIS	MA	7/26/91
8378	SHAWNEE FS&LA	TOPEKA	KS	5/18/90
8899	SHENANDOAH FSA	MARTINSBURG	WV	10/15/93
8604	SIERRA FS&LA	BEVERLY HILLS	CA	5/4/90
8633	SILVER SA, FA	SILVER CITY	NM	1/18/91
8360	SIOUX VALLEY S&LA	CHEROKEE	IA	8/18/89
8536	SKOKIE FS&LA	SKOKIE	IL	2/6/90
8655	SOONER FSA	TULSA	OK	9/14/90
8391	SOUTH S&LA, FA	SLIDELL	LA	6/14/91
8508	SOUTHEAST TX FSA	WOODVILLE	TX	6/28/91
8876	SOUTHEASTERN FSB	LAUREL	MS	5/31/91
7842	SOUTHEASTERN FSB	CHARLOTTE	NC	9/20/91
8501	SOUTHEASTERN SA	DAYTON	TX	10/26/90
8348	SOUTHERN FLORIDABANC FS&LA	BOCA RATON	FL	10/6/89
7962	SOUTHERN FSA OF GA	ATLANTA	GA	4/22/94
7710	SOUTHERN FSB	NEW ORLEANS	LA	9/27/91
8891	SOUTHERN FSB	GULFPORT	MS	8/16/91
8481	SOUTHMOST S&LA	BROWNSVILLE	TX	10/26/90
8498	SOUTHSIDE FS&LA	AUSTIN	TX	6/8/90
8561	SOUTHWEST FSA	LOS ANGELES	CA	11/16/90
8280	SOUTHWEST FSA	DALLAS	TX	7/26/91
8522	SOUTHWEST S&LA, FA	PHOENIX	AZ	7/19/91
8663	SOUTHWESTERN FSA	EL PASO	TX	6/14/91
7854	SOVEREIGN SB, FSB	PALM HARBOR	FL	9/13/91
8471	SPINDLETOP SA	BEAUMONT	TX	6/1/90
8479	SPRING BRANCH S&LA	HOUSTON	TX	8/31/90
7902	SPRINGFIELD FSA	SPRINGFIELD	PA	3/20/92
7979	STANDARD FSA	GAITHERSBURG	MD	11/18/94
8512	STANDARD FSA	HOUSTON	TX	8/26/91
8892	STANDARD FS&LA	COLUMBIA	SC	9/24/93
8202	STATE FEDERAL SA	TULSA	OK	8/16/91
8426	STATE MUTUAL FS&LA	JACKSON	MS	5/11/90
7894	STATE SAVINGS FSB	JACKSON HEIGHTS	NY	3/27/92
7858	STATESMAN FSB	DES MOINES	IA	3/1/91
8654	ST. CHARLES FSA	ST. CHARLES	IL	11/30/90
8225	ST. LOUIS COUNTY SA, FA	FERGUSON	MO	6/28/90
8547	SURBURBAN SA	SAN ANTONIO	TX	9/14/90
7735	SUMMIT FIRST FS&LA	SUMMIT	IL	10/26/90
8443	SUN COUNTRY SB OF NM, FSB	ALBUQUERQUE	NM	5/31/90
8861	SUN FSA	FORT DODGE	IA	6/28/90
8379	SUN SA, FA	KANSAS CITY	KS	5/11/90
8563	SUN STATE S&LA	PHOENIX	AZ	11/30/90
8528	SUN S&LA	PARKER	CO	7/20/90
8612	SUNBELT FS, FSB	IRVING	TX	4/10/92
7714	SUPERIOR FSA	CLEVELAND	OH	9/27/91
8290	SUPERIOR SB, FSB	NACOGDOCHES	TX	7/19/91
8650	SURETY FSA	EL PASO	TX	6/7/91
7857	SURETY FS&LA	MORGANTON	NC	8/27/93
8256	SWEETWATER FS&LA	ROCK SPRINGS	WY	8/22/90
8588	TAYLORBANC FS&LA	TAYLOR	TX	6/22/90
8875	TENNESSEE FSB	COOKEVILLE	TN	5/31/91
8406	TERREBONNE S&LA	HOUMA	LA	12/7/90
8897	TEXARCANA FS&LA	TEXARCANA	AR	8/30/91
7839	TEXAS COMMERCIAL FSA	SULPHUR SPRINGS	TX	6/14/91
8873	TEXAS FSA	SAN ANTONIO	TX	5/22/91
8658	TEXAS WESTERN FSA	HOUSTON	TX	8/17/90
8814	TEXASBANC FSB	CONROE	TX	8/2/91
8388	THE BARBER COUNTY S&LA	MEDICINE LODGE	KS	5/4/90
8201	THE BENJAMIN FRANKLIN FS&LA	PORTLAND	OR	9/7/90
8546	THE DUNCAN S&LA	DUNCAN	OK	8/17/90
8295	THE FEDERAL SAVINGS BANC, FA	ARLINGTON	TX	8/9/91
7725	THE FIRST, FA	ORLANDO	FL	10/11/91
8901	THE GUARDIAN BANK, A FSB	BOCA RATON	FL	7/15/94
8564	THE GUARDIAN FS&LA	BAKERSFIELD	CA	4/27/90
8214	THE HIAWATHA FSA	HIAWATHA	KS	11/16/90
7780	THE OVERLAND PARK FS&LA	OVERLAND PARK	KS	8/13/93
8493	TIMBERLAND FSA	NACOGDOCHES	TX	8/2/91
8815	TIME FS&LA	SAN FRANCISCO	CA	5/17/91
8383	TOPEKA SAVINGS FS&LA	TOPEKA	KS	5/11/90
7950	TRANSOHIO FSB	CLEVELAND	OH	9/16/94
8678	TRAVIS FS&LA	SAN ANTONIO	TX	6/21/91
7876	TRIDENT FS&LA, FA	NEWARK	NJ	8/2/91

RTC INSTITUTION NAMES—IN ALPHABETICAL ORDER—Continued

RTC Ref No.	Bank name	City	State	Date closed
8482	TRINITY VALLEY FS&LA	CLEVELAND	TX	10/6/89
7808	TRUSTBANK FSB	TYSONS CORNER	VA	3/20/92
7870	TUSKEGEE S&LA, FA	TUSKEGEE	AL	10/11/91
7940	UKRANIAN FS&LA	PHILADELPHIA	PA	6/24/94
8331	UNIFIED SAVINGS FS&LA	NORTHRIDGE	CA	9/22/89
8623	UNIFIRST BANK FOR SAVINGS	JACKSON	MS	6/15/90
8318	UNIPOINT FSB	TRUMANN	AR	6/22/90
8247	UNITED FSA OF IOWA	DES MOINES	IA	6/24/94
7877	UNITED FSB	SMYRNA	GA	3/27/92
7801	UNITED FSB	VIENNA	VA	9/20/91
8300	UNITED FS&LA	VIDALIA	LA	7/20/90
7867	UNITED FS&LA	JONESBORO	AR	3/13/92
8809	UNITED FS&LA	NEW ORLEANS	LA	9/28/90
8453	UNITED GUARANTY FSB	TULLAHOMA	TN	5/4/90
7742	UNITED HOME FEDERAL	TOLEDO	OH	9/6/91
8691	UNITED SAVINGS OF AMERICA	CHICAGO	IL	9/27/91
7767	UNITED SAVINGS OF AMERICA	MELBOURNE	FL	2/7/92
8696	UNITED SB, FSB	PRESTONSBURG	KY	11/22/91
8241	UNITED SB, FSB	WINDOM	MN	7/6/90
8882	UNITED SB, FSB	PATERSON	NJ	12/13/90
8853	UNITED S&L OF TRENTON, FA	TRENTON	NJ	9/6/91
7881	UNITY S&LA, FA	BEVERLY HILLS	CA	8/2/91
8474	UNIVERSAL FSB	HOUSTON	TX	6/22/90
8524	UNIVERSAL S&LA	SCOTTSDALE	AZ	1/26/90
8455	UNIVERSITY FSA	HOUSTON	TX	10/13/89
8619	UVALDE FS&LA	UVALDE	TX	10/19/90
8652	VALLEY FSA	MCALLEN	TX	6/29/90
7810	VALLEY FS&LA	VAN NUYS	CA	4/10/92
8336	VALLEY FS&LA	GRAND JUNCTION	CO	2/2/90
8377	VALLEY SAVINGS FS&LA	HUTCHINSON	KS	11/9/90
8442	VALLEY SB, FSB	ROSWELL	NM	6/8/90
8252	VANGUARD SB, FSB	VANDERGRIEF	PA	7/5/91
7803	VERMILLION FSB	ABBEVILLE	LA	11/1/91
8268	VERMONT SA, FA	TIMONIUM	MD	6/28/91
8556	VICTORIA SA, FSA	SAN ANTONIO	TX	10/25/91
8484	VILLAGE SAVINGS FSB	HOUSTON	TX	9/22/89
8485	VISION BANK SA	KINGSVILLE	TX	12/7/90
7945	VISTA FSA	RESTON	VA	4/29/94
7986	VISTA FSA	CANOGA PARK	CA	6/4/93
8242	VOLUNTEER FSA	LITTLE FERRY	NJ	2/25/94
8327	WASHINGTON S&LA	STOCKTON	CA	5/11/90
8859	WESPORT FSB	HANFORD	CA	8/17/90
8562	WESTCO SAVINGS BANK, FSB	WILMINGTON	CA	4/27/90
8205	WESTERLEIGH FS&LA	STATEN ISLAND	NY	3/27/92
8855	WESTERN EMPIRE FS&LA	YORBA LINDA	CA	8/31/90
7990	WESTERN FSB	MARINA DEL RAY	CA	9/9/94
7931	WESTERN FS&LA	CLENVIEW	IL	3/20/92
8472	WESTRN GULF S&LA	BAY CITY	TX	11/8/90
8603	WESTERN S&LA	PHOENIX	AZ	5/31/90
8255	WESTLAND FS&LA	RAWLINS	WY	7/26/91
8917	WESTSIDE BANK, A FSB	LOS ANGELES	CA	4/15/94
8321	WESTWOOD S&LA	LOS ANGELES	CA	8/24/90
7914	WHITE HORSE FS&LA	TRENTON	NJ	5/6/94
8273	WHITESTONE FS&LA	WHITESTONE	NY	11/16/90
8854	WILLIAMSBURG FS&LA	SALT LAKE CITY	UT	9/14/90
8674	WILSHIRE S&LA	LOS ANGELES	CA	6/22/90
8835	WINDSOR FSA	AUSTIN	TX	7/12/91
8666	YORKRIDGE-CALVERT FSA	BALTIMORE	MD	9/28/90
7864	YORKVILLE FSA	NEW YORK	NY	9/20/91
8278	YORKWOOD FS&LA	MAPLEWOOD	NJ	10/18/91

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Federal Register

Friday
October 11, 1996

Part III

Nuclear Regulatory Commission

10 CFR Parts 2 and 13
Adjustment of Civil Monetary Penalties for Inflation; Final Rule
Policy and Procedure for Enforcement Actions; Policy Statement; Notice

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2 and 13

RIN 3150–AF37

Adjustment of Civil Monetary Penalties for Inflation

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to adjust the maximum Civil Monetary Penalties (CMPs) under statutes within the jurisdiction of the NRC. These changes are mandated by Congress in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996.

The Commission's Rules of Practice are amended by adding a provision that establishes the maximum CMP for a violation of the AEA or any regulations or order issued thereunder in the amount of $110,000. The provisions concerning program fraud civil penalties are amended by adjusting the maximum civil penalties under the Program Fraud Civil Remedies Act from $5,000 to $5,500 for each false claim or statement as determined in accordance with that statute. The final rule also corrects a typographical error.

DATES: The rule shall be effective on November 12, 1996.

FOR FURTHER INFORMATION CONTACT: Roger K. Davis, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–1615; e-mail RKD@nrc.gov., or Geoffrey D. Cant, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–3283; e-mail GDC@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction.
II. Background.
III. Discussion.
IV. Procedural Background.
V. Environmental Impact: Categorical Exclusion.
VI. Paperwork Reduction Act Statement.
VII. Regulatory Analysis.
VIII. Small Business Regulatory Enforcement Fairness Act.
IX. Backfit Analysis.

I. Introduction

The Commission has amended its regulations in Part 2 and 13 in order to adjust maximum civil monetary penalties within its jurisdiction as required by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 (the Act) (Pub. L. 104–134, 110 Stat. 1321–358, 373, codified at 28 U.S.C. 2461 note).

II. Background

The Federal Civil Penalties Inflation Adjustment Act of 1990 required that the President submit, within 6 months and every fifth year thereafter, a report to certain Congressional committees on the specific amounts of civil monetary penalties that were authorized under Federal law, the amount of the penalties if adjusted for inflation, and a description of modifications to Federal law that would be necessary to increase the penalties to meet the inflation adjustment. Aside from modification of the scope and timing of Presidential reports to Congress, the Debt Collection Improvement Act of 1996 amended that statute to require that the head of each agency adjust by regulation the CMPs within the jurisdiction of the agency for inflation, no later than 180 days after the date of enactment of the Act and at least once every four years thereafter. Thus, the first inflation adjustment is required by October 23, 1996, which is 180 days after enactment of the Act on April 26, 1996.

The inflation adjustment is to be determined by increasing the maximum CMPs or the range of minimum and maximum civil monetary penalties, as applicable, for each CMP by the percentage that the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment exceeds the CPI for the month of June of the last calendar year in which the amount of such penalty was last set or adjusted pursuant to law. In the case of penalties greater than $1,000 but less than or equal to $10,000, inflation adjustment increases are to be rounded to the nearest multiple of $1,000. Increases are to be rounded to the nearest multiple of $10,000 in the case of penalties greater than $10,000 but less than or equal to $100,000. However, the first adjustment of a CMP pursuant to the Debt Collection Improvement Act of 1996 may not exceed 10 percent of such penalty.

III. Discussion

Section 234 of the Atomic Energy Act (AEA), as amended in 1980, has limited civil penalties for violations of the Atomic Energy Act to $100,000 per day per violation. As adjusted for inflation, the penalty amount would be $180,000 (after rounding the amount of the inflation adjustment increase to the nearest multiple of $10,000). Because the Debt Collection Improvement Act of 1996 limits the amount of the first required increase to 10% of the maximum penalty amount, however, the NRC must limit its inflation adjustment increase to $10,000, *i.e.*, 10 percent of $100,000. Thus, the NRC has by regulation, by addition of a subsection (j) to 10 CFR 2.205, established a new maximum CMP under the Atomic Energy Act in the amount of $110,000. This new maximum CMP applies only to violations which occur after the effective date of this regulation.

Monetary penalties under the Program Fraud Civil Remedies Act, 31 U.S.C. 3801, 3802, and the NRC's implementing regulations, 10 CFR 13.3(a)(1) and (b)(1), had been limited to $5,000 per violation. As adjusted fully for inflation, the penalty amount would be $7,000. Because of the 10 percent limit on the increase in the penalty for the first adjustment under the Debt Collection Improvement Act of 1996, the amount of the first required increase is limited to $500. Thus, NRC has amended 10 CFR 13.3(a)(1) and (b)(1) by increasing the maximum CMP for each false statement or claim under the Program Fraud Civil Remedies Act from $5,000 to $5,500. This new maximum CMP applies only to violations which occur after the effective date of this regulation.

The Commission has no discretion to set alternative levels of adjusted civil penalties since the amount of the inflation adjustment must be calculated in accordance with the statutory formula. Conforming changes to the NRC Enforcement Policy (NUREG–1600), published in the Federal Register on June 30, 1995 (60 FR 34381), will be made and published in a notice accompanying this rule.

The final rule also corrects a typographical error in 10 CFR 13.3(a)(1)(iv). The word ''as'' is substituted for the word ''was'' and the clause, as revised, now conforms to the exact words of 31 U.S.C. 3802(a)(1)(D), as the NRC originally intended.

IV. Procedural Background

This final rule has been issued without prior public notice or opportunity for public comment. The Administrative Procedure Act (5 U.S.C. 553(b)(B)) does not require that process ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' In this instance, the NRC finds, for good cause, that solicitation of public comment on this final rule is unnecessary and impractical. Congress has required that the agency issue the

amendments contained in the rule, and provided no discretion to the agency regarding the substance of the amendments. All that is required of the NRC for determination of the amount of the inflation adjustment are ministerial computations.

V. Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(1) and 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this regulation. This action merely adjusts monetary civil penalties for inflation as required by statute and involves no policy determinations.

VI. Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

VII. Regulatory Analysis

This final rule adjusts for inflation the maximum civil penalties under the Atomic Energy Act of 1954, as amended, and under the Program Fraud Civil Remedies Act of 1986. The adjustments and the formula for determining the amount of the adjustment are mandated by Congress in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, 110 Stat. 1321–358, 373, codified at 28 U.S.C. 2461 note). Congress passed that legislation on the basis of its findings that the power to impose monetary civil penalties is important to deterring violations of Federal law and furthering the policy goals of Federal laws and regulations. Congress has also found that inflation has diminished the impact of these penalties and their effect. Thus, principal purposes of this legislation are to provide for adjustment of civil monetary penalties for inflation, maintain their deterrent effect and promote compliance with the law. Thus, these are anticipated impacts of implementation of the mandatory provisions of the legislation. Direct monetary impacts will fall only upon licensees or other persons subjected to NRC enforcement action or those licensees or persons subjected to liability pursuant to the provisions of the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801–3812) and the NRC's implementing regulations (10 CFR Part 13).

VIII. Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

IX. Backfit Analysis

The NRC has determined that these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1); therefore, a backfit analysis need not be prepared.

List of Subjects

10 CFR Part 2

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

10 CFR Part 13

Claims, Fraud, Organization and function (government agencies), Penalties.

For the reasons set out above and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the Federal Civil Penalties Adjustment Act of 1990, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Parts 2 and 13.

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

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

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

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10134(f)); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161 b, i, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as amended (42 U.S.C. 2201 (b), (i), (o), 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Section 2.205(j) also issued under Pub. L. 101–410, 104 Stat. 890, as amended by section 31001(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99–240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.).

2. Section 2.205 is amended by adding paragraph (j) to read as follows:

§ 2.205 Civil penalties.

* * * * *

(j) *Amount.* A civil monetary penalty imposed under Section 234 of the Atomic Energy Act of 1954, as amended, or any other statute within the jurisdiction of the Commission that provides for imposition of a civil penalty in an amount equal to the amount set forth in Section 234, may not exceed $110,000 for each violation. If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty.

PART 13—PROGRAM FRAUD CIVIL REMEDIES

3. The authority citation for Part 13 is revised to read as follows:

AUTHORITY: Public Law 99–509, secs. 6101–6104, 100 Stat. 1874 (31 U.S.C. 3801–3812). Sections 13.13 (a) and (b) also issued under section Pub. L. 101–410, 104 Stat. 890, as amended by section 31001(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note).

4. In § 13.3, paragraphs (a)(1) and (b)(1) are revised to read as follows:

§ 13.3 Basis for civil penalties and assessments.

(a) *Claims.*

(1) Any person who makes a claim that the person knows or has reason to know—

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(iii) Includes or is supported by any written statement that—

(A) Omits a material fact;

(B) Is false, fictitious, or fraudulent as a result of such omission; and

(C) Is a statement in which the person making such statement has a duty to include such material fact; or

(iv) Is for payment for the provision of property or services which the person has not provided as claimed, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,500 for each such claim.

* * * * *

(b) *Statements.*

(1) Any person who makes a written statement that—

(i) The person knows or has reason to know—

(A) Asserts a material fact which is false, fictitious, or fraudulent; or

(B) Is false, fictitious, or fraudulent because it omits a material fact that the person making the statement has a duty to include in such statement; and

(ii) Contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject, in addition to any other remedy that may be prescribed law, to a civil penalty of not more than $5,500 for each such statement.

* * * * *

Dated at Rockville, Maryland, this 1st day of October, 1996.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 96–26056 Filed 10–10–96; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Policy and Procedure for Enforcement Actions; Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement: Revision.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its General Statement of Policy and Procedure for Enforcement Actions (Enforcement Policy) to address the requirements imposed by the Debt Collection Improvement Act of 1996. That Act requires federal agencies to adjust civil monetary penalties to reflect inflation.

DATES: This revision is effective November 12, 1996. The Commission invites comments on these changes and, on the basis of the comments submitted, will make changes, if warranted. The Commission will apply the modified Policy to violations that occur after the effective date.

ADDRESSES: Send written comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch. Deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:45 am and 4:15 pm, on Federal workdays. Copies of comments may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower-Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555 301–504–2741.

SUPPLEMENTARY INFORMATION: Section 234 of the Atomic Energy Act (42 U.S.C. 2282) set the maximum civil penalty amount that the NRC may issue at $100,000 per violation per day. That amount was set in 1980. The Federal Civil Monetary Penalties Inflation Adjustment Act of 1990 required that the President submit, within 6 months and every fifth year thereafter, a report to certain Congressional committees on the specific amounts of civil monetary penalties that were authorized under Federal law, the amount of those penalties if adjusted for inflation, and a description of modifications to law that would be necessary to increase those penalties to meet the inflation adjustment. Aside from modification of the scope and timing of Presidential reports to Congress, the Debt Collection Improvement Act of 1996 (the Act) amended that statute so as to require that the head of each agency adjust for inflation, by regulation, the CMPs within the jurisdiction of the agency no later than 180 days after the date of enactment of the Act and at least once every four years thereafter.

The deadline for the first adjustment is October 23, 1996. Each agency is required to adjust, by regulation, each civil monetary penalty by the inflation adjustment described in the Act and publish the regulation in the Federal Register. Any increase in a penalty made under the Act may apply only to violations occurring after the date that the increase takes effect. The NRC is also, concurrent with this change, publishing in the Federal Register, a change to 10 CFR 2.205 to reflect the implementation of the 1996 Act.

Although inflation since the 1980 change to Section 234 would yield an increase of the current maximum civil penalty to $180,000, by the 1996 Act, the first adjustment of a Civil Monetary Penalty is limited to 10 percent of the penalty, yielding an increase to $110,000 for the maximum civil penalty per violation per day.

The changes mandated by the Act apply to the maximum CMP. This is also the amount that, under the Enforcement Policy approved by the Commission, is assigned as the base civil penalty for power reactor licensees for a Severity Level I violation. Also as a matter of policy, the Commission has approved use of lesser amounts for other types of licensees, particularly smaller businesses, and for violations that are assessed at lower severity levels. This approach is set out in Tables 1A and 1B of the Enforcement Policy (NUREG–1600). While the 1996 Act does not mandate changes to these lesser civil penalty amounts, the NRC is modifying Table 1A of the Enforcement Policy by raising each amount 10 percent, to be consistent with the intent of the legislation. These changes will be reflected in the next revision to NUREG–1600 and apply to violations occurring after the effective date of this Policy Statement.

Paperwork Reduction Act Statement

This policy statement does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0011. The approved information collection requirements contained in this policy statement appear in Section VII.C.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

Accordingly, the NRC Enforcement Policy (60 FR 34381, June 30, 1995) is amended by:

a. Adding a new paragraph to follow the third paragraph in Section II.A,

b. Revising paragraph VI.B.2.d and the figures in Table 1A; and

c. Revising the introductory paragraph to Section VII.A. and paragraph VII.A.3 to read as follows:

General Statement of Policy and Procedure for NRC Enforcement Actions

* * * * *

II. Statutory Authority and Procedural Framework

A. Statutory Authority

* * * * *

Notwithstanding the $100,000 limit stated in the Atomic Energy Act, the Commission may impose higher civil penalties as provided by the Debt Collection Improvement Act of 1996. Under that Act, the Commission is required to modify civil monetary penalties to reflect inflation. The adjusted maximum civil penalty amount is reflected in 10 CFR 2.205 and this Policy Statement.

* * * * *

VI. Enforcement Actions

B. Civil Penalty

2. * * *

d. Exercise of Discretion.

As provided in Section VII, ''Exercise of Discretion,'' discretion may be exercised by either escalating or mitigating the amount of the civil penalty determined after applying the civil penalty adjustment factors to ensure that the proposed civil penalty reflects the NRC's concern regarding the violation at issue and that it conveys the appropriate message to the licensee. However, in no instance will a civil penalty for any one violation exceed $110,000 per day.

TABLE 1A.—BASE CIVIL PENALTIES

a. Power reactors	$110,000
b. Fuel fabricators, industrial processors, and independent spent fuel and monitored retrievable storage installations	27,500
c. Test reactors, mills and uranium conversion facilities, contractors, vendors, waste disposal licensees, and industrial radiographers	11,000
d. Research reactors, academic, medical, or other material licensee[1]	5,500

[1] This applies to nonprofit institutions not otherwise categorized in this table, mobile nuclear services, nuclear pharmacies, and physician offices.

* * * * *

VII. Exercise of Discretion

A. Escalation of Enforcement Sanctions

The NRC considers violations categorized at Severity Level I, II, or III to be of significant regulatory concern. If the application of the normal guidance in this policy does not result in an appropriate sanction, with the approval of the appropriate Deputy Executive Director and consultation with the EDO and Commission, as warranted, the NRC may apply its full enforcement authority where the action is warranted. NRC action may include (1) escalating civil penalties, (2) issuing appropriate orders, and (3) assessing civil penalties for continuing violations on a per day basis, up to the statutory limit of $110,000 per violation, per day.

* * * * *

3. *Daily civil penalties.* In order to recognize the added technical safety significance or regulatory significance for those cases where a very strong message is warranted for a significant violation that continues for more than one day, the NRC may exercise discretion and assess a separate violation and attendant civil penalty up to the statutory limit of $110,000 for each day the violation continues. The NRC may exercise this discretion if a licensee was aware or clearly should have been aware of a violation, or if the licensee had an opportunity to identify and correct the violation but failed to do so.

* * * * *

Dated at Rockville, MD, this 4th day of October, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–26055 Filed 10–10–96; 8:45 am]

BILLING CODE 7590–01–P

Federal Register

Friday
October 11, 1996

Part IV

Department of Education

34 CFR Part 350, et al.

Disability and Rehabilitation Research Projects and Centers Program; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 350, 351, 352, 353, 355, 357, and 360

RIN 1820–AB39

Disability and Rehabilitation Research Projects and Centers Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: After reviewing the regulations governing the Disability and Rehabilitation Research Programs, administered by the Department's National Institute on Disability and Rehabilitation Research (NIDRR), the Secretary proposes to amend these regulations. These proposed amendments would consolidate the regulations for six programs into one CFR part. As part of the Department's efforts to implement the President's Regulatory Reinvention Initiative, the proposed amendments would remove unnecessary regulations, clarify program requirements, and improve the selection criteria.

DATES: Comments must be received on or before December 10, 1996.

ADDRESSES: All comments concerning these proposed regulations should be addressed to David Esquith, U.S. Department of Education, 600 Independence Ave., SW., (Room 3424, Switzer Building), Washington, DC 20202–2601. Comments also may be sent through the Internet to NIDRR__Consolidation@ed.gov

To ensure that public comments have maximum effect in developing the final regulations, the Department urges that each comment clearly identify the specific section or sections of the regulations that the comment addresses and that the comments be in the same order as the regulations.

Comments that concern information collection requirements must be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble. A copy of those comments may also be sent to the Department representative named in the preceding paragraph.

FOR FURTHER INFORMATION CONTACT: David Esquith. Telephone: 202–205–8801 or by e-mail to david__esquith@ed.gov Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at 202–205–8133. An electronic copy of this document may be found on the Internet at the Department's home page at http://www.ed.gov in the ''News'' section.

SUPPLEMENTARY INFORMATION:

Background

In January of 1995, the Department developed its ''Principles for Regulating'' (Principles) premised on the tenet that the Department will regulate only when absolutely necessary. The Principles were developed to ensure that the Department regulates in the most flexible, most equitable, and least burdensome way possible. The President, on March 4, 1995, announced the Regulatory Reinvention Initiative (Initiative) to reform the Federal regulatory system. The Initiative required all Federal agencies to review their regulations page by page. Regulators were asked to eliminate obsolete regulations, revise regulations to reward results rather than process, and streamline regulations to achieve agency goals in the most efficient and least intrusive way possible. Since March of 1995, the Department has been reviewing thoroughly all of its regulations consistent with the Initiative and the Principles.

Disability and Rehabilitation Research Projects and Centers Program

As a part of these efforts, the Department examined all of the regulations governing NIDRR's existing Disability and Rehabilitation Research Programs as authorized under Title II of the Rehabilitation Act of 1973 (29 U.S.C. 760–762) (Act). After this examination, the Secretary determined that the regulations in Parts 350 (General Provisions), 351 (Research and Demonstration Projects), 352 (Rehabilitation Research and Training Centers), 353 (Rehabilitation Engineering Research Centers), 355 (Knowledge Dissemination and Utilization Programs), 357 (Field-Initiated Projects), and 360 (Research Training and Career Development Program) could be consolidated and improved.

In addition to consolidating the regulations, the Secretary proposes to have one program that governs many projects and centers, the Disability and Rehabilitation Research Projects and Centers Program (Program). The Program would contain three types of projects and two types of centers. The proposed Disability and Rehabilitation Research and Related Projects would encompass the current Research and Demonstration Projects program (Part 351) and Knowledge Dissemination and Utilization Programs (Part 355). The proposed Field-Initiated Projects would be similar to the existing Field-Initiated Projects program (Part 357), but the scope of projects that could be funded under the new Field-Initiated Projects would change. The Advanced Rehabilitation Research Training Project would be the new name for the existing Research Training and Career Development Program (Part 360). The Secretary would continue to fund Rehabilitation Research Training Centers and Rehabilitation Engineering Research Centers under requirements virtually identical to the current ones. The Secretary believes that placing all these regulations in one CFR part would make it easier for grantees to identify common requirements and to understand the differences among all the projects and centers. By making structural changes, removing unnecessary regulations, and revising regulatory language, the Secretary would improve the existing programs because he would clarify the differences among the programs and revise the regulations to focus on obtaining the highest quality results.

As part of its efforts to consolidate the regulations, the Department proposes a new set of selection criteria for use in evaluating all applications. This new approach would allow the Secretary to reduce five different sets of selection criteria to one.

The following is a summary of the proposed regulatory provisions the Secretary believes are necessary for implementing the statute, such as interpretations of statutory text or standards and procedures for operating the program. The Secretary also highlights significant proposed changes from the regulations currently governing these programs. The summary does not address provisions that merely restate statutory language or that reflect editorial or technical changes to existing regulations.

Purpose (§ 350.2)

This proposed section reiterates the statutory purpose in section 204(a) of the Act. In this proposed section, the Secretary would add to the statutory language the clause ''including international activities.'' This addition is meant only to point out that the international activities are authorized by section 204(b)(6) of the Act. The Secretary would not support any international activities outside the scope of section 204(b)(6) of the Act.

Eligible entities (§ 350.3)

This provision is intended to reiterate the entities eligible for an award listed in section 204(a) of the Act. The Secretary interprets private agencies and organizations to include commercial agencies and organizations.

Disability and Rehabilitation Research and Related Projects (§ 350.10–§ 350.19)

The proposed regulations provide for the following three types of projects:

• Disability and Rehabilitation Research Projects

The Secretary intends the Disability and Rehabilitation Research Projects to encompass the projects that are carried out under the Research and Demonstration Projects program and the Knowledge, Dissemination, and Utilization Programs. These proposed changes would remove the existing restrictions on the combinations of activities that the Department can fund and allow the Department to fund the broad range of activities authorized under the Act. Under the proposed Disability and Rehabilitation Research Projects, grantees would carry out activities as proposed by the Secretary in one or more of seven general categories of activities, i.e., research, development, demonstration, training, dissemination, utilization, and technical assistance. The Secretary proposes that grantees meet certain basic requirements, which are based on current regulations, in carrying out these activities. (see §§ 350.13–350.19)

• Field-Initiated Projects

Field-Initiated Projects would continue to fund projects proposed by applicants rather than those proposed in response to a funding priority published by the Department. The primary difference from the existing Field-Initiated Projects program would be in the scope of activities that a grantee could carry out. Under the existing regulations, grantees can carry out research and demonstration projects, knowledge dissemination projects, and development projects. Under the proposed regulations, grantees could conduct research or development activities.

The Secretary has several reasons for changing the scope of activities that can be carried out as Field-Initiated Projects. There are limited sources of funding for research and development activities, and the Secretary believes it is necessary to direct more funds to research and development activities. In addition, approximately only 10 percent of the Field-Initiated Projects that the Secretary currently funds are dissemination projects. Moreover, demonstration and dissemination activities would still be funded as Disability and Rehabilitation Research Projects.

• Advanced Rehabilitation Research Training Projects

Under the proposed regulations, the Advanced Rehabilitation Research Training Projects would assist grantees to provide research training and experience at an advanced level to individuals with doctorates or similar advanced degrees. The Advanced Rehabilitation Research Training Projects are virtually identical to the Research Training and Career Development Program (Part 360). The Secretary believes that changing the name of the program would help emphasize the focus of the projects. Other than the procedures regarding the selection criteria and for using the criteria, all the remaining requirements governing the current program would be the same. In addition, the current regulations of this program contain a list of funding priorities. The Secretary would remove these priorities from the regulations and publish a notice of proposed priorities with an opportunity for public comment before establishing the priorities for use in any competition.

Rehabilitation Research and Training Centers and Rehabilitation Engineering Research Centers (§ 350.20–350.35)

As in the current regulations, most of the proposed regulations governing the Rehabilitation Research and Training Centers are restatements of statutory requirements. Should the Secretary retain these restatements of statutory requirements? Are there other, better means for providing this type of information?

The statutory requirements concerning collaboration are incorporated into these regulations. Under section 204(b)(3)(A), only those Rehabilitation Engineering Research Centers that are not operated by specified organizations, i.e. institutions of higher education or non-profit organizations, must operate in collaboration with one or more of those types of organizations. The equivalent collaboration requirement for Rehabilitation Research and Training Centers in section 204(b)(2)(A) of the Act states that these centers shall be operated in collaboration with certain types of institutions or types of service providers. For consistency with the collaboration requirement for Rehabilitation Engineering Research Centers, in the proposed regulations, the Secretary interprets section 204(b)(2)(A) to mean that only those Rehabilitation Research and Training Centers that are not operated by institutions of higher education or providers of rehabilitation service or other appropriate services must be operated in collaboration with these types of institutions or service providers.

Another difference from the existing regulations would be in the interpretation of sections 204(b)(2)(B)(ii) and (iii) of the Act governing Rehabilitation Research and Training Centers. Sections 352.10(b) (1)–(3) of the existing regulations, which contain the requirements based on these statutory provisions, provide that training activities may include training of students preparing to be rehabilitation personnel and then restate the statutory language. Section 204(b)(2)(B)(ii) of the Act requires training for individuals to more effectively provide rehabilitation services. Section 204(b)(2)(B)(iii) requires training for rehabilitation research and other rehabilitation personnel. The statutory language appears to differentiate only between the types of people to be trained, and it is unclear how training in these two statutory sections would differ. The Secretary believes that these two sections were intended for different purposes. Thus, the Secretary proposes, in § 350.22 of the proposed regulations, to interpret section 204(b)(2)(B)(ii) to assist rehabilitation personnel and other individuals to more effectively provide rehabilitation services, and section 204(b)(2)(B)(iii) to assist rehabilitation research personnel and other rehabilitation personnel to improve their capacity to conduct research. This interpretation would distinguish the purposes of the training required by these sections of the Act.

In implementing the statutory requirements governing cooperation for Rehabilitation Engineering Research Centers (see § 350.33), the Secretary proposes to interpret section 204(b)(3)(C)(i) of the Act to refer to the same programs in section 204(b)(3)(G)(i). Both of these sections require cooperation with similar programs with one exception. Section 204(b)(3)(G)(i) refers to national programs while section 204(b)(3)(C)(i) does not. The Secretary believes that the failure to mention national programs in section 204(b)(3)(C)(i) should not be interpreted to expressly exclude national programs from the scope of the provision's coverage. By interpreting the two statutory provisions to refer to the same programs, the Secretary would require cooperation with all the programs, thus clarifying the minor inconsistency in the statutory requirements.

Rehabilitation Engineering Research Center Advisory Committees (§§ 350.34–350.35)

The proposed regulations regarding advisory committees are restatements of statutory provisions. The Secretary does not add requirements beyond those in the statute so that Rehabilitation Engineering Research Centers have broad flexibility to define the role of an advisory committee. The Secretary believes that it would be overly restrictive to prescribe one rule regarding the role of advisory committees when the needs of each Rehabilitation Engineering Research Center may differ significantly. Should the Secretary develop regulations or guidelines regarding advisory committees or do those affected by these regulations agree that flexibility regarding advisory committees is better?

Composition of a peer review panel (§ 350.52)

The Secretary proposes to list in the regulations two additional factors to be considered in selecting individuals to serve on peer review panels. Currently, the Department through NIDRR considers the following in selecting peer review panel members: (1) Whether the panel includes individuals with disabilities, or parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities, and (2) whether the panel includes individuals from diverse populations. The Secretary has always considered individuals from minority backgrounds to be included in diverse populations. The Secretary considers these factors to convene peer review panels that contain members who can better evaluate if an applicant is addressing the needs of and represent the interests of individuals with disabilities and individuals with disabilities from diverse populations, including those from minority backgrounds. The Secretary believes these two additional factors always should be considered.

Selection criteria and process for evaluating an application (§ 350.53 and 350.54)

In developing these proposed selection criteria, the Department reviewed the selection criteria for each of the Disability and Rehabilitation Research Programs. The proposed selection criteria would embody all the essential elements that currently are evaluated in each program. To make the selection criteria useful in evaluating the many different types of projects and centers under the Program, the Secretary is proposing a menu of selection criteria to be used in evaluating applications.

Using a menu of selection criteria would benefit applicants and grantees by enabling the Secretary to tailor the criteria assessing project design to the scope and purposes of the project or center. As a result, the Secretary would be better able to evaluate the quality of a proposed project or center. Another benefit of these changes would be that applicants would have a better understanding of qualities that are desired in all types of projects carrying out activities related to disability and rehabilitation.

Moreover, peer reviewers currently decide whether to use those selection criteria applying only to specified types of activities (for example, see §§ 350.34(a)–(c)), in evaluating proposed projects. Sometimes peer reviewers have been confused about which selection criteria to use in evaluating an application and may not have applied the selection criteria most appropriate for a particular project. Under this new approach, applicants and peer reviewers would know exactly which selection criteria would be used in evaluating an application because all of the criteria selected by the Secretary would apply. Although applicants may no longer have a set of established selection criteria that would be used every year, the Secretary believes that the benefits of tailored selection criteria outweigh any disadvantages. Do these benefits outweigh any disadvantages? Do those affected by these regulations agree with using this new approach?

Under this approach, the Secretary would choose the combination of selection criteria and factors that would be the most appropriate for a particular competition in any given year. The Secretary expects the selection criteria that would differ from competition to competition, because they may be inappropriate for a particular competition, would be those regarding project design, responsiveness to the absolute or competitive priority, and collaboration.

The Secretary selects one or more factors listed under each criterion, with one exception. There is one criterion that contains a factor that would always be considered if the criterion is selected. Under the ''quality of project staff'' criterion, the Secretary would always evaluate the extent to which an applicant encourages applications for employment from persons who are members of groups that have been traditionally underrepresented. The Department's consideration of this factor, which first appeared in the Education Department General Administrative Regulations (EDGAR) in 1980, continues to reflect the Department's mission to ensure equal access to educational opportunities as embodied in the Department of Education Organization Act and recently reaffirmed by Congress in section 427 of the General Education Provisions Act.

The Secretary would select criteria and factors appropriate to the type of project to be funded and the nature of the competition. For example in a Development and Dissemination Project competition, the Secretary could select, in part, ''Responsiveness to the absolute or competitive priority'' (§ 350.54(b)), ''Design of development activities'' (§ 350.54(d)), and ''Design of dissemination activities'' (§ 350.54(g)). In addition, the Secretary would select one or more factors. Under the ''Responsiveness to the absolute or competitive priority'' criterion, the Secretary might choose all the factors but under the design criteria might choose only one factor.

In the case of a competition for Field Initiated Projects, the Secretary could choose the same or other criteria and factors. For example, instead of the project design selection criteria chosen in the first example, the Secretary could choose ''Design for research activities'' (§ 350.54(c)) and further choose factors (i) ''The extent to which the research activities constitute a coherent, sustained approach to research in the field, including a substantial addition to the state-of-the-art'' and (iii) ''The extent to which anticipated research results are likely to satisfy the original hypotheses and could be used for planning additional research, including generation of new hypotheses where applicable.''

In addition to using criteria from the menu of selection criteria, the Secretary could establish selection criteria based on statutory provisions. Currently, under 34 CFR 75.209 of EDGAR, the Secretary has authority to establish selection criteria for other programs based on certain statutory provisions that apply to them. The Secretary would incorporate a similar authority to establish selection criteria based on certain statutory provisions in these proposed regulations. The Secretary could use these criteria based on statutory provisions in combination with criteria from the menu of selection criteria. The Secretary anticipates using this authority only if the Act is amended, and the Secretary needs to develop criteria to reflect new provisions or a different focus of the statute. The proposed menu of selection criteria is designed to evaluate

applications that meet the purposes and provisions of the current Act.

The Secretary would publish the chosen criteria and factors, and any criteria based on statutory provisions in an application package or a notice published in the Federal Register. Each application could receive a maximum score of 100. The total number of points an application could receive for a particular selection criterion would no longer be established in regulations. Rather, the Secretary would notify applicants of the maximum points for each selection criterion or factor in the application package or the application notice published in the Federal Register. If no point allocations are specified for the factors, the Secretary would assign an equal maximum value to each factor. In selecting from the menu a set of criteria and factors for a particular competition, the Secretary would not solicit formal public comment but expects to draw on input from grantees, program beneficiaries, and other interested parties; feedback from peer reviewers and program evaluators; discussions among Department employees, grantees, and program beneficiaries; and meetings, conferences, visits to grantees, and other forms of outreach and exchange with the relevant communities.

Conducting activities (§ 350.60)

The Secretary proposes that, if a project or center carries out more than one activity, the activities must be integrated because experiences in carrying out one activity often are helpful in carrying out another activity. The Secretary believes it is necessary to require that activities are integrated to ensure that projects and centers are of the highest quality and that activities culminate to achieve one ultimate goal or purpose.

Evaluation requirements (§ 350.61)

The Secretary proposes to require grantees to establish performance measures and to make periodic assessments of progress toward implementing their plans of operation and achieving intended outcomes. The Secretary believes that, by imposing these evaluation requirements, the Department would be better able to determine whether a grantee is achieving its intended outcomes, identify areas for improvement in a project, and identify which priority areas to establish in the future. These requirements would allow the Department to make grantees more accountable for achieving high quality results.

Requirements for patent applicants (§ 350.66)

This proposed provision is not a new requirement. It applies to grantees through § 75.626 of EDGAR. The Secretary proposes to move this section to these regulations because the Department is considering removing § 75.626 from EDGAR and would like to ensure that this requirement applies to those applying for patents for inventions made under a grant from the Program.

Executive Order 12866

Executive Order 12866 requires each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed regulations clearly stated? (2) Do the regulations contain technical terms or other wording that interferes with their clarity? (3) Does the format of the regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? Would the regulations be easier to understand if they were divided into more (but shorter) sections? (A ''section'' is preceded by the symbol ''§ '' and a numbered heading; for example, § 350.1 *What is the Disability and Rehabilitation Research Projects and Centers Program?*). (4) Is the description of the regulations in the ''Supplementary Information'' section of this preamble helpful in understanding the regulations? How could this description be more helpful in making the regulations easier to understand? (5) What else could the Department do to make the regulations easier to understand?

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

These regulations could affect States and State agencies. States and State agencies, however, are not defined as ''small entities'' in the Regulatory Flexibility Act.

The small entities that could be affected by these regulations are small tribal governments, institutions of higher education, local educational agencies, community-based organizations, businesses, hospitals, and nonprofit organizations receiving Federal funds under a direct grant program. The proposed regulations, however, would not have a significant economic impact on these entities because the regulations would impose minimal requirements to ensure the proper expenditure of program funds. The proposed changes from the existing regulations governing these programs are minimal and would include further clarification of the statute and an improved method for selecting applications for funding, and thus, may alleviate burden.

Paperwork Reduction Act of 1995

Sections 350.40 and 350.54 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review.

Collection of Information: Disability and Rehabilitation Research Projects and Centers Program.

State educational agencies, local educational agencies, and other recipients may be affected by these regulations. The Department needs and uses the information to select applications for funding. Annual public reporting burden for this collection of information is estimated to range from 15 to 120 hours per application for approximately 320 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus, the total annual reporting and recordkeeping burden for this collection is estimated to be 16,000 hours.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, DC 20503; Attention: Wendy Taylor, Desk Officer for the U.S. Department of Education.

The Department considers comments by the public on this proposed collection of information in—

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have a practical utility;

- Evaluating the accuracy of the Department's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing 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.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3424, Switzer Building, 330 C Street, SW., Washington, DC between the hours of 9 a.m. and 4:30 p.m., Monday through Friday except for Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12866 and the Paperwork Reduction Act of 1995 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Education Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 350

Disabled, Grant programs—education, Minority groups, Research, Vocational rehabilitation.

34 CFR Part 351

American Indians, Disabled, Grant programs—education, Medical research, Minority groups, Research, Vocational rehabilitation.

34 CFR Part 352

American Indians, Disabled, Education of disabled, Grant programs—education, Research, Training programs, Vocational rehabilitation.

34 CFR Part 353

American Indians, Disabled, Education of disabled, Grant programs—education, Research, Science and technology, Training programs, Vocational rehabilitation.

34 CFR Part 355

Disabled, Grant programs—education, Vocational rehabilitation.

34 CFR Part 357

Disabled, Education of disabled, Grant programs—education, Research, Science and technology, Vocational rehabilitation.

34 CFR Part 360

Disabled, Education of disabled, Grant programs—education, Research, Training programs, Vocational rehabilitation.

Dated: October 8, 1996.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

(Catalog of Federal Domestic Assistance Number 84.133, Disability and Rehabilitation Research Projects and Centers Program)

PARTS 351, 352, 353, 355, 357, AND 360—[REMOVED]

1. The Secretary proposes to remove from Title 34 of the Code of Federal Regulations parts 351, 352, 353, 355, 357, and 360.

2. The Secretary proposes to amend title 34 of the Code of Federal Regulations by revising part 350 to read as follows:

PART 350—DISABILITY AND REHABILITATION RESEARCH PROJECTS AND CENTERS PROGRAM

Subpart A—General

Sec.

350.1 What is the Disability and Rehabilitation Research Projects and Centers Program?
350.2 What is the purpose of the Disability and Rehabilitation Research Project and Centers Program?
350.3 Who is eligible for an award?
350.4 What regulations apply?
350.5 What definitions apply?

Subpart B—What Projects Does the Secretary Assist?

350.10 What are the general requirements for Disability and Rehabilitation Research and Related Projects?
350.11 What are the general requirements for a Field-Initiated Project?
350.12 What are the general requirements for an Advanced Rehabilitation Research Training Project?
350.13 What must a grantee do in carrying out a research activity?
350.14 What must a grantee do in carrying out a training activity?
350.15 What must a grantee do in carrying out a demonstration activity?
350.16 What must a grantee do in carrying out a development activity?
350.17 What must a grantee do in carrying out a utilization activity?
350.18 What must a grantee do in carrying out a dissemination activity?
350.19 What must a grantee do in carrying out a technical assistance activity?

Subpart C—What Rehabilitation Research and Training Centers Does the Secretary Assist?

350.20 What general requirements must a Rehabilitation Research and Training Center meet?
350.21 What collaboration must a Rehabilitation Research Training Center engage in?
350.22 What activities must a Rehabilitation Research and Training Center conduct?
350.23 What restriction exists on Rehabilitation Research and Training Centers regarding indirect costs?

Subpart D—What Rehabilitation Engineering Research Centers Does the Secretary Assist?

350.30 What requirements must a Rehabilitation Engineering Research Center meet?
350.31 What collaboration must a Rehabilitation Engineering Research Center engage in?
350.32 What activities must a Rehabilitation Engineering Research Center conduct?
350.33 What cooperation requirements must a Rehabilitation Engineering Research Center meet?
350.34 Which Rehabilitation Engineering Research Centers must have an advisory committee?
350.35 What are the requirements for the composition of an advisory committee?

Subpart E—How Does One Apply for an Award?

350.40 What is required of each applicant regarding the needs of individuals with disabilities from minority backgrounds?
350.41 What State agency review must an applicant under the Disability and Rehabilitation Research Projects and Centers Program obtain?

Subpart F—How Does the Secretary Make an Award?

350.50 What is the peer review process for this Program?
350.51 What is the purpose of peer review?
350.52 What is the composition of a peer review panel?
350.53 How does the Secretary evaluate an application?
350.54 What selection criteria does the Secretary use in evaluating an application?
350.55 What are the additional considerations for selecting Field-Initiated Project applications for funding?

Subpart G—What Conditions Must be Met after an Award?

350.60 How must a grantee conduct activities?
350.61 What evaluation requirements must a grantee meet?
350.62 What are the matching requirements?
350.63 What are the requirements of a grantee relative to the Client Assistance Program?
350.64 What is the required duration of the training in an Advanced Rehabilitation Research Training Project?
350.65 What level of participation is required of trainees in an Advanced Rehabilitation Research Training Project?
350.66 What must a grantee include in a patent application?

Authority: Sec. 204; 29 U.S.C. 761–762, unless otherwise noted.

Subpart A—General

§ 350.1 What is the Disability and Rehabilitation Research Projects and Centers Program?

The Disability and Rehabilitation Research Projects and Centers Program provides grants to establish and support—

(a) The following Disability and Rehabilitation Research and Related Projects:

(1) Disability and Rehabilitation Research Projects.

(2) Field-Initiated Projects.

(3) Advanced Rehabilitation Research Training Projects; and

(b) The following Disability and Rehabilitation Research Centers:

(1) Rehabilitation Research and Training Centers.

(2) Rehabilitation Engineering Research Centers.

(Authority: Section 204; 29 U.S.C. 762)

§ 350.2 What is the purpose of the Disability and Rehabilitation Research Project and Centers Program?

The purpose of the Disability and Rehabilitation Research Project and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to—

(a) Develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities; and

(b) Improve the effectiveness of services authorized under the Act.

(Authority: Section 204(a) and (b)(6); 29 U.S.C. 762(a) and (b)(6))

§ 350.3 Who is eligible for an award?

The following entities are eligible for an award under this program:

(a) States.

(b) Public or private agencies, including for-profit agencies.

(c) Public or private organizations, including for-profit organizations.

(d) Institutions of higher education.

(e) Indian tribes and tribal organizations.

(Authority: Section 204(a); 29 U.S.C. 762(a))

§ 350.4 What regulations apply?

The following regulations apply to the Disability and Rehabilitation Research Projects and Centers Program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(5) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(6) 34 CFR part 82 (New Restrictions on Lobbying).

(7) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(8) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 350.

(c)(1) Subject to the additional requirement in paragraph (c)(2) of this section, 34 CFR part 97 (Protection of Human Subjects).

(2) If an institutional review board (IRB) reviews research that purposefully requires inclusion of children with disabilities or individuals with mental disabilities as research subjects, the IRB must have at least one member who is primarily concerned with the welfare of these research subjects.

(Authority: 29 U.S.C. 761a, 762, 42 U.S.C. 300v–1(b))

§ 350.5 What definitions apply?

(a) The following definitions in 34 CFR part 77 apply to this part—

Applicant
Application
Award
Budget
Department
EDGAR
Equipment
Facilities
Grant
Grantee
Nonprofit
Private
Project
Project period
Public
Recipient
Secretary
Supplies
State

(Authority: Section 202(i)(1); 29 U.S.C. 761a(i)(1))

(b) The following definitions also apply to this part.

Act means the Rehabilitation Act of 1973 (29 U.S.C. 701, et seq.), as amended.

(Authority: Sec. 202(i)(1); (29 U.S.C. 761a(i)(1))

Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially or off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

(Authority: Section 7(23); 29 U.S.C. 706(23))

Assistive technology service means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device, including—

(1) The evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the individual's customary environment;

(2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(3) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(5) Training or technical assistance for individuals with disabilities, or, if appropriate, their family members, guardians, advocates, or authorized representatives; and

(6) Training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to employ, or are otherwise substantially involved in the major life functions of, individuals with disabilities.

(Authority: Section 7(24); 29 U.S.C. 706(24))

Disability means a physical or mental impairment that substantially limits one or more major life activities.

(Authority: Section 202(i)(1); 29 U.S.C. 761a(i)(1))

Individual with a disability means any individual who:

(1) Has a physical or mental impairment that substantially limits one or more of the individual's major life activities;

(2) Has a record of this impairment; or

(3) Is regarded as having this impairment.

(Authority: Section 7(8)(B); 29 U.S.C. 706(8)(B))

Individual with a severe disability means—

(1)(i) An individual with a disability who has a severe physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

(ii) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(iii) Who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, other spinal cord impairments, sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment of rehabilitation needs to cause comparable substantial functional limitation; or

(2) An individual with a severe mental or physical impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community or to continue in employment, respectively.

(Authority: Section 7(15)(C); 29 U.S.C. 706(15)(C))

Personal assistance services means a range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities, on and off the job, that the individual would typically perform if the individual did not have a disability. These services must be designed to increase the individual's control in life and ability to perform everyday activities on and off the job.

(Authority: Section 12(c); 29 U.S.C. 711(c))

Rehabilitation technology means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of and address the barriers confronted by individuals with disabilities in such areas as education, rehabilitation, employment, transportation, independent living, and recreation, and includes rehabilitation engineering, assistive technology devices, and assistive technology services.

(Authority: Section 7(13); 29 U.S.C. 706(13))

Research is classified on a continuum from basic to applied:

(1) *Basic research* is research in which the investigator is concerned primarily with gaining new knowledge or understanding of a subject without reference to any immediate application or utility.

(2) *Applied research* is research in which the investigator is primarily interested in developing new knowledge, information or understanding which can be applied to a predetermined rehabilitation problem or need. Applied research builds on selected findings from basic research.

(Authority: Section 202(i)(1); 29 U.S.C. 761a(i)(1))

State rehabilitation agency means the sole State agency designated to administer (or supervise local administration of) the State plan for vocational rehabilitation services. The term includes the State agency for the blind, if designated as the State agency with respect to that part of the plan relating to the vocational rehabilitation of blind individuals.

(Authority: Section 101(a)(1)(A); 29 U.S.C. 721(a)(1)(A))

Target population means the group of individuals, organizations, or other entities expected to be affected by the project. More than one group may be involved since a project may affect those who receive services, provide services, or administer services.

(Authority: Section 202(i)(1); 29 U.S.C. 761a(i)(1))

Subpart B—What Projects Does the Secretary Assist?

§ 350.10 What are the general requirements for Disability and Rehabilitation Research Projects?

Disability and Rehabilitation Research Projects must meet the following requirements:

(a) Carry out one or more of the following types of activities, as specified in §§ 350.13–350.19:

(1) Research.

(2) Development.

(3) Demonstration.

(4) Training.

(5) Dissemination.

(6) Utilization.

(7) Technical assistance.

(b) Further one or more of the purposes listed in § 350.2.

(Authority: Section 202; 29 U.S.C. 761a)

§ 350.11 What are the general requirements for a Field-Initiated Project?

A Field-Initiated Project must—

(a) Further one or more of the purposes in § 350.2; and

(b) Carry out one of the following types of activities:

(1) Research.

(2) Development.

(Authority: Section 202; 29 U.S.C. 761a)

§ 350.12 What are the general requirements for an Advanced Rehabilitation Research Training Project?

An Advanced Rehabilitation Research Training Project must—

(a) Provide research training and experience at an advanced level to individuals with doctorates or similar advanced degrees who have clinical or other relevant experience;

(b) Further one or more of the purposes in § 350.2; and

(c) Carry out all of the following activities:

(1) Recruitment and selection of candidates for advanced research training.

(2) Provision of a training program that includes didactic and classroom instruction, is multidisciplinary, and emphasizes scientific methodology, and may involve collaboration among institutions.

(3) Provision of research experience, laboratory experience or its equivalent in a community-based research setting, and a practicum that involve each individual in clinical research and in practical activities with organizations representing individuals with disabilities.

(4) Provision of academic mentorship or guidance, and opportunities for scientific collaboration with qualified researchers at the host university and other appropriate institutions.

(5) Provision of opportunities for participation in the development of professional presentations and publications, and for attendance at professional conferences and meetings as appropriate for the individual's field of study and level of experience.

(Authority: Section 202(k); 29 U.S.C. 761a(k))

§ 350.13 What must a grantee do in carrying out a research activity?

In carrying out a research activity under this program, a grantee shall—

(a) Identify one or more hypotheses; and

(b) Based on the hypotheses identified, perform an intensive systematic study directed toward—

(1) New or full scientific knowledge; or

(2) Understanding of the subject or problem studied.

(Authority: Section 202; 29 U.S.C. 761a)

§ 350.14 What must a grantee do in carrying out a training activity?

In carrying out a training activity under this program, a grantee shall conduct a planned and systematic sequence of supervised instruction that is designed to impart predetermined skills and knowledge.

(Authority: Section 202; 29 U.S.C. 761a)

§ 350.15 What must a grantee do in carrying out a demonstration activity?

In carrying out a demonstration activity under this program, a grantee shall apply results derived from previous research, testing, or practice to determine the effectiveness of a new strategy or approach.

(Authority: Section 202; 29 U.S.C. 761a)

§ 350.16 What must a grantee do in carrying out a development activity?

In carrying out a development activity under this program, a grantee must use knowledge and understanding gained from research to create materials, devices, systems, or methods beneficial to the target population, including design and development of prototypes and processes.

(Authority: Section 202; 29 U.S.C. 761a)

§ 350.17 What must a grantee do in carrying out a utilization activity?

In carrying out a utilization activity under this program, a grantee must relate research findings to practical applications in planning, policy making, program administration, and delivery of services to individuals with disabilities.

(Authority: Section 202; 29 U.S.C. 761a)

§ 350.18 What must a grantee do in carrying out a dissemination activity?

In carrying out a dissemination activity under this program, a grantee must systematically distribute information or knowledge through a variety of ways to potential users or beneficiaries.

(Authority: Section 202; 29 U.S.C. 761a)

§ 350.19 What must a grantee do in carrying out a technical assistance activity?

In carrying out a technical assistance activity under this program, a grantee must provide expertise or information for use in problem-solving.

(Authority: Section 202; 29 U.S.C. 761a)

Subpart C—What Rehabilitation Research and Training Centers Does the Secretary Assist?

§ 350.20 What general requirements must a Rehabilitation Research and Training Center meet?

A Rehabilitation Research and Training Center shall—

(a) Plan and conduct activities that further one or more of the purposes listed in § 350.2;

(b) Serve as a center of national excellence and as a national or regional resource for providers and individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals;

(c) Be of sufficient size, scope, and quality to effectively carry out the activities in an efficient manner consistent with appropriate State and Federal law; and

(d) Be able to carry out training activities either directly or through another entity that can provide such training.

(Authority: Section 204(b) and (b)(2)(K); 29 U.S.C. 762(b) and (b)(2)(K))

§ 350.21 What collaboration must a Rehabilitation Research and Training Center engage in?

A Rehabilitation Research and Training Center must be operated by or in collaboration with—

(a) One or more institutions of higher education; or

(b) One or more providers of rehabilitation or other appropriate services.

(Authority: Section 204(b)(2); 29 U.S.C. 762(b)(2))

§ 350.22 What activities must a Rehabilitation Research and Training Center conduct?

A Rehabilitation Research and Training Center shall—

(a) Carry out research activities by conducting coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge that will—

(1) Improve rehabilitation methodology and service delivery systems;

(2) Alleviate or stabilize disabling conditions; and

(3) Promote maximum social and economic independence of individuals with disabilities;

(b) Conduct training activities by providing training (including graduate, pre-service, and in-service training) to assist—

(1) Rehabilitation personnel and other individuals to more effectively provide rehabilitation services; and

(2) Rehabilitation research personnel and other rehabilitation personnel to improve their capacity to conduct research; and

(c) Conduct technical assistance activities by serving as an informational and technical assistance resource for providers, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals with disabilities, through conferences, workshops, public education programs, in-service training programs, and similar activities.

§ 350.23 What restriction exists on Rehabilitation Research and Training Centers regarding indirect costs?

A host institution with which a Rehabilitation Research and Training Center is affiliated may not collect more than fifteen percent of the total grant award as indirect cost charges, notwithstanding the provisions in 34 CFR 75.562.

(Authority: Section 204(b)(2)(O); 29 U.S.C. 762(b)(2)(O))

Subpart D—What Rehabilitation Engineering Research Centers Does the Secretary Assist?

§ 350.30 What requirements must a Rehabilitation Engineering Research Center meet?

A Rehabilitation Engineering Research Center shall plan and conduct activities that—

(a) Further one or more of the purposes listed in § 350.2; and

(b)(1) Lead to the development of methods, procedures, and devices that

will benefit individuals with disabilities, especially those with the most severe disabilities; or

(2) Involve rehabilitation technology and enhance opportunities for meeting the needs of, and addressing the barriers confronted by, individuals with disabilities in all aspects of their lives.

(Authority: Section 204(b)(3); 29 U.S.C. 762(b)(3))

§ 350.31 What collaboration must a Rehabilitation Engineering Research Center engage in?

A Rehabilitation Engineering Research Center must be operated by or in collaboration with—

(a) One or more institutions of higher education; or

(b) One or more nonprofit organizations.

(Authority: Section 204(b)(3); 29 U.S.C. 762(b)(3))

§ 350.32 What activities must a Rehabilitation Engineering Research Center conduct?

A Rehabilitation Engineering Research Center shall—

(a) Conduct research or demonstration activities by using one or more of the following strategies:

(1) Developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems and remove environmental barriers through—

(i) Planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge and new or improved methods, equipment, or devices; and

(ii) Studying and evaluating new or emerging technologies, products, or environments and their effectiveness and benefits.

(2) Demonstrating and disseminating—

(i) Innovative models for the delivery to rural and urban areas of cost-effective rehabilitation technology services that will promote the use of assistive technology services; and

(ii) Other scientific research to assist in meeting the employment and independent living needs of individuals with severe disabilities.

(3) Conducting research and demonstration activities that facilitate service delivery systems change by demonstrating, evaluating, documenting, and disseminating—

(i) Consumer-responsive and individual and family-centered innovative models for the delivery, to both rural and urban areas, of innovative, cost-effective rehabilitation technology services that promote use of rehabilitation technology; and

(ii) Other scientific research to assist in meeting the employment and independent living needs of, and addressing the barriers confronted by individuals with disabilities, including individuals with severe disabilities;

(b) To the extent consistent with the nature and type of research or demonstration activities described in paragraph (a) of this section, carry out research, training, and information dissemination activities by—

(1) Providing training opportunities to individuals, including individuals with disabilities, to enable them to become rehabilitation technology researchers and practitioners of rehabilitation technology in conjunction with institutions of higher education and nonprofit organizations; and

(2) Responding, through research or demonstration activities, to the needs of individuals with all types of disabilities who may benefit from the application of technology within the subject area of focus of the Center.

(c) Conduct orientation seminars for rehabilitation service personnel to improve the application of rehabilitation technology;

(d) Conduct activities that specifically demonstrate means for utilizing rehabilitation technology; and

(e) Provide technical assistance and consultation that are responsive to concerns of service providers and consumers.

(Authority: Section 204(b)(3); 29 U.S.C. 762(b)(3))

§ 350.33 What cooperation requirements must a Rehabilitation Engineering Research Center meet?

A Rehabilitation Engineering Research Center—

(a) Shall cooperate with State agencies and other local, State, regional, and national programs and organizations developing or delivering rehabilitation technology, including State programs funded under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 *et seq.*); and

(b) To the extent consistent with the nature and type of research or demonstration activities described in § 350.32(a), shall cooperate with the entities described in paragraph (a) of this section to provide information to individuals with disabilities and their parents, family members, guardians, advocates, or authorized representatives, to—

(1) Increase awareness and understanding of how rehabilitation technology can address their needs; and

(2) Increase awareness and understanding of the range of options, programs, services, and resources available, including financing options for the technology and services covered by the subject area of focus of the Center.

(Authority: Section 204(b)(3) and (c); 29 U.S.C. 762(b)(3) and (c))

§ 350.34 Which Rehabilitation Engineering Research Centers must have an advisory committee?

A Rehabilitation Engineering Research Center conducting research or demonstration activities that facilitate service delivery systems change must have an advisory committee.

(Authority: Section 204(b)(3)(D); 29 U.S.C. 762(b)(3)(D))

§ 350.35 What are the requirements for the composition of an advisory committee?

The majority of a Rehabilitation Engineering Research Center advisory committee's members must be comprised of individuals with disabilities who are users of rehabilitation technology, or their parents, family members, guardians, advocates, or authorized representatives.

(Authority: Section 204(b)(3)(D); 29 U.S.C. 762(b)(3)(D))

Subpart E—How Does One Apply for an Award?

§ 350.40 What is required of each applicant regarding the needs of individuals with disabilities from minority backgrounds?

(a) Unless the Secretary indicates otherwise in a notice published in the Federal Register, an applicant for assistance under this program must demonstrate in its application how it will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.

(b) The approaches an applicant may take to meet this requirement may include one or more of the following:

(1) Proposing project objectives addressing the needs of individuals with disabilities from minority backgrounds.

(2) Demonstrating that the project will address a problem that is of particular significance to individuals with disabilities from minority backgrounds.

(3) Demonstrating that individuals from minority backgrounds will be included in study samples in sufficient numbers to generate information pertinent to individuals with disabilities from minority backgrounds.

(4) Drawing study samples and program participant rosters from populations or areas that include individuals from minority backgrounds.

(5) Providing outreach to individuals with disabilities from minority backgrounds to ensure that they are aware of rehabilitation services, clinical care, or training offered by the project.

(6) Disseminating materials to or otherwise increasing the access to disability information among minority populations.

(Authority: Sections 21(b)(6); 29 U.S.C. 718b(b)(6))

§ 350.42 What State agency review must an applicant under the Disability and Rehabilitation Research Projects and Centers Program obtain?

(a) An applicant that proposes to conduct research, demonstrations, or related activities that will either involve clients of the State vocational rehabilitation agency as research subjects or study vocational rehabilitation services or techniques under this program, shall follow the requirements in 34 CFR 75.155–75.159.

(b) For the purposes of this Program, *State* as used in 34 CFR 75.155–75.159 means the State rehabilitation agency or agencies in the primary State or States to be affected by the proposed activities.

(Authority: Sections 204(c) and 306(i); 29 U.S.C. 762(c) and 766(a))

Subpart F—How Does the Secretary Make an Award?

§ 350.50 What is the peer review process for this Program?

(a) The Secretary refers each application for a grant governed by these regulations to a peer review panel established by the Secretary.

(b) Peer review panels review applications on the basis of the applicable selection criteria in § 350.54.

(Authority: Section 202(e); 29 U.S.C. 761a(e))

§ 350.51 What is the purpose of peer review?

The purpose of peer review is to insure that—

(a) Those activities supported by the National Institute on Disability and Rehabilitation Research (NIDRR) are of the highest scientific, administrative, and technical quality; and

(b) Activity results may be widely applied to appropriate target populations and rehabilitation problems.

(Authority: Section 202(e); 29 U.S.C. 761a(e))

§ 350.52 What is the composition of a peer review panel?

(a) The Secretary selects as members of a peer review panel scientists and other experts in rehabilitation or related fields who are qualified, on the basis of training, knowledge, or experience, to give expert advice on the merit of the applications under review.

(b) Applications for awards of $60,000 or more, except those for the purposes of evaluation, dissemination of information, or conferences, must be reviewed by a peer review panel that consists of a majority of non-Federal members.

(c) In selecting members to serve on a peer review panel, the Secretary takes into account all of the following factors:

(1) The level of formal scientific or technical education completed by potential panel members.

(2)(i) The extent to which potential panel members have engaged in scientific, technical, or administrative activities appropriate to the category of applications that the panel will consider;

(ii) The roles of potential panel members in those activities; and

(iii) The quality of those activities.

(3) The recognition received by potential panel members as reflected by awards and other honors from scientific and professional agencies and organizations outside the Department.

(4) Whether the panel includes knowledgeable individuals with disabilities, or parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities.

(5) Whether the panel includes individuals from diverse populations.

(Authority: Sections 18 and 202(e); 29 U.S.C. 717 and 761a(e))

§ 350.53 How does the Secretary evaluate an application?

(a)(1)(i) The Secretary selects one or more of the selection criteria in § 350.54 to evaluate an application;

(ii) The Secretary establishes selection criteria based on statutory provisions that apply to the Program which may include, but are not limited to—

(A) Specific statutory selection criteria;

(B) Allowable activities;

(C) Application content requirements; or

(D) Other pre-award and post-award conditions; or

(iii) The Secretary uses a combination of selection criteria established under paragraph (a)(1)(ii) of this section and selection criteria in § 350.54.

(2) For Field-Initiated Projects, the Secretary does not consider § 350.54(b) (Responsiveness to the Absolute or Competitive Priority) in evaluating an application.

(b)(1) In considering selection criteria in § 350.54, the Secretary selects one or more of the factors listed in the criteria except as provided for in paragraph (b)(2) of this section.

(2) Under § 350.54, the Secretary always considers the factor in paragraph (n)(2) of that section.

(c) The maximum possible score for an application is 100 points.

(d)(1) In the application package or a notice published in the Federal Register, the Secretary informs applicants of—

(i)(A) The selection criteria chosen; and

(B) The maximum possible score for each of the selection criteria; and

(ii)(A) The factors selected for considering the selection criteria; and

(B) If points are assigned to each factor, the maximum possible score for each factor under each criterion.

(2) If no points are assigned to each factor, the Secretary evaluates each factor equally.

(e) For Field-Initiated Projects, in addition to the selection criteria, the Secretary uses the additional considerations in selecting applications for funding as described in § 350.55.

(Authority: Section 202(e); 29 U.S.C. 761a(e))

§ 350.54 What selection criteria does the Secretary use in evaluating an application?

In addition to criteria established under § 350.53(a)(1)(ii), the Secretary may select one or more of the following criteria in evaluating an application:

(a) *Importance of the problem.*

(1) The Secretary considers the importance of the problem.

(2) In determining the importance of the problem, the Secretary considers one or more of the following factors:

(i) The extent to which the applicant clearly describes the need and target population.

(ii) The extent to which the proposed activities further the purposes of the Act.

(iii) The extent to which the proposed activities address a significant need of one or more disabled populations.

(iv) The extent to which the proposed activities address a significant need of rehabilitation service providers.

(v) The extent to which the proposed activities address a significant need of those who provide services to individuals with disabilities.

(vi) The extent to which the applicant proposes to provide training in a rehabilitation discipline or area of study in which there is a shortage of qualified researchers, or to a trainee population in which there is a need for more qualified researchers.

(vii) The extent to which the proposed project will have beneficial impact on the target population.

(b) *Responsiveness to an absolute or competitive priority.*

(1) The Secretary considers the responsiveness of the application to an absolute or competitive priority published in the Federal Register.

(2) In determining the application's responsiveness to the absolute or competitive priority, the Secretary considers one or more of the following factors:

(i) The extent to which the applicant addresses all requirements of the absolute or competitive priority.

(ii) The extent to which the applicant's proposed activities are likely to achieve the purposes of the absolute or competitive priority.

(c) *Design of research activities.*

(1) The Secretary considers the extent to which the design of research activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers one or more of the following factors:

(i) The extent to which the research activities constitute a coherent, sustained approach to research in the field, including a substantial addition to the state-of-the-art.

(ii) The extent to which the methodology of each proposed research activity is meritorious, including consideration of the extent to which—

(A) The proposed design includes a comprehensive and informed review of the current literature, demonstrating knowledge of the state-of-the-art;

(B) Each research hypothesis is theoretically sound and based on current knowledge;

(C) Each sample population is appropriate and of sufficient size;

(D) The data collection and measurement techniques are appropriate and likely to be effective; and

(E) The data analysis methods are appropriate.

(iii) The extent to which anticipated research results are likely to satisfy the original hypotheses and could be used for planning additional research, including generation of new hypotheses where applicable.

(d) *Design of development activities.*

(1) The Secretary considers the extent to which the design of development activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers one or more of the following factors:

(i) The extent to which the plan for development, clinical testing, and evaluation of new devices and technology is likely to yield significant products or techniques, including consideration of the extent to which—

(A) The proposed project will use the most effective and appropriate technology available in developing the new device or technique;

(B) The proposed development is based on a sound conceptual model that demonstrates an awareness of the state-of-the-art in technology;

(C) The new device or technique will be developed and tested in an appropriate environment;

(D) The new device or technique is likely to be cost-effective and useful;

(E) The new device or technique has the potential for commercial or private manufacture, marketing, and distribution of the product; and

(F) The proposed development efforts include adequate quality controls and, as appropriate, repeated testing of products.

(e) *Design of demonstration activities.*

(1) The Secretary considers the extent to which the design of demonstration activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers one or more of the following factors:

(i) The extent to which the proposed demonstration activities build on previous research, testing, or practices.

(ii) The extent to which the proposed demonstration activities include the use of proper methodological tools and theoretically sound procedures to determine the effectiveness of the strategy or approach.

(iii) The extent to which the proposed demonstration activities include innovative and effective strategies or approaches.

(iv) The extent to which the proposed demonstration activities are likely to contribute to current knowledge and practice and be a substantial addition to the state-of-the-art.

(v) The extent to which the proposed demonstration activities can be applied and replicated in other settings.

(f) *Design of training activities.*

(1) The Secretary considers the extent to which the design of training activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers one or more of the following factors:

(i) The extent to which the proposed training materials are likely to be effective, including consideration of their quality, clarity, and variety.

(ii) The extent to which the proposed training methods are of sufficient quality, intensity, and duration.

(iii) The extent to which the proposed training content—

(A) Covers all of the relevant aspects of the subject matter; and

(B) If relevant, is based on new knowledge derived from research activities of the proposed project.

(iv) The extent to which the proposed training materials, methods, and content are appropriate to the trainees, including consideration of the skill level of the trainees and the subject matter of the materials.

(v) The extent to which the proposed training materials and methods are accessible to individuals with disabilities.

(vi) The extent to which the applicant's proposed recruitment program is likely to be effective in recruiting highly qualified trainees, including those who are individuals with disabilities.

(vii) The extent to which the applicant is able to carry out the training activities, either directly or through another entity.

(viii) The extent to which the proposed didactic and classroom training programs emphasize scientific methodology and are likely to develop highly qualified researchers.

(ix) The extent to which the quality and extent of the academic mentorship, guidance, and supervision to be provided to each individual trainee are of a high level and are likely to develop highly qualified researchers.

(x) The extent to which the type, extent, and quality of the proposed clinical and laboratory research experience, including the opportunity to participate in advanced-level research, are likely to develop highly qualified researchers.

(xi) The extent to which the opportunities for collegial and collaborative activities, exposure to outstanding scientists in the field, and opportunities to participate in the preparation of scholarly or scientific publications and presentations are extensive and appropriate.

(g) *Design of dissemination activities.*

(1) The Secretary considers the extent to which the design of dissemination activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the

project, the Secretary considers one or more of the following factors:

(i) The extent to which the content of the information to be disseminated—

(A) Covers all of the relevant aspects of the subject matter; and

(B) If appropriate, is based on new knowledge derived from research activities of the project.

(ii) The extent to which the materials to be disseminated are likely to be effective and usable, including consideration of their quality, clarity, variety, and format.

(iii) The extent to which the methods for dissemination are of sufficient quality, intensity, and duration.

(iv) The extent to which the materials and information to be disseminated and the methods for dissemination are appropriate to the target population, including consideration of the familiarity of the target population with the subject matter, format of the information, and subject matter.

(v) The extent to which the information to be disseminated will be accessible to individuals with disabilities.

(h) *Design of utilization activities.*

(1) The Secretary considers the extent to which the design of utilization activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers one or more of the following factors:

(i) The extent to which the potential new users of the information or technology have a practical use for the information and are likely to adopt the practices or use the information or technology, including new devices.

(ii) The extent to which the utilization strategies are likely to be effective.

(iii) The extent to which the information or technology is likely to be of use in other settings.

(i) *Design of technical assistance activities.*

(1) The Secretary considers the extent to which the design of technical assistance activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers one or more of the following factors:

(i) The extent to which the methods for providing technical assistance are of sufficient quality, intensity, and duration.

(ii) The extent to which the information to be provided through technical assistance covers all of the relevant aspects of the subject matter.

(iii) The extent to which the technical assistance is appropriate to the target population, including consideration of the knowledge level of the target population, needs of the target population, and format for providing information.

(iv) The extent to which the technical assistance is accessible to individuals with disabilities.

(j) *Plan of operation.*

(1) The Secretary considers the quality of the plan of operation.

(2) In determining the quality of the plan of operation, the Secretary considers one or more of the following factors:

(i) The adequacy of the plan of operation to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, and timelines for accomplishing project tasks.

(ii) The adequacy of the plan of operation to provide for using resources, equipment, and personnel to achieve each objective.

(k) *Collaboration.*

(1) The Secretary considers the quality of collaboration.

(2) In determining the quality of collaboration, the Secretary considers one or more of the following factors:

(i) The extent to which the applicant's proposed collaboration with one or more agencies, organizations, or institutions is likely to be effective in achieving the relevant proposed activities of the project.

(ii) The extent to which agencies, organizations, or institutions demonstrate a commitment to collaborate with the applicant.

(iii) The extent to which agencies, organizations, or institutions that commit to collaborate with the applicant have the capacity to carry out collaborative activities.

(l) *Adequacy and reasonableness of the budget.*

(1) The Secretary considers the adequacy and the reasonableness of the proposed budget.

(2) In determining the adequacy and the reasonableness of the proposed budget, the Secretary considers one or more of the following factors:

(i) The extent to which the costs are reasonable in relation to the proposed project activities.

(ii) The extent to which the budget for the project, including any subcontracts, is adequately justified to support the proposed project activities.

(iii) The extent to which the applicant is of sufficient size, scope, and quality to effectively carry out the activities in an efficient manner.

(m) *Plan of evaluation.*

(1) The Secretary considers the quality of the plan of evaluation.

(2) In determining the quality of the plan of evaluation, the Secretary considers one or more of the following factors:

(i) The extent to which the plan of evaluation provides for periodic assessment of progress toward—

(A) Implementing the plan of operation; and

(B) Achieving the project's intended outcomes and expected impacts.

(ii) The extent to which the plan of evaluation will be used to improve the performance of the project through the feedback generated by its periodic assessments.

(iii) The extent to which the plan of evaluation provides for periodic assessment of a project's progress that is based on identified performance measures that—

(A) Are clearly related to the intended outcomes of the project and expected impacts on the target population; and

(B) Are objective, and quantifiable or qualitative, as appropriate.

(n) *Project staff.*

(1) The Secretary considers the quality of the project staff.

(2) In determining the quality of the project staff, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers one or more of the following:

(i) The extent to which the key personnel and other key staff have appropriate training and experience in disciplines required to conduct all proposed activities.

(ii) The extent to which the commitment of staff time is adequate to accomplish all the proposed activities of the project.

(iii) The extent to which the key personnel are knowledgeable about the methodology and literature of pertinent subject areas.

(iv) The extent to which the project staff includes outstanding scientists in the field.

(v) The extent to which key personnel have up-to-date knowledge from research or effective practice in the subject area covered in the priority.

(o) *Adequacy and accessibility of resources.*

(1) The Secretary considers the adequacy and accessibility of the applicant's resources to implement the proposed project.

(2) In determining the adequacy and accessibility of resources, the Secretary considers one or more of the following factors:

(i) The extent to which the applicant is committed to provide adequate facilities, equipment, other resources, including administrative support, and laboratories, if appropriate.

(ii) The quality of an applicant's past performance in carrying out a grant.

(iii) The extent to which the applicant has appropriate access to clinical populations and organizations representing individuals with disabilities to support advanced clinical rehabilitation research.

(iv) The extent to which the facilities, equipment, and other resources are appropriately accessible to individuals with disabilities who may use the facilities, equipment, and other resources of the project.

(Authority: Sections 202 and 204; 29 U.S.C. 761a and 762)

§ 350.55 What are the additional considerations for selecting Field-Initiated Project applications for funding?

(a) The Secretary reserves funds to support some or all of the Field-Initiated Project applications that have been awarded points totaling 80% or more of the maximum possible points under the procedures described in § 350.53.

(b) In making a final selection of applications to support as Field-Initiated Projects, the Secretary considers the extent to which applications that have been awarded a rating of 80% or more of the maximum possible points and meet one or more of the following conditions:

(1) The proposed project represents a unique opportunity to advance rehabilitation knowledge to improve the lives of individuals with disabilities.

(2) The proposed project complements research already planned or funded by the NIDRR through annual priorities published in the Federal Register or addresses the research in a new and promising way.

(Authority: Sections 202(g) and (i)(1); 29 U.S.C. 761a(g) and 761a(i)(1))

Subpart G—What Conditions Must be Met after an Award?

§ 350.60 How must a grantee conduct activities?

A grantee must—

(a) Conduct all activities in a manner that is accessible to and usable by individuals with disabilities; and

(b) If a grantee carries out more than one activity, carry out integrated activities.

(Authority: Sections 202 and 204(b)(2); 29 U.S.C. 761a and 762(b))

§ 350.61 What evaluation requirements must a grantee meet?

(a) A grantee must establish performance measures for use in its evaluation that—

(1) Are clearly related to the—

(i) Intended outcomes of the project; and

(ii) Expected impacts on the target population; and

(2) To the extent possible are quantifiable, or are objective and qualitative.

(b) A grantee must make periodic assessments of progress that will provide the grantee with performance feedback related to—

(1) Progress in implementing the plan of operation; and

(2) Progress in achieving the intended outcomes and expected impacts as assessed by the established performance measures.

(Authority: Sections 202 and 204; 29 U.S.C. 761a and 762)

§ 350.62 What are the matching requirements?

(a)(1) The Secretary may make grants to pay for part of the costs of research and demonstration projects that bear directly on the development of procedures, methods, and devices to assist the provision of vocational and other rehabilitation services, and research training and career development projects.

(2) Each grantee must participate in the costs of those projects.

(3) The specific amount of cost sharing to be borne by each grantee—

(i) Is negotiated at the time of the award; and

(ii) Is not considered in the selection process.

(b)(1) The Secretary may make grants to pay for part or all of the costs of—

(i) Establishment and support of Rehabilitation Research and Training Centers and Rehabilitation Engineering Research Centers; and

(ii) Specialized research or demonstration activities described in Section 204(b)(2)–(16) of the Act.

(2) The Secretary determines at the time of the award whether the grantee must pay a portion of the project or center costs.

(Authority: Section 204; 29 U.S.C. 762)

§ 350.63 What are the requirements of a grantee relative to the Client Assistance Program?

All Projects and Centers that provide services to individuals with disabilities with funds awarded under this Program must—

(a) Advise those individuals who are applicants for or recipients of services under the Act, or their parents, family members, guardians, advocates, or authorized representatives, of the availability and purposes of the Client Assistance Program (CAP) funded under the Act; and

(b) Provide information on the means of seeking assistance under the CAP.

(Authority: Section 20; 29 U.S.C. 718a)

§ 350.64 What is the required duration of the training in an Advanced Rehabilitation Research Training Project?

A grantee for an Advanced Rehabilitation Research Training Project shall provide training to individuals that is at least one academic year, unless a longer training period is necessary to ensure that each trainee is qualified to conduct independent research upon completion of the course of training.

(Authority: Sections 202–204; 29 U.S.C. 760–762)

§ 350.65 What level of participation is required of trainees in an Advanced Rehabilitation Research Training Project?

Individuals who are receiving training under an Advanced Rehabilitation Research Training Project shall devote at least eighty percent of their time to the activities of the training program during the training period.

(Authority: Sections 202–204; 29 U.S.C. 760–762)

§ 350.66 What must a grantee include in a patent application?

Any patent application filed by a grantee for an invention made under a grant must include the following statement in the first paragraph:

''The invention described in this application was made under a grant from the Department of Education.''

(Authority: 20 U.S.C. 1221e–3)

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Federal Register

Friday
October 11, 1996

Part V

Department of Agriculture

Commodity Credit Corporation

7 CFR Part 1466

Environmental Quality Incentives Program; Proposed Rule

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1466

RIN 0578–AA19

Environmental Quality Incentives Program

AGENCY: Commodity Credit Corporation, United States Department of Agriculture.

ACTION: Proposed rule with request for comments.

SUMMARY: The Commodity Credit Corporation (CCC) is issuing a proposed rule for the Environmental Quality Incentives Program (EQIP). This proposed rule describes how CCC intends to implement EQIP as authorized by amendments in the Federal Agriculture Improvement and Reform Act of 1996 to the Food Security Act of 1985. The United States Department of Agriculture (USDA) seeks comments from the public which will be used to make revisions, if necessary, that will be issued in a final rule.

DATES: Comments must be received by November 25, 1996.

ADDRESSES: All comments concerning this proposed rule should be addressed to Lloyd E. Wright, Director, Conservation and Ecosystems Assistance Division, Natural Resources Conservation Service, P.O. Box 2890, Washington, D.C. 20013–2890. Attention: EQIP. Fax: 202–720–1838. This rule may also be accessed, and comments submitted, via Internet. Users can access the Natural Resources Conservation Service (NRCS) Federal Register homepage and submit comments at http://astro.itc.nrcs.usda.gov:6500.

FOR FURTHER INFORMATION CONTACT: Jeffrey R. Loser, Conservation and Ecosystems Assistance Division, Natural Resources Conservation Service, P.O. Box 2890, Washington, D.C. 20013–2890. 202–720–1845. Fax: 202–720–1838.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

Pursuant to Executive Order 12866 (58 FR 51735, October 4, 1993), it has been determined that this proposed rule is an economically significant regulatory action because it may result in an annual effect on the economy of $100 million or more. The administrative record is available for public inspection in Room 6029, South Building, USDA, 14th and Independence Ave, SW, Washington, D.C.

Pursuant to Executive Order 12866, NRCS conducted an economic analysis of the potential impacts associated with this program, and included the analysis as part of a Regulatory Impact Analysis document prepared for this rule. The analysis estimates EQIP will have a beneficial impact on the adoption of conservation practices and, when installed or applied to technical standards, will increase net farm income. In addition, benefits would accrue to society for long-term productivity maintenance of the resource base, non-point source pollution damage reductions, and wildlife enhancements. As a voluntary program, EQIP will not impose any obligation or burden upon agricultural producers that choose not to participate. The program was authorized at $1.3 billion over the seven-year period of FY 1996 through FY 2002, with annual amounts of $200 million per year after the initial transition year of $130 million.

NRCS estimates that 37 million acres of agricultural land would be treated over the seven years of the program, including 19 million acres of cropland, 4 million acres of pasture, and 14 million acres of rangeland. Of the 37 million acres treated, an estimated 31.5 million acres are expected to be within priority areas. The projected national impact on participants' net farm income ranges from increases of $155 to $500 million per year, with a medium impact estimate of $310 million per year. These positive returns come from the incentive payments, on-site benefits to the land and crops, and lower operation and repair costs attributable to the conservation practices. NRCS estimates that an additional $49 to $166 million annually, with a medium impact estimate of $117 million annually on-site benefits will accrue to participants from the enhanced productivity associated with long-term maintenance of their soil resource base. Estimated total on-site returns are between $204 million and $666 million annually, with a medium impact estimate of $247 million annually.

The environmental benefits off-site are projected to be between $247 and $417 million annually, with a medium impact estimate of $336 million annually. Some of the off-site environmental benefits are attributable to improvements made to enhance freshwater and marine water quality and fish habitat, improved aquatic recreation opportunities, reduced sedimentation of reservoirs, streams, and drainage channels, reduced flood damages. Additional benefits are from reduced pollution of surface and groundwater from agrochemical, improvements in air quality by reducing wind erosion, and enhancements to wildlife habitat.

The total monetary benefits from full implementation of EQIP are therefore estimated to be $763 million per year. Providing for an allowance for the accrual of treated acreage over time and adjusting to an annual basis (at a 3% interest rate), the annualized net benefits are estimated to be $439 million over the life of the program. The capitalized Federal cost of the program is about $195 million per year (at a 3% interest rate). EQIP participants incur costs associated with their share of cost-share contracts and the operation and maintenance of conservation practices, and these costs are reflected in the net benefits estimate. A copy of this analysis is available upon request from Jeffrey R. Loser, Conservation and Ecosystems Assistance Division, Natural Resources Conservation Service, P.O. Box 2890, Washington, D.C. 20013–2890.

NRCS will revise and enhance this analysis for the final rule. Future quantitative work will seek to estimate the amount of farmland in different areas by type of agricultural operation where farmers are likely to adopt the conservation measures expected to be profitable in the baseline, i.e. if the program were not to be implemented. As part of this estimate, NRCS will also seek to assess the extent to which other programs are affecting the adoption of conservation measures and reflect this in the baseline. Future analysis will seek to disaggregate point source and nonpoint source treatments in the program, and the impacts of each will be estimated independently. To the extent possible, alternative allocations of program dollars across different conservation practices will be quantified and their impacts estimated.

To better implement the program to maximize environmental benefits per dollar expended, as required by the Federal Agriculture Improvement and Reform Act of 1996 to the Food Security Act of 1985, NRCS seeks public comment, data, or references that can quantitatively or qualitatively enhance its analytical efforts. NRCS especially welcomes comments or data on levels or trends in conservation technology adoption, the on- and off-site returns to various conservation practices, and other literature about incentive schemes for technology adoption.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this rule because CCC is not required by 5 U.S.C. 533 or any other provision of law to publish a

notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Analysis

It has been determined through an Environmental Assessment (EA) that the issuance of this proposed rule will not have a significant effect on the human environment. Copies of the EA and finding of no significant impact may be obtained from Jeffrey R. Loser, Conservation and Ecosystems Assistance Division, Natural Resources Conservation Service, P.O. Box 2890, Washington, D.C. 20013–2890.

Paperwork Reduction Act

This proposed rule sets forth procedures for implementing EQIP. CCC needs certain information from potential applicants, in order to carry out the requirements of the program. CCC submitted the information collection requirements in this proposed rule to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. CCC prepared an Information Collection Request (ICR) document; the public may obtain a copy of this request from Jeffrey R. Loser, Conservation and Ecosystems Assistance Division, Natural Resources Conservation Service, P.O. Box 2890, Washington, D.C. 20013–2890.

Title: Environmental Quality Incentives Program, Wildlife Habitat Improvement Program, and Farmland Protection Program.

OMB Control Number: 0560–0174.

Expiration Date of Approval: Three years from OMB approval.

Type of Request: Revision.

Abstract: The Federal Agriculture Improvement and Reform Act of 1996, Pub. L. 104–127, authorized USDA to implement the Environmental Quality Incentives Program, the Wildlife Habitat Incentives Program (WHIP), and the Farmland Protection Program (FPP). This rule sets forth the procedures for producers to apply and participate in the Environmental Quality Incentives Program. Pursuant to § 1466.20, producers may file an application for EQIP participation at a USDA service center. NRCS will collect information from a participant on the resource problems to be addressed, evaluate the information, and, working with the participant, develop a conservation plan that describes the needed practices or land management changes. This plan becomes a part of the EQIP contract, and CCC will make payments to producers as the producers carry out the provisions of the contract. USDA submitted to OMB proposed forms that CCC will use for the application, the contract, and for the NRCS collection of information related to resource needs.

Estimate of Burden: CCC estimates the public reporting for the information collection associated with EQIP forms is an average of 90 minutes per applicant.

Respondents: Agricultural producers who wish to participate in EQIP.

Estimated Number of Respondents: 15,000.

Estimated Number of Responses per Respondent: 6.

Estimated Total Annual Burden on Respondents: 23,700 hours.

Additionally, CCC shall utilize information supplied by local work groups to designate particular geographic areas as priority areas for program funding, under EQIP. Staff from State and local governments shall comprise part of these local work groups, and thus information collected from these groups is governed under the Paperwork Reduction Act.

For the local work groups, the annualized cost to EQIP respondents is $4,200,000. This figure is based on 300,000 burden hours times an average wage of $14.00 per hour (wages for State and local agency staff average approximately $14 an hour).

There also exists a burden associated with development of conservation plans and follow-up verification of the conservation practices adopted pursuant to the EQIP conservation plan. For the collection of information resulting from the development of conservation plans and subsequent verification of practices, the annualized cost to respondents is $1,440,000. This figure is based on 120,000 burden hours times the wage of $12.00 per hour.

CCC requests comments regarding: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to 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.

USDA will accept comments on this information collection at: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, and to Jeffrey R. Loser, Conservation and Ecosystems Assistance Division, Natural Resources Conservation Service, P.O. Box 2890, Washington, D.C. 20013–2890. USDA will incorporate all comments as part of the public record.

The Paperwork Reduction Act requires OMB to make a decision concerning the collection(s) of information contained in this proposed rule between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to USDA on the proposed regulations. CCC submitted the information collection requirements to OMB, totaling 443,700 burden hours.

Executive Order 12788

This proposed rule has been reviewed in accordance with Executive Order 12778. The provisions of this proposed rule are not retroactive. Furthermore, the provisions of this proposed rule preempt State and local laws to the extent such laws are inconsistent with this proposed rule. Before an action may be brought in a Federal court of competent jurisdiction, the administrative appeal rights afforded persons at 7 CFR parts 614, 780 and 11 must be exhausted.

Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994

Pursuant to section 304 of the Department of Agriculture Reorganization Act of 1994, Pub. L. 104–354, USDA classified this proposed rule as major and CCC conducted a risk analysis. The risk analysis establishes that the EQIP proposed rule will produce benefits and reduce risks to human health, human safety, and the environment in a cost-effective manner. A copy of the risk analysis is available upon request from Jeffrey R. Loser, Conservation and Ecosystems Assistance Division, Natural Resources Conservation Service, P.O. Box 2890, Washington, D.C. 20013–2890.

Unfunded Mandates Reform Act of 1995

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4, CCC assessed the effects of this rulemaking action on State, local, and tribal governments, and the public. This action does not compel the expenditure of $100 million or more by any State, local, or tribal governments, or anyone in the private sector; therefore a statement under section 202 of the Unfunded Mandates Reform Act of 1995 is not required.

Discussion of Program

The Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) (Pub. L. 104–127, April 4, 1996) amended the Food Security Act of 1985 (the 1985 Act) (16 U.S.C. 3801 *et seq.*) to re-authorize the Environmental Conservation Acreage Reserve Program as the umbrella conservation program encompassing the Conservation Reserve Program (CRP) (16 U.S.C. 3831–3836), the Wetlands Reserve Program (WRP) (16 U.S.C. 3837 *et seq.*), and the newly created Environmental Quality Incentives Program (16 U.S.C. 3840). Under the Environmental Conservation Acreage Reserve Program, the Secretary of Agriculture may designate areas as conservation priority areas to assist landowners to meet nonpoint source pollution requirements, other Federal and State environmental laws, and to meet other conservation needs.

The Environmental Quality Incentives Program (EQIP) combines into one program the functions of several conservation programs administered by the Secretary of Agriculture, including the Agricultural Conservation Program, the Agricultural Water Quality Incentives Program, the Colorado River Salinity Control Program, and the Great Plains Conservation Program, which are rescinded by the 1996 Act. Through EQIP, CCC provides flexible technical, financial, and educational assistance to farmers and ranchers who face serious threats to soil, water, and related natural resources on their land, including grazing lands, wetlands, forest land, and wildlife habitat. Participation in the program is voluntary. Under EQIP, CCC will provide assistance in a manner that maximizes environmental benefits per dollar expended, helps producers comply with the eligibility provisions of the 1985 Act, and helps farmers and ranchers meet Federal and State environmental requirements. CCC will use a consolidated and simplified conservation planning process to reduce any administrative burdens that would otherwise be placed on producers.

The 1996 Act provides that funds of the CCC will be used to fund the assistance provided under EQIP. For fiscal year 1996, $130 million was made available to administer an interim program; a minimum of $200 million is to be made available for each of fiscal years 1997 through 2002. Fifty percent of the funding available for the program will be targeted at practices relating to livestock production.

I. Priority Area Designation

CCC will primarily offer the program in priority areas throughout the Nation, using the services of the Natural Resources Conservation Service (NRCS), county and state committees of the Farm Services Agency (FSA), and the Cooperative State Research, Education, and Extension Service (CSREES). CCC will designate certain watersheds, regions, or areas of special environmental sensitivity or having significant soil, water, or related natural resource concerns as priority areas. Unlike some prior conservation programs that provided program assistance to virtually all agricultural locations in the Nation, EQIP will place an emphasis on priority areas that are selected because of the natural resource and environmental concerns. The emphasis of priority areas helps assure that the most environmentally sensitive areas are considered and funds are directed to the areas in most need. The use of the priority area concept focuses assistance on those areas that pose the most serious threats to soil, water, and related natural resources. Implementation of conservation measures will be accelerated in these areas. Past experience has shown that by focusing assistance, greater environmental benefits are derived.

When considering where the program would be delivered, several alternatives were considered. One alternative was to have priority areas selected at the national level based on analysis of existing scientific data characterizing natural resource problems and existing environmental assessments. This approach would provide a consistent and dominant role for national-level resource concerns and selection options. However, it would lack State and local buy-in by individuals, producers, landusers, and groups which have vested interests in the resolution of natural resource problems.

Another alternative was to utilize a partnership process with States, other Federal agencies, and local work groups providing input and recommendations for selecting priority areas. In this alternative the NRCS national office will provide national guidance which is used by NRCS State conservationists, in consultation with State technical committees, to select priority areas from proposals submitted by local work groups. This locally-led conservation effort would likely include the State and local buy-in that is missing in the first alternative. This alternative was selected.

The 1996 Act does not restrict EQIP to only priority area; therefore, another alternative was considered and selected to make the program available for EQIP purposes that are outside of funded priority areas. A primary issue with this alternative was the amount of funds to be made available for this purpose. In considering this issue, it was concluded that providing assistance to producers located outside of funded priority areas should be limited through the allocation process. Not allowing any assistance outside of funded priority areas would fail to address significant statewide natural resource concerns that may be widespread geographically. This approach would enable serious natural resource concerns to be addressed regardless of their location. At the same time, the basic intent to focus the program in priority areas would require a limitation on the amount of EQIP funds for assistance outside funded priority areas.

CCC seeks comments regarding the process for designating priority areas and the development of ranking criteria for both priority areas and significant statewide natural resource concerns.

A. Development of Guidance for Designation of Priority Areas

To establish these priority areas, the NRCS national office in consultation with other Federal partners, will develop through national guidance an identification and rating process that will seek to maximize the environmental benefit per dollar expended. That process will give weight to considerations such as the:

- Special environmental sensitivity or degradation in an area, and the expected environmental benefit from the program;
- Extent and scope of State, local, and other non-Federal contributions;
- Expected impact of the program on a participant's ability to satisfy nonpoint source requirements and other Federal and State environmental laws;
- Federal cost; and
- Ways to measure performance and success.

The NRCS State conservationist will use the national guidance, with advice of the State technical committee on adapting the guidance to State and local conditions, for the selection of priority areas, and to make other decisions. The guidance will address: interpretations of what factors create the serious threats to soil, water, and related resources; natural resource quality criteria which describe the treatment level for identified natural resource concerns for a particular area; eligible agricultural land, including crop history and livestock production activities; and other relevant information. NRCS Regional conservationists will coordinate guidance for multi-state areas and regions.

The State technical committee will also advise the State conservationist on developing, within national guidelines, ranking criteria that consider such factors as: condition of the natural resources and significance of the concern; impact the program could have on the natural resource concern; existence of programs and/or projects already implemented; financial incentives from other sources; technical support from other agencies; importance in meeting State and local environmental laws; commitment of local producers to implement the program; and evidence that producers in critical areas will participate. CCC will give special consideration to priority areas that contain multiple-conservation benefits. CCC will also give special consideration in the ranking process to other agency or conservation group participation, such as providing technical, educational, or financial assistance. This participation will lessen the requirement for Federal assistance and will strengthen the Federal, State, and local partnership.

B. Needs Assessment and Selecting Priority Areas

The process for selecting the priority areas will begin with the local conservation district(s) convening local work groups to advise NRCS in various conservation issues. These local work groups consist of representatives of the conservation district, NRCS, FSA, FSA county committee, CSREES, and other Federal, State or local agencies, including Tribes, as needed with expertise in natural resources. CCC encourages, therefore, State and local agency representatives to participate in these local work groups. State and local agency representatives can contact the NRCS State Conservationist for more information about these local work groups in their area.

Local work groups, under local conservation district leadership, will use the national and State guidance to develop comprehensive conservation needs assessments of the natural resource conditions in a locality. The public is welcome to provide information related to such natural resources conditions to the local work group. Through the needs assessment, the local work group will, among other things, identify natural resource concerns and goals, expected outcomes, means for measuring and evaluating achievement of these outcomes, and solutions to resource problems. NRCS will incorporate the local conservation needs assessment into the agency's State, regional, and national natural resources strategic plans, thus aiding in program decision-making.

The local work group will provide and use the information contained in the needs assessment to develop proposals for priority areas, suggest ranking criteria for the CCC to prioritize producer's applications, and provide further input. The local work group, through the local NRCS representative, will forward the proposals for priority areas to the NRCS State conservationist. The NRCS State conservationist, with the advice of the State technical committee, will periodically approve priority areas in accordance with the priorities established for the program. Proposals that are not approved by the NRCS State conservationist may be resubmitted for subsequent consideration.

The local work groups serve a valuable function to the overall ability of EQIP successfully resolving significant resource concerns. While assisting CCC in identifying local concerns and resources, CCC believes that the interaction and coordination that will ensue within and among these local work groups will help localities to build coalitions on a watershed, area, or regional basis, and thus enable local residents to find solutions for the environmental problems that confront them. NRCS will work with the local work groups to further this end. CCC hopes that, by building stronger local coalitions, residents will possess the necessary institutions and tools to address significant environmental issues that transcend political boundaries. Even if CCC does not allocate funds to a particular priority area in any given year, these coalitions or groups will be in a position to avail themselves of other program assistance outside of EQIP. CCC requests comments on the best ways for CCC to utilize these work groups and nurture their capacity to address environmental concerns.

The NRCS State conservationist will periodically submit a funding request for highly rated State-approved priority areas to the NRCS national office. An interagency team comprised of Federal agencies with interests in this program will review and prioritize the submissions received from the NRCS State conservationists and, based on national program objectives and criteria, make recommendations for funding to the Chief of NRCS. The Chief of NRCS, who is a vice-president of the CCC, will consider the team's recommendations and decide periodically which priority areas will receive funding. FSA must concur with the decisions for funding before funds are allocated. Areas to which CCC does not allocate funds may be resubmitted for later funding decisions. State conservationists can continue current priority area designations or redesignate them if circumstances change. For instance, the changes may be improvements to the proposal with the addition of new information, or environmental conditions or conservation priorities for that State may change.

The Chief may also determine the need for national conservation priority areas where eligible producers may receive enhanced program assistance from EQIP, WRP, or CRP. If the Chief designates any areas as national conservation priority areas, the Chief will also make these funding decisions with the concurrence of FSA.

CCC requests comments as to whether and in what manner the conservation priority goals under the Environmental Conservation Acreage Reserve Program should be jointly applicable to EQIP, CRP, and WRP for the relevant conservation concerns of water quality, wildlife habitat, or other concerns. CCC recognizes that the identified environmental problems in a geographic area may best be served by only one of the programs. In some cases, however, CCC may better address the identified environmental problems through the coordinated effort of the three programs. CCC may accomplish this through the targeting of funds and consolidating the application process, thus offering watershed, area, or regional coalitions and producers a greater opportunity for more effective and convenient program delivery. Accordingly, CCC seeks comments on the most appropriate, cost-effective manner in which to consider redesignation of these and other conservation priority areas.

C. Significant Statewide Natural Resource Concerns

State conservationists, with the advice of the State technical committee, may also determine that CCC can maximize environmental benefits per dollar by providing program assistance to producers with other significant natural resource concerns outside of approved and funded priority areas. These significant concerns may be of a similar nature as those found within a priority area, but they occur widespread and may not be concentrated in a specific geographic location. Upon request by a State conservationist, the Chief, with concurrence of FSA, may provide EQIP funds for the purpose of funding projects to address these identified significant statewide natural resource concerns. The Chief will give priority to States that establish programs to accelerate adoption of cost-effective,

special-emphasis practices which address these significant statewide natural resource concerns outside of priority areas.

II. Program Administration

A. Conservation Plan and Contract

Program participation is voluntary. A producer demonstrates interest in the program by submitting an application for participation. CCC will accept applications throughout the year, but will rank and select the offers of producers during designated periods. To rank and select the highest priority applicants, NRCS on behalf of CCC will evaluate the environmental benefits the producer offers to achieve by using the program. The evaluation uses ranking criteria that is based on national guidance and developed with the advice of the local work group to give a higher priority to projects that maximize environmental benefits per dollar expended. The FSA county committee, with NRCS concurrence, approves funding for the highest priority applications in a particular priority area.

Approved applicants will assume responsibility for developing and submitting a conservation plan that encompasses the producer's farming or ranching unit of concern. The producer must implement a conservation plan, acceptable to NRCS and approved by the conservation district, that protects the soil, water, or related natural resources in a manner that meets the purposes of the program. The producer develops a conservation plan in cooperation with the local conservation district and with the assistance of NRCS or other public and private natural resource professionals. The plan becomes part of an EQIP contract.

The contract specifies the cost-sharing or incentive payments the producer will receive from the CCC in return for applying the needed conservation practices and land use adjustments within a specified time schedule. CCC makes payments to the producer when the NRCS determines that the conservation practices specified in the contract are satisfactorily established. CCC expenditures under a contract entered into during a fiscal year will not be made until the subsequent fiscal year.

CCC's intention is to use this program to provide assistance to producers who, in the absence of financial incentives, would not otherwise apply conservation practices to address natural resource concerns. It is unlikely that without incentives producers would be inclined to undertake costly conservation practices to provide environmental benefits off their property. The role of EQIP in addressing such circumstances is clear. When the benefits accrue to the landowner, as well as to off-site areas, the policy question is more complicated. The cost benefit analysis discussed earlier estimates that participants' on-site benefits would be significant, totaling $427 million annually, while off-site benefits total $336 million annually. CCC seeks ''win-win'' conservation solutions, but recognizes that in cases where producers would adopt conservation practices in a timely manner without government assistance, then EQIP funds should be directed elsewhere. CCC seeks public comment on the role of EQIP in funding conservation practices that may be profitable.

Producers have various reasons to be reluctant to apply certain conservation practices, even when there may be financial benefit to them in the near or longer term from adopting these practices. CCC seeks public comment on what factors contribute to the reluctance of producers to adopt conservation practices, even when profitable.

The initial costs of applying conservation practices can be significant. Costs may include the direct costs associated with the practice as well as investments in other farm equipment to operate and maintain the conservation practice for which EQIP financial assistance would not be eligible. Without financial assistance producers cannot justify the investment for the expected returns within a relevant time frame. This is often the case under some conservation practices, such as grazing land management, crop residue management, and nutrient management, where it can take several years to realize the profits. CCC seeks information and comment on the time frame involved in experiencing profits from new conservation technology, and the extent to which farmers and ranchers cannot get sufficient credit in current markets or through other government programs to convert to more profitable conservation practices. CCC seeks public comment on the manner in which EQIP will work in the context of other programs that can or are supporting the adoption of conservation practices.

CCC intends to monitor and evaluate the program to assure that financial assistance is used in an appropriate way to maximize the environmental benefits per dollar it expends, and welcomes public comment on how CCC could best carry out this intention.

B. Large Confined Livestock Operations

The 1996 Act states that a producer who owns or operates a large confined livestock operation (as defined by the Secretary) shall not be eligible for cost-share payments through EQIP to construct an animal waste management facility. The report of the Conference Managers states that when determining whether an operation is a large confined livestock operation within the meaning of this provision, the Secretary will consider various resource and environmental factors, including regulations promulgated pursuant to the Clean Water Act (33 U.S.C. 1251–1387). The Secretary is expected to specify clearly the factors and considerations involved in developing the requirements for program eligibility and should follow notice and comment procedures. The Managers also expect the Secretary to take into account needs for maximizing environmental benefits in targeted watersheds affected by animal agriculture, the ability of operations to pay for the cost of animal waste management facilities, the obligations of operations under other environmental authorities, and the particular characteristics of modern livestock operations.

In considering how to define large animal operations, CCC explored a number of options. For example, for the National Pollution Discharge Elimination System (NPDES) authorized by the Clean Water Act, the Environmental Protection Agency (EPA) uses certain criteria when considering if a livestock facility is confined or concentrated. The facility must stable, confine, and feed or maintain animals for a total of 45 days or more in any 12-month period; and not sustain crops, vegetation, forage growth, or post-harvest residues within the confined area in the normal growing season over any portion of the facility.

The first part of this definition means that some animals must be kept on the lot or facility where waste is generated and/or concentrated for a minimum of 45 days. The second part of the definition distinguishes feedlots from pasture land, which is not subject to the NPDES program. Further, EPA has determined that a totally enclosed facility with no discharge (and no anticipated or potential discharge) of animal waste to waters of the United States is not subject to the NPDES program. CCC proposes to use this definition for a confined operation.

CCC considered using the 1,000 animal unit (AU) equivalents threshold, with some exceptions authorized, using the consideration elements specified in

the Conference Manager's report and variable cost-share rates for larger operations. This option offers some advantages, because most family and small farms are under this threshold and will be eligible for cost-sharing. This option would also target more program funds to smaller operations, limit funds to large operations, and provide flexibility to address State and local environmental needs when exceptions are granted. However, this option may not tend to maximize the environmental benefits per dollar expended because cost-share eligibility would not be based on environmental need and would only be indirectly related to the likelihood the landowner would not otherwise construct a waste management system. This threshold level may allow some major problems to be neglected by producers. While these producers may still be eligible for other EQIP assistance, withholding eligibility for animal waste management facilities may alienate the producers and thus CCC may lose the opportunity to obtain additional environmental benefits through other aspects of the program. It would exclude sectors of the livestock industry with higher shares of total operations above the threshold level, such as broiler operations where nearly four percent exceed 1,000 AU, compared to 0.6 percent for dairy and beef feedlot operations and 1.2 percent for hog operations. Over 70 percent of the total beef cattle are on feedlot operations that exceed 1,000 AU. (Reference: GAO/RCED–95–200BR Animal Waste Management and Water Quality Issues; Economic Research Service's analysis of 1992 Census of Agriculture data. Copies of GAO reports are available from the U.S. General Accounting Office, P.O. Box 6015, Gaithersburg, Maryland 20884–6015, or by calling (202) 512–6000 or fax (301) 258–4066.)

Another option considered by CCC was to base the national definition on the amount and environmental threat of manure and other animal waste generated in the confined livestock operation. Although this option would enable choices more closely related to the environmental issues and problems resulting from the animal manure, and would enable more operations that produce dry manure (primarily poultry and beef feedlots) to be eligible, it would have the disadvantage of retarding participation in the less-concentrated livestock sectors where a larger percentage of operations would be below the threshold level of 1,000 AU. This process also presents a complex and easily challenged process of defining thresholds by weight, volume, or environmental threat.

CCC also considered the option to use an economic achievability analysis, including the ability to pay for measures to meet environmental objectives. One such analysis is that conducted by EPA, the ''Economic Impact Analysis of National Nonpoint Source Management Measures Affecting Confined Animal Facilities,'' which was completed in 1995. ''This type of analysis will most likely result in defining large'' differently for different animal types. EPA's analysis indicates that dairies with 98 or more animal units (AU) can afford to implement animal waste runoff and storage systems without cost-shares. Thresholds for other animal types, as identified by EPA, are: beef feedlots, 300 AU; horse stables, 400 AU; dairies, 98 AU; poultry broilers and layers, 150 AU for liquid manure systems, 495 AU for continuous overflow watering; turkeys, 2,475 AU; and swine, 80 AU. Like the first option, some exceptions could be authorized.

This option would be most sensitive to a producer's ability to pay for needed facilities and would make more program funds available to small operations and provide flexibility to address State and local environmental needs. However, there are problems inherent in translating national level data to State and local conditions. Some operations with high potential for environmental benefits would be eliminated from program eligibility. It would be more restrictive toward poultry, hog, and dairy operations due to the very low threshold levels.

Therefore, having considered all these options, this proposed rule states that the State technical committee will advise the NRCS State conservationist on criteria to use to determine eligibility for receiving cost-share payments for animal waste management facilities. The criteria will include consideration of the elements specified in the Conference Manager's report cited above. In considering this definition, emphasis will be placed on assisting family farmers and ranchers, and not meatpackers, processors, and vertical integrators. CCC will provide national guidance, developed by NRCS in consultation with other national agencies and partners, to the State technical committee and NRCS State conservationist to clearly specify the factors and considerations involved in developing the requirements for program eligibility. The NRCS regional conservationist will provide oversight to achieve consistency between States.

CCC believes that this option provides maximum flexibility for State and local decision-makers, where the needs of the environment and the livestock operator are best determined, and thus best meets the intent of the 1996 Act. This method will provide the program with the maximum ability to resolve environmental problems in priority areas. It also incorporates the consideration of a person's ability to pay, regardless of the size of the operation. This option considers local, State, and Federal environmental authorities and requirements, not just the Clean Water Act or water quality. It will allow CCC to consider modern livestock operation characteristics, which vary depending on types of livestock, marketing strategies, geography, and State and local economic factors, from a State and local perspective. This approach is consistent with recommendations made by the Secretary's Advisory Committee on Agricultural Concentration in June, 1996, which emphasized the need to help the family farm. A copy of this report is available from the Agricultural Marketing Service, P.O. Box 96456, Washington, D.C. 20090–6456.

C. Outreach Efforts

The Administration and USDA endeavor to make Government programs accessible to all eligible citizens. In past conservation programs, some land was not adequately treated because limited-resource producers, small-scale producers, Tribes, Alaska natives, Pacific Islanders, and other producers have had low levels of participation for various reasons. In some cases, the economies and efficiencies of scale weighed against individuals who did not have large tracts of land. Additionally, some communities receive the bulk of their information from sources other than the traditional media services, and information about program benefits often did not reach the widest possible audience.

To address these deficiencies, CCC will establish special program outreach activities at the national, State, and local levels in order to ensure that producers whose land has environmental problems are aware, informed, and know that they are eligible to apply for program assistance. In its goal to offer assistance to those unlikely to adopt practices without Federal support, CCC will target its efforts to best achieve the greatest environment benefit per dollar by additional focus on limited resource farmers and others with historically low participation rates. CCC is exploring new possibilities to increase its outreach to these communities that historically have not participated extensively in CCC and other USDA programs. For

example, CCC is examining options such as permitting flexible schedules for limited-resource producers to apply practices and systems; offering low-cost conservation practice alternatives; and considering the value of a producer's labor as the producer's share of the cost. CCC welcomes any suggestions about how the agencies can improve program delivery on environmentally sensitive land managed by producers who have not participated historically in the conservation programs in order to increase the coverage and environmental benefits of the program.

D. Educational Efforts and Technical Assistance

Section 1240 of the 1985 Act charges the Secretary to implement EQIP as an integrated program of education, technical assistance, and financial assistance that focuses on targeted environmental and conservation issues. The success of EQIP as a conservation program depends largely on the quality of decisions made by farmers, ranchers, and the public and private providers of technical assistance.

USDA's development and delivery of high-quality educational opportunities to farmers, ranchers, and assistance providers should enhance the public's knowledge about the conservation opportunities available through EQIP and enhance the overall benefits that will be realized through the implementation of EQIP. Appropriate education will maximize public benefits by creating a knowledge base (among producers, agency staff, and private consultants) that will extend direct EQIP benefits beyond the actual acreage and life expectancy of financial and technical assistance programs.

USDA will develop a program education plan, including identification of customers and educational needs, development of educational goals and objectives, design of appropriate educational responses, delivery of educational programs, and evaluation of educational outcomes. USDA will extensively utilize existing educational materials and programs, and will focus efforts to areas and producers where EQIP is implemented. In the development of its program education plan, USDA will design a coordinated approach, including national, State, and local components, depending on the similar or unique educational needs identified.

CCC will encourage cooperation among education providers as well as the use of existing educational resources and programs that deal with EQIP-related issues. Although it will require more time initially for program planning and coordination, CCC believes that this coordinated approach will enable efficient use of resources in meeting broad educational needs; provide for local program assessments and development; maximize sharing between groups; and provide sufficient flexibility to shift educational efforts as priority conservation problems are solved and new priorities are identified.

Section 1240 of the 1985 Act also requires the program to provide flexible technical assistance. The quality and availability of technical assistance is essential to the successful implementation of EQIP because technical assistance contributes to informed decision-making and the implementation of sound and appropriate practices. Under EQIP, CCC will allocate funding to NRCS to provide technical assistance, ensure that technical assistance is open to individuals in agribusiness, and request the services of other public and private entities in the delivery of technical assistance to producers when deemed appropriate. NRCS will work directly with producers, local work groups, and State technical committees in carrying out their respective roles and responsibilities.

Under EQIP, NRCS will provide technical leadership for conservation planning, implementation, and assurance of quality service in the delivery of technical assistance. NRCS personnel will work directly with producers to help solve their natural resource concerns. NRCS will also draw upon the expertise of natural resource professionals in all sectors in its delivery of technical assistance to the producer.

A producer may seek technical assistance from NRCS or from other qualified sources. These qualified sources may include agricultural producers, certified crop advisors, agricultural cooperatives, and other technical consultants. These other sources can help a producer develop an EQIP conservation plan or assist with the layout, design, and installation of conservation practices. CCC will accept work performed by others if the work meets program requirements.

In this manner, producers have a variety of options available to them to address significant natural resource concerns on their farms or ranches. CCC shall assure that the quality of the assistance obtained from all sources will meet the requirements of the program.

E. Payment Limitations

The 1996 Act specifies that the total amount of cost-share and incentive payment paid to a producer under this chapter may not exceed $10,000 for any fiscal year or $50,000 for any multiyear contract. An exception to the annual limit is provided to allow payments to exceed the limitation on the annual amount of a payment on a case-by-case basis if it is determined that a larger payment is essential to accomplish the land management practice or structural or vegetative practice for which the payment is made and it is consistent with the maximization of environmental benefits per dollar expended and the purposes of EQIP. The 1996 Act further defines a producer as ''a person who is engaged in livestock or agricultural production (as defined by the Secretary).''

Congress, in the EQIP statute, required the maximization of environmental benefits per dollar expended, provided for interim administration of EQIP pending final regulations, and required that payments under an EQIP contract entered into during a fiscal year not be made until the subsequent fiscal year.

CCC reviewed several options for implementing the payment limitation provisions of EQIP, including the definition of a person. One option considered the use of a definition of landowner that is used in the Stewardship Incentives Program for the definition of a person. This was not chosen because most producers would have the additional burden of submitting additional information to FSA. Other options considered limiting the number of contracts a person may enter and limiting the number of entities in which an individual may be involved and receive payments. These options were not chosen because they provided little value or savings to the program but would have complicated the administration of the program.

It is proposed that similar payment limitation provisions as those set forth in 7 CFR part 1497 be used for EQIP. These provisions are currently used for CRP and Agriculture Market Transition Act participants. The consistent use of the provisions in part 1497, will result in the least burden to producers and the most fair and equitable administration of the program because persons who are currently participating, or who have participated in recent years, in the commodity program or CRP would not have to complete additional forms for payment limitation purposes. Further, in cases where producers may enroll in the CRP and EQIP at the same time, the confusion of different ''person'' definitions would be eliminated.

Specifically CCC proposes, the provisions in 7 CFR Part 1400 related to the definition of person and the

limitation of payments will be used, except that:

(1) States, political subdivisions, and entities thereof will not be persons eligible for payment.

(2) The provisions in part 1400, subpart C for determining whether persons are actively engaged in farming, subpart E for limiting payments to certain cash rent tenants, and subpart F for determining whether foreign persons are eligible for payment, will not be used as they are not consistent with the intent and language of the EQIP statute.

(3) An exemption to the $10,000 fiscal year limitation would apply in cases where a producer with a current EQIP contract inherits land subject to another contract, because CCC recognizes that with EQIP contracts having 5- to 10-year terms, there may be complications when a producer already enrolled in EQIP inherits land subject to another EQIP contract.

(4) Payments in excess of the limitation may be made to a tribal venture if an official of the Bureau of Indian Affairs or a tribal official certifies that no one tribal member directly or indirectly will receive more than the limitation.

CCC welcomes public comment on this proposed manner for addressing the payment limitation provisions of the program.

Public Listening Forums

In April 1996, USDA held nine listening forums to provide opportunities for public comment in advance of rulemaking. USDA held these forums at Sacramento, California; Longmont, Colorado; Columbus, Georgia; Springfield, Illinois; Wyomissing, Pennsylvania; Sioux Falls, South Dakota; Abilene, Texas; Spokane, Washington; and Washington, D.C. More than 850 people attended these forums, including 206 speakers. In addition, USDA accepted written comments. USDA considered these public comments in the preparation of this proposed rule. The following is a brief summary of the issues raised in these comments and how the agency responded to those comments:

USDA received 357 comments on the roles of NRCS and FSA in implementing EQIP. Section 1466.2 of the rule discusses the roles of NRCS and FSA in the program.

USDA received 21 comments expressing general concerns about EQIP. Four commenters emphasized that EQIP needs to be flexible in how the program is delivered. One of the four said that flexibility will allow local people to creatively address conservation problems. A definition of technical assistance is provided in § 1466.3.

USDA received 59 comments on conservation plans under EQIP. Twelve commenters favored the whole-farm approach to designing conservation plans. Six commenters said that conservation districts should be involved in approving conservation plans. Section 1466.6 sets forth provisions relating to EQIP and conservation plans.

USDA received 63 comments about how EQIP funds should be used. Six commenters expressed concern that EQIP funds were only available to certain parts of the country. Six others wanted to know more about how EQIP funds were to be divided between technical assistance and cost shares. Section 1466.5 sets forth the manner in which CCC will set priorities for funding.

USDA received 17 comments on EQIP and the support and roles of conservation districts. Four commenters expressed support for local conservation districts' roles in EQIP. The provisions in Section 1466.3 address these issues.

USDA received 12 comments on how EQIP should give greater flexibility to State-level USDA managers in managing programs. Six commenters stressed the importance of this flexibility. These commenters wanted greater flexibility for the State-level managers to exercise more creativity in addressing environmental problems; other commenters indicated that greater flexibility will allow State-level managers to compensate for differences among agricultural operations and resource conditions. Section 1466.5 describes the input provided by the agency managers at the State and local levels.

USDA received 23 comments about the roles of State technical committees under EQIP. Five commenters suggested that State technical committee membership be expanded to include representatives of other conservation agencies, managers of resource management projects, and private conservation organizations. Section 1466.3 provides that the State technical committees are established in 16 U.S.C. 3861 and provides additional information about the committees.

USDA received 13 comments on EQIP contracts. Two commenters felt that the contract period set in the authorizing legislation is too long. Two others stated that EQIP projects should be based on their environmental merits and not on funding equations. Section 1466.21 addresses requirements for EQIP contracts.

USDA received 38 comments on EQIP and CRP. Three commenters expressed interest in how annual payments for EQIP and CRP should be dispersed. Three commenters suggested not allowing early releases on land with an erosion index of 15 or greater. Section 1466.23(b)(ii) sets forth the statutory requirement that a person cannot receive assistance under CRP, WRP, and EQIP for the same tract of land.

USDA received 36 comments on animal limits under EQIP, specifically the provisions in the EQIP legislation that provide that large confined livestock operations, as defined by the Secretary, will not be eligible for EQIP assistance with respect to waste treatment facilities. Most commenters said that herd size limits should be decided at the State level of NRCS. Six commenters said that Clean Water Act standards for animal waste management structures should apply to EQIP. Two commenters expressed concern about how animal limits may effect family farms and small operations. Section 1466.7 sets forth how the CCC will address size limitations.

USDA received 37 comments related to EQIP priority areas and program prioritization. Thirteen commenters expressed concern that equity for EQIP prioritization is needed nationwide. Seven commenters stated that conservation districts should play roles in EQIP prioritization. Section 1466.5 addresses priority area approval and areawide assessment.

USDA received five comments on EQIP and its relationship to wildlife. Three commenters said that the impacts on wildlife must be considered at each stage of EQIP's implementation. USDA also received seven comments about EQIP and riparian zone protection. Two stated that incentives should be provided for riparian zone protection.

USDA received seven comments on planting trees under EQIP. Three commenters suggested that incentives be offered to establish native warm-season grasses. Section 1466.4 sets forth eligibility criteria and Section 1466.7 sets forth the criteria for eligible practices.

Summary of Provisions

The rule is organized in three subparts. Subpart A contains general provisions related to the program.

Section 1466.1 sets forth the purpose, scope, and objectives of EQIP. The purposes of the program will be achieved by farmers and ranchers who voluntary develop conservation plans and enter into contracts with CCC to carry out the needed conservation

practices and land-use adjustments within a specified time schedule.

Section 1466.2 describes the roles of NRCS, FSA, and other agencies.

Section 1466.3 sets forth definitions for terms used throughout the part.

CCC particularly solicits public comment on the definition of ''large confined livestock operation.'' Under provisions of the 1996 Act, producers with large confined livestock operations are not eligible for cost-share payments on animal waste management facilities, but are eligible for payments on other conservation practices. The 1996 Act leaves the determination of large confined livestock operation to the Secretary. This rule does not establish a specific number of livestock as a standard for determining when a livestock operation will be regarded as ''large'' for the purpose of exclusion from eligibility for cost sharing on animal waste facilities. As discussed above, CCC proposes to use State technical committees to advise the State conservationist on eligibility criteria for cost-share payments for animal waste management facilities. CCC will base the criteria to make this decision on several factors. A focus will be placed on the needs for maximizing environmental benefits in targeted watersheds affected by animal agriculture and the ability of operations to pay for the cost of facilities. Other such factors include the requirements of other Federal and State laws, producer obligations under environmental authorities, and characteristics of modern livestock operations, as well as a desire to have a wide distribution of benefits among those enterprises that are generally, at least locally, small or medium sized operations which presumably may not have the same access to management techniques that protect the environment.

Section 1466.4 sets forth the requirements for participant eligibility and eligible land. It also describes the criteria CCC will consider in allocating funds for technical assistance.

Section 1466.5 describes the procedures and criteria for approving priority areas. Priority areas are identified through the priority area assessment process using local work groups, State technical committees, and State conservationists.

Paragraph (b) addresses providing technical, educational, and financial assistance to producers whose land has natural resource concerns outside of a priority area. Some EQIP funds will be used outside of funded priority areas for significant statewide natural resource concerns. Local work groups and State technical committees will provide advice to the State conservationist concerning the natural resource concerns where program assistance is needed, consistent with the advice provided for assistance in priority areas.

Section 1466.6 describes the requirements of the conservation plan that will be the basis of EQIP contracts. Producers will be required to develop and apply a conservation plan on the farm or ranch unit that addresses natural resource problems. The plan will be reviewed to ensure that it includes the most cost-effective conservation practices to solve the natural resource concerns and maximize environmental benefits per dollar expended in conformity with area-wide planning. CCC will provide technical assistance and will encourage producers to use the services of qualified personnel of cooperating Federal, State, or local agencies, or private entities who can provide technical assistance.

Paragraph (g) lists the components of a conservation plan. At the producer's request, the plan may also include other CCC and USDA programs, such as CRP, WRP, Wildlife Habitat Incentives Program, Forest Stewardship Program, and requirements relating to the highly erodible land and wetland conservation provisions of the 1985 Act. A producer may also include to the extent possible all other natural resource conservation objectives from State and local governments in a single conservation plan. Existing plans developed by natural resource professionals would not need to be replaced if the resource management objectives of EQIP are met and plans are not redundant.

Section 1466.7 describes eligible practices. Based on guidance provided by the Chief of NRCS, NRCS state conservationists, after consultation with State technical committees and local work groups, will determine which conservation practices should be eligible in the State. Designated conservationists will determine which conservation practices should be eligible in a priority area or for producers with significant statewide natural resource concerns. CCC will encourage the use of the most cost-effective conservation practices to solve natural resource problems and to encourage widespread adoption of measures that maximize environmental benefits per dollar expended. Practices whose primary purpose is to enhance productivity would not be eligible, nor would practices that the producer has already applied or that the producer is likely to apply without EQIP financial assistance.

Paragraph (a)(3) permits NRCS to approve interim conservation practice standards and financial assistance for pilot testing new technology or innovations. NRCS will involve other entities in the pilot testing, including extension and research agencies and institutions, conservation districts, universities, private industry, and others to evaluate and assess the practices.

Paragraph (b) specifies that large confined livestock operations are excluded from eligibility for cost-share payments to construct animal waste management facilities. As noted above, CCC particularly welcomes comments on how to define and implement this requirement of the 1996 Act. In the public listening forums that preceded this rulemaking, USDA received many comments regarding this topic, most of which advised USDA on the importance of making eligible various types of enterprises. Few commenters provided suggestions on the number of livestock head that should be considered ''large'' for purposes of this rule, or provided other suggestions on formulas or other criteria to substitute for a specific number. CCC invites comment on making this definition more specific or more equitable in the context of the law.

Section 1466.8 addresses the sources of technical assistance to carry out EQIP. CCC will use technical and other assistance from other qualified Federal, State, and local agencies and will encourage producers to also use the private sector to carry out the program. As determined by the State conservationist, CCC may contract with private enterprises or enter cooperative agreements with other Federal, State, or local entities for services related to EQIP implementation. The vice president of CCC, who is the Chief of NRCS, retains the responsibility for ensuring that technical program standards are met.

Subpart B addresses administration of EQIP contracts.

Section 1466.20 addresses applications for contracts and selecting offers from producers. CCC will accept applications for EQIP throughout the year but will rank the applications and select the participants periodically as determined at the local and/or State level. CCC will announce in advance the period to begin evaluation and ranking of applications.

Before evaluating individual applications, the local work group will develop ranking criteria to prioritize producer's applications. NRCS State staff provides oversight for consistency of ranking criteria. The NRCS designated conservationist and FSA county executive director will assist the FSA county committee with applying the criteria. The FSA county committee,

with concurrence of NRCS, will approve applications based on the developed criteria. Each application will be ranked according to the criteria.

The producer's application will include any structural, vegetative, and land management practices proposed under the contract. CCC will evaluate applications based on future environmental benefits which are expected with the contract and the program payments. CCC will give additional consideration if the contract will assist the producer in complying with environmental laws.

Section 1466.21 addresses the requirements for EQIP contracts. Only the land that meets the purpose and goals of the program and is to be treated under EQIP will be included in the contract, and no tract will have more than one EQIP contract at a time.

Section 1466.22 addresses the participant's responsibility for conservation practice operation and maintenance.

Section 1466.23 addresses rates for cost-share and incentive payments. Subject to the national direct Federal funding cap of 75 percent of the projected cost of a structural or vegetative practice, State conservationists, with FSA State committee concurrence and the advice of local work groups and the State technical committee, can set cost-share rates and incentive payment limits as determined appropriate to encourage a producer to perform the land management practice that would not otherwise be initiated without such assistance.

Paragraph (b) of this section addresses payment limitations.

Section 1466.25 addresses the procedures to be followed for contract violations and terminations.

Subpart C describes administrative remedies available to participants, such as appeal rights and provisions for relief if a participant relies on advice or action of a CCC representative. It also addresses the responsibilities of the participant in obtaining necessary easements and complying with other laws and regulations and in providing USDA representatives access to land to verify compliance with the terms and conditions of a contract.

List of Subjects in 7 CFR part 1466

Administrative practices and procedures, Conservation, Natural Resources, Water Resources, Wetlands, Payment rates.

Accordingly, Title 7 of the Code of Federal Regulations is amended by adding a new part 1466 to read as follows:

PART 1466—ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

Subpart A—General Provisions

Sec.

1466.1 Applicability.
1466.2 Administration.
1466.3 Definitions.
1466.4 Program requirements.
1466.5 Priority areas and significant statewide natural resource concerns.
1466.6 Conservation plan.
1466.7 Conservation practices.
1466.8 Technical and other assistance provided by qualified personnel not affiliated with USDA.

Subpart B—Contracts

1466.20 Application for contracts and selecting offers from producers.
1466.21 Contract requirements.
1466.22 Conservation practice operation and maintenance.
1466.23 Cost-share and incentive payments.
1466.24 Contract modifications and transfers of land.
1466.25 Contract violations and termination.

Subpart C—Administrative Remedies

1466.30 Appeals.
1466.31 Compliance with regulatory measures.
1466.32 Access to operating unit.
1466.33 Performance based upon advice or action of representatives of CCC.

Authority: 16 U.S.C. 3839aa–3839aa–8.

Subpart A—General Provisions

§ 1466.1 Applicability.

Through the Environmental Quality Incentives Program (EQIP), the Commodity Credit Corporation (CCC) provides technical, educational, and financial assistance to eligible farmers and ranchers to address soil, water, and related natural resources concerns on their lands in an environmentally beneficial and cost-effective manner. The purposes of the program are achieved through the implementation of structural and land management practices on eligible land.

§ 1466.2 Administration.

(a) Administration of EQIP is shared by the Natural Resources Conservation Service (NRCS) and the Farm Service Agency (FSA) as set forth below.

(b) NRCS shall:

(1) Provide overall program management and implementation leadership for EQIP;

(2) Establish policies, procedures, priorities, and guidance for program implementation, including determination of priority areas;

(3) Establish cost-share and incentive payment limits;

(4) Determine eligibility of practices;

(5) Provide technical leadership for conservation planning and implementation, quality assurance, and evaluation of program performance; and

(6) Make funding decisions and determine allocations of program funds.

(c) FSA shall:

(1) Be responsible for the administrative processes and procedures for applications, contracting, and financial matters, including allocation and program accounting; and

(2) Provide leadership for establishing, implementing, and overseeing administrative processes for applications, contracts, payment processes, and administrative and financial performance reporting.

(d) NRCS and FSA shall concur in establishing policies, priorities, and guidelines related to the implementation of this part.

(e) No delegation herein to lower organizational levels shall preclude the Chief of NRCS, or the Administrator of FSA, or a designee, from determining any question arising under this part or from reversing or modifying any determination made under this part that is the responsibility of their respective agencies.

(f) CCC may enter into cooperative agreements with other Federal agencies, State agencies, conservation districts, units of local government, and public and private not for profit organizations to assist CCC with implementation of this part.

§ 1466.3 Definitions.

The following definitions shall apply to this part and all documents issued in accordance with this part, unless specified otherwise:

Administrator means the Administrator of the FSA, United States Department of Agriculture (USDA), or designee.

Agricultural land means an area on which crops or livestock are produced.

Animal waste management facility means a structural practice used for the storage or treatment of animal waste.

Applicant means a producer who has requested in writing to participate in EQIP. Producers who are members of a joint operation shall be considered one applicant.

Chief means the Chief of NRCS, USDA, or designee.

Confined livestock operation means a livestock facility that stables, confines, feeds, or maintains animals for a total of 45 days or more in any 12-month period and does not sustain crops, vegetation, forage growth, or post-harvest residues within the confined area in the normal growing season over any portion of the confinement facility.

Conservation district means a political subdivision of a State, Native American

Tribe, or territory, organized pursuant to the State or territorial soil conservation district law, or Tribal law. The subdivision may be a conservation district, soil conservation district, soil and water conservation district, resource conservation district, natural resource district, land conservation committee, or similar legally constituted body.

Conservation management system (CMS) means any combination of conservation practices and management practices that, if applied, will protect or improve the soil, water, or related natural resources.

Conservation plan means a record of a participant's decisions, and supporting information, for treatment of a unit of land or water, and includes the schedule of operations, activities, and estimated expenditures needed to solve identified natural resource problems.

Conservation practice means a specified treatment, such as a structural or vegetative practice or a land management practice, which is planned and applied according to NRCS standards and specifications as a part of a CMS.

Contract means a legal document that specifies the rights and obligations of any person who has been accepted for participation in the program.

County executive director means the FSA employee responsible for directing and managing program and administrative operations in one or more FSA county offices.

Designated conservationist means a NRCS employee whom the State conservationist has designated as responsible for administration of EQIP. In the case of a priority area or other area that crosses State borders, the Chief or the Chief's designee will designate the NRCS official responsible for administration of EQIP in the priority area.

Farm Service Agency county committee means a committee elected by the agricultural producers in the county or area, in accordance with Section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, or designee.

Farm Service Agency State committee means a committee in a State or the Caribbean Area (Puerto Rico and the Virgin Islands) appointed by the Secretary in accordance with Section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended.

Field office technical guide means the official NRCS guidelines, criteria, and standards for planning and applying conservation treatments and conservation management systems. It contains detailed information on the conservation of soil, water, air, plant, and animal resources applicable to the local area for which it is prepared.

Land management practice means conservation practices that primarily require site-specific management techniques and methods to conserve, protect from degradation, or improve soil, water, or related natural resources in the most cost-effective manner. Land management practices include, but are not limited to, nutrient management, manure management, integrated pest management, integrated crop management, irrigation management, tillage or residue management, stripcropping, contour farming, grazing management, and wildlife habitat management.

Life span means the period of time specified in the contract or conservation plan during which the conservation management systems or component conservation practices are to be maintained and used for the intended purpose.

Livestock means animals produced for food or fiber such as dairy cattle, beef cattle, poultry, turkeys, swine, sheep, horses, fish and other animals raised by aquaculture, or animals the State conservationist identifies in consultation with the State technical committee.

Livestock production means farm and ranch operations involving the production, growing, raising, breeding, and reproduction of livestock or livestock product.

Livestock-related natural resource concern means any environmental condition, either on-site or off-site, that is directly related to livestock activity or to livestock manure or waste.

Local work group means representatives of FSA, the Cooperative State Research, Education, and Extension Service (CSREES), the conservation district, and other Federal, State, and local government agencies, including Tribes, with expertise in natural resources who consult with NRCS on decisions related to EQIP implementation.

National conservation priority area means a watershed, multi-state area, or region of specific environmental sensitivity designated by the Chief.

Operation and maintenance means work performed by the participant to keep the applied conservation practice functioning for the intended purpose during its life span. Operation includes the administration, management, and performance of non-maintenance actions needed to keep the completed practice safe and functioning as intended. Maintenance includes work to prevent deterioration of the practice, repairing damage, or replacement of the practice to its original condition if one or more components fail.

Participant means an applicant who is a party to an EQIP contract.

Priority area means a watershed, area, or region that is designated under this part because of specific environmental sensitivities or significant soil, water, or related natural resource concerns.

Private agribusiness sector means agricultural producers, certified crop advisors, professional crop consultants that are certified or certified and independent, agricultural cooperatives, integrated pest management coordinators and scouts, and other technical consultants.

Producer means a person who is engaged in livestock or agricultural production.

Regional conservationist means the NRCS employee authorized to direct and supervise NRCS activities in a NRCS region.

Resource management system means a conservation management system that, when implemented, achieves sustainable use of the soil, water, and related natural resources.

Secretary means the Secretary of the United States Department of Agriculture.

State conservationist means the NRCS employee authorized to direct and supervise NRCS activities in a State, the Caribbean Area, or the Pacific Basin Area.

State executive director means the FSA employee authorized to direct and supervise FSA activities in a State or the Caribbean Area (Puerto Rico and the Virgin Islands).

State technical committee means a committee established by the Secretary in a State pursuant to 16 U.S.C. 3861.

Structural practice means a conservation practice which primarily involves the establishment, construction, or installation of a site-specific measure to conserve, protect from degradation, or improve soil, water, or related natural resources in the most cost-effective manner. Examples include, but are not limited to, animal waste management facilities, terraces, grassed waterways, tailwater pits, livestock water developments, and capping of abandoned wells.

Technical assistance means the personnel and support resources needed to conduct conservation planning; conservation practice survey, layout, design, installation, and certification; training, certification, and provide quality assurance for professional conservationists; and evaluation and assessment of the program.

Unit of concern means a parcel of agricultural land that has natural resource conditions that are of concern to the participant.

Vegetative practice means a conservation practice which primarily involves the establishment or planting of a site-specific vegetative measure to conserve, protect from degradation, or improve soil, water, or related natural resources in the most cost-effective manner. Examples include, but are not limited to, contour grass strips, filterstrips, critical area plantings, and permanent wildlife habitat.

§ 1466.4 Program requirements.

(a) Program participation is voluntary. The participant, in cooperation with the local conservation district, develops a conservation plan for the farm or ranching unit of concern. The participant's conservation plan serves as the basis for the EQIP contract. CCC provides cost-share or incentive payments to apply needed conservation practices and land use adjustments within a time schedule specified by the conservation plan.

(b) The Chief determines the funds available to NRCS for technical assistance according to the purpose and projected cost for which the technical assistance is provided by NRCS or designee in a fiscal year. The Chief allocates an amount according to the type of expertise required, the quantity of time involved, the timeliness required, the technology needed, and other factors as determined appropriate by the Chief. Funding shall not exceed the projected cost to NRCS of the technical assistance provided in a fiscal year.

(c) To be eligible to participate in EQIP, an applicant must:

(1) Be in compliance with the highly erodible land and wetland conservation provisions found at part 12 of this title;

(2) Have control of the land for the life of the proposed contract period.

(i) An exception may be made by the Chief in the case of land allotted by the Bureau of Indian Affairs (BIA), tribal land, or other instances in which the Chief determines that there is sufficient assurance of control and the lack of current control for the full contract period is beyond the control of the participant;

(ii) If the applicant is a tenant of the land involved in agricultural production the applicant shall obtain the concurrence of the landowner in order to apply a structural or vegetative practice.

(3) Submit a conservation plan that is acceptable to NRCS and is approved by the conservation district and is in compliance with the terms and conditions of the program; and

(4) Comply with the provisions at § 1412.304 of this chapter for protecting the interests of tenants and sharecroppers, including provisions for sharing, on a fair and equitable basis, payments made available under this part, as may be applicable.

(d) Land used as cropland, rangeland, pasture, forest land, and other land on which crops or livestock are produced, including agricultural land that NRCS determines poses a serious threat to soil, water, or related natural resources by reason of the soil types; terrain; climate; soil, topographic, flood, or saline characteristics; or other factors or natural hazards, including the existing agricultural management practices of the applicant, may be eligible for enrollment in EQIP. Land may only be considered for enrollment in EQIP if NRCS determines that the land is:

(1) Privately owned land; or

(2) Publicly owned land where:

(i) The land is under private control for the contract period and is included in the participant's operating unit;

(ii) Installation of conservation practices will not primarily benefit the government landowner;

(iii) Conservation practices will benefit nearby natural resources; and

(iv) The participant has written authorization from the government landowner to apply the conservation practices.

§ 1466.5 Priority areas and significant statewide natural resource concerns.

(a) Consistent with maximizing the overall environmental benefits per dollar expended by the program, NRCS may designate a watershed, an area, or a region of special environmental sensitivity or having significant soil, water, or related natural resource concern as a priority area. NRCS shall give special consideration to applicants in priority areas who have conservation plans that address the natural resource concern(s) for which the priority area was designated.

(b) CCC may approve technical, educational, and financial assistance under this part to participants with significant statewide natural resource concerns outside a priority area.

(c) To be considered for approval of a priority area, a Federal, State, or local government agency, working cooperatively with a respective local work group and State technical committee, shall make a proposal to CCC in the form of a priority area assessment. The priority area assessment shall include:

(1) A description, quantified when possible, of the nature and extent of natural resource concerns in the assessment area;

(2) A description, quantified when possible, of how the proposed goals, objectives, and solutions for the natural resource problems would maximize the environmental benefits that would be delivered with the requested Federal dollars, both within the priority area and as part of the overall program provided under this part;

(3) Background information such as science-based data on environmental status and needs, soils information, demographic information, and other available technical data that illustrate the nature and extent of natural resource concerns in the priority area or the appropriateness of the proposed solution to those natural resource concerns.

(4) The existing staff and incentive programs available at the Federal, State, and local levels, both public and private, to assist with the areawide activities;

(5) The technical, educational, and financial assistance needed from EQIP to help meet the areawide goals and objectives;

(6) Ways to measure performance and success, quantified where possible; and

(7) An explanation, quantified where possible, of the degree of difficulty producers face in complying with environmental laws.

(d)(1) NRCS State conservationists will base their decisions to designate an area as a priority area upon a priority area assessment, the significance of the natural resource concern(s) in the proposed priority area, and the conservation practices that best address the identified concern(s). NRCS shall consider the following factors in determining the significance of the natural resource concern:

(i) Soil types and characteristics;

(ii) Terrain and topographic features;

(iii) Climatic conditions;

(iv) Flood hazards;

(v) Saline characteristics;

(vi) Environmental sensitivity of the land, such as wetlands and riparian areas;

(vii) Quality and intended use of the land;

(viii) Quality and intended use of the receiving waters, including fishery habitat;

(ix) Wildlife and wildlife habitat quality and quantity;

(x) Quality of the air; or

(xi) Other natural hazards or factors, including the existing agricultural management practices of the producers in the area; and

(xii) The economic significance of these factors.

(2) NRCS will consider the following factors in its allocation of funds:

(i) Condition of the natural resources;

(ii) Significance of the natural resource concern;

(iii) Improvements that NRCS expects will result from implementation of the conservation plan;

(iv) Expected number of producers who will participate and the time and financial commitment that the producers will provide;

(v) Estimated program cost to provide technical, educational, and financial assistance;

(vi) Level of support from existing State and local programs;

(vii) Ways the program can best assist producers in complying with Federal and State environmental laws, quantified where possible; and

(viii) Other factors the NRCS determines will result in maximization of environmental benefits.

(3) A NRCS State conservationist, in consultation with a State technical committee and based on recommendations of a local work group, may approve an area as a priority area.

(e) A NRCS State conservationist, in consultation with a State technical committee and based on recommendations of a local work group, may approve program assistance to participants with significant statewide natural resource concerns outside a funded priority area.

(f)(1) The Chief may designate national conservation priority areas using the identified national program objectives and criteria. The Chief may consult with other Federal agencies in selecting national conservation priority areas. Consistent with maximizing the overall environmental benefits per dollar expended by the program, the Chief may designate national conservation priority areas under this part to provide technical assistance, cost-share payments, incentive payments, and education for producers to comply with nonpoint source pollution requirements, other Federal, State, or local environmental laws, or to meet other conservation needs.

(2) NRCS will develop criteria to select the national conservation priority areas where program assistance will be provided. The criteria will consider:

(i) Condition of the natural resources;

(ii) Significance of the natural resource concern;

(iii) Improvements that NRCS expects will result from implementation of the conservation plan;

(iv) Expected number of producers who will participate and the time and financial commitment that the producers will provide;

(v) Estimated program cost to provide technical, educational, and financial assistance;

(vi) Level of support from existing State and local programs;

(vii) Ways the program can best assist producers in complying with Federal and State environmental laws, quantified where possible;

(viii) The ability to coordinate EQIP with the Conservation Reserve Program, Wetland Reserve Program, or other programs in common areas to further maximize the environmental benefits per dollar expended in each program; and

(ix) Other factors that will assist CCC in maximizing the overall environmental benefit per dollar expended under this part.

(g) The Chief, with FSA concurrence, will make funding decisions for national conservation priority areas, State-approved priority areas, and significant statewide natural resource concerns outside a funded priority area. The Chief may base funding decisions, after a review of priority area assessments, using the criteria developed in accordance with paragraphs (d) and (f) of this section, and considering other relevant information. The approval of a priority area at the State level does not necessarily mean that funds will be allocated to that area. Proposals that are not funded may be resubmitted to the Chief for subsequent review and consideration to determine if the resubmitted proposal meets Federal priorities for funding.

§ 1466.6 Conservation plan.

(a) The participant shall develop and submit a conservation plan for the unit of concern that, when implemented, protects the soil, water, or related natural resources in a manner that meets the purpose of the program and is acceptable to NRCS and is approved by the conservation district. This plan forms the basis for an EQIP contract.

(1) When considering the acceptability of the plan, NRCS will consider whether the participant will use the most cost-effective conservation practices to solve the natural resource concerns and maximize environmental benefits per dollar expended.

(2) As determined by NRCS, the conservation plan must allow the participant to achieve a cost-effective resource management system, or some appropriate portion of that system, identified in the applicable NRCS field office technical guide, for the priority natural resource condition of concern in the priority area or the significant statewide natural resource concern outside a funded priority area.

(b) Upon a participant's request, the NRCS may provide technical assistance to a participant. NRCS may utilize the services of qualified personnel of cooperating Federal, State, or local agencies, or private agribusiness sector or organizations, in performing its responsibilities for technical assistance. Participants may, at their own cost, use qualified professionals to provide technical assistance. NRCS retains approval authority over the technical adequacy of work done by non-NRCS personnel for the purpose of determining EQIP contract compliance.

(c) Participants are responsible for implementing the conservation plan. A participant may seek additional assistance from other public or private organizations or private agribusiness sector as long as the activities funded are in compliance with this part.

(d) All conservation practices scheduled in the conservation plan are to be carried out in accordance with the applicable NRCS field office technical guide.

(e) The conservation plan, or supporting documentation, for the unit of concern shall include:

(1) A description of the prevailing farm or ranch enterprises and operations that may be relevant to conserving and enhancing soil, water, or related natural resources;

(2) A description of relevant natural resources, including soil types and characteristics, rangeland types and conditions, proximity to water bodies, wildlife habitat, or other relevant characteristics related to the conservation and environmental objectives of the plan;

(3) A description of specific conservation and environmental objectives to be achieved;

(4) To the extent practicable, the quantitative or qualitative goals for achieving the conservation and environmental objectives;

(5) A description of one or more conservation practices in the conservation management system to be implemented to achieve the conservation and environmental objectives;

(6) A description of the schedule for implementing the conservation practices, including timing and sequence; and

(7) Information that will enable evaluation of the effectiveness of the plan in achieving the conservation and environmental objectives.

(f) To simplify the conservation planning process for the participant, the conservation plan may be developed, at the request of the participant, as a single plan that incorporates, to the extent

possible, any or all other Federal, State, or local government program requirements. Participants do not need to replace existing plans developed by natural resource professionals if such plans meet the resource management objectives under this part. NRCS may accept an existing conservation plan developed and required for participation in any other USDA program if the conservation plan otherwise meets the requirements of this part. When a participant develops a single conservation plan for more than one program, the participant shall clearly identify the portions of the plan that are applicable to the EQIP contract.

§ 1466.7 Conservation practices.

(a)(1) The NRCS, with FSA consultation, shall provide guidance for determining eligible structural, vegetative, and land management practices. To be considered as an eligible practice, the practices must provide beneficial, cost-effective approaches for participants to change or adapt operations to conserve or improve soil, water, or related natural resources or to provide for environmental enhancement.

(2) The designated conservationist, in consultation with the State technical committee or local work group, shall determine the eligible conservation practices for the priority area or for significant statewide natural resource concerns outside a priority area.

(3) Where new technologies or conservation practices that provide a high potential for maximizing the environmental benefits per dollar expended have been developed, NRCS may approve interim conservation practice standards and financial assistance for pilot work to evaluate and assess the performance, efficacy, and effectiveness of the technology or conservation practices at maximizing environmental benefits per dollars expended. NRCS may involve other entities in the pilot testing, including conservation districts, extension and research agencies and institutions, private agribusiness sector, and others.

(b)(1) CCC shall not provide cost-share assistance to construct an animal waste management facility on a large confined livestock operation. CCC may fund other structural, vegetative, or land management practices needed in the conservation management system to address the livestock-related natural resource concerns on a large confined livestock operation.

(2) The NRCS State conservationist, in consultation with the State technical committee, shall develop criteria to use to define a large confined livestock operation. The criteria will consider but not be limited to such factors as:

(i) The cost-effectiveness of the application and its potential to maximize environmental benefits per dollar expended;

(ii) The ability of producers to pay for the cost of animal waste management facilities;

(iii) The significance of the natural resource concern resulting from the operation;

(iv) Regulations promulgated pursuant to the Clean Water Act (33 U.S.C. 1251 *et seq.*) and guidance developed under section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1455b);

(v) The obligations of operations under other environmental authorities;

(vi) The particular characteristics of modern livestock operations;

(vii) Other Federal and State environmental laws, and laws affecting the structure of agriculture; and

(viii) The size of the operation in relation to other confined livestock operations in the State or Nation.

(3) The NRCS State conservationist, in consultation with the State technical committee, shall place focus on paragraphs (b)(2)(i) and (b)(2)(ii) of this section when developing the criteria to define a large confined livestock operation.

§ 1466.8 Technical and other assistance provided by qualified personnel not affiliated with USDA.

(a) A NRCS State conservationist may utilize technical and other assistance from qualified personnel of other Federal, State, and local agencies, and will encourage producers to use the most cost-effective technical assistance available, including if appropriate, using the services of the private agribusiness sector to carry out the assigned responsibilities of the program.

(b) Technical and other assistance provided by qualified personnel not affiliated with USDA may include, but is not limited to: conservation planning; conservation practice survey, layout, design, installation, and certification; information, education, and training for producers; and training, certification, and quality assurance for professional conservationists.

(c) NRCS shall provide technical coordination and leadership for the program, regardless of who provides technical and other assistance, and shall assure that the quality of the assistance obtained from other Federal, State, and local agencies, and the private agribusiness sector is acceptable for purposes of this part. Non-NRCS assistance shall not be deemed to satisfy an EQIP contract entered into under subpart B of this part until the assistance has been approved by NRCS.

Subpart B—Contracts

§ 1466.20 Application for contracts and selecting offers from producers.

(a) Any producer who has eligible land may submit an application for participation in the EQIP to a USDA service center. Producers who are members of a joint operation shall file a single application for the joint operation.

(b) CCC will accept applications throughout the year. NRCS shall rank and select the offers of applicants periodically, as determined appropriate by NRCS after consultation with the State technical committee and on the recommendation of the local work groups.

(c) The designated conservationist, in consultation with the local work group, will develop ranking criteria to prioritize applications within a priority area. NRCS shall prioritize applications from the same EQIP-funded priority area using the criteria specific to the area. The FSA county committee, with the assistance of the designated conservationist and the FSA county executive director, shall approve for funding the applications in a priority area based on eligibility factors of the applicant and the NRCS ranking.

(d) The NRCS State conservationist, in consultation with the State technical committee, and using quality criteria in the NRCS field office technical guide, will develop criteria to prioritize applications from applicants with significant statewide natural resource concerns outside a priority area. The FSA county committee, with assistance of the designated conservationist and FSA county executive director, shall approve for funding these applications based on the eligibility factors of the applicant and the NRCS ranking.

(e) The designated conservationist will work with the applicant to collect the information necessary to evaluate the application using the ranking criteria. A participant has the option of offering and accepting less than the maximum program payments allowed.

(f) NRCS will rank all applications using criteria that will consider:

(1) The environmental benefits per dollar expended;

(2) A reasonable estimate of the cost of the conservation practices, the program payments that will be paid to the applicant, and other factors for determining which applications will present the least cost to the program;

(3) The environmental benefits that will be derived by applying the

conservation practices in the conservation plan which will meet the purposes of the program;

(4) The extent to which the contract will assist the applicant in complying with Federal, State, or local environmental laws;

(5) Whether the land in the application is located in a priority area and the extent to which the contract will assist the priority area goals and objectives.

(g) If two or more applications have an equal rank, the application that will result in the least cost to the program will be given greater consideration.

§ 1466.21 Contract requirements.

(a) In order for a participant to receive cost-share or incentive payments, the participant shall enter into a contract agreeing to implement a conservation plan or portions thereof. FSA shall determine the eligibility of participants. The FSA county committee may only approve the contract, with NRCS concurrence.

(b) An EQIP contract shall:

(1) Incorporate all portions of a conservation plan applicable to EQIP;

(2) Be for a duration of not less than 5 years nor more than 10 years;

(3) Include all provisions as required by law or statute;

(4) Specify the participant's requirements for operation and maintenance of the applied conservation practices consistent with the provisions of § 1466.22;

(5) Include participant reporting requirements to determine compliance with the contract and program; and

(6) Any other provision determined necessary or appropriate by CCC.

(c) The participant must apply a financially assisted practice within the first 12 months of signing a contract. If the participant does not apply a financially assisted practice within the first 12 months, CCC may determine that the contract has been breached, terminate the contract, and seek appropriate remedies.

(d) There is a limit of one EQIP contract at any one time for each tract of agricultural land, as identified with a FSA tract number, determined at the time of the application for EQIP assistance. Subject to the payment limitation set out elsewhere in this part, a participant may have subsequent EQIP contracts for different natural resource needs or concerns following completion of a previous EQIP contract on the same tract.

§ 1466.22 Conservation practice operation and maintenance.

The contract shall incorporate the operation and maintenance of conservation practices applied under the contract. The participant shall operate and maintain the conservation practice for its intended purpose for the life span of the conservation practice, as identified in the contract or conservation plan, as determined by CCC. Conservation practices installed before the execution of a contract, but needed in the contract to obtain the environmental benefits agreed upon, are to be operated and maintained as specified in the contract.

§ 1466.23 Cost-share and incentive payments.

(a)(1) The maximum direct Federal share of cost-share payments to a participant shall not be more than 75 percent of the projected cost of a structural or vegetative practice.

(2) CCC shall provide incentive payments to participants for land management practices in an amount and at a rate necessary to encourage a participant to perform the land management practice that would not otherwise be initiated without government assistance.

(3) CCC shall set the cost-share and incentive payment limits, as determined by:

(i) The designated conservationist, in consultation with the local work group, for a priority area; or

(ii) The NRCS State conservationist, in consultation with the State technical committee, for participants subject to environmental requirements or with significant statewide natural resource concerns outside a funded priority area.

(b) Except as provided in paragraph (c) of this section, the total amount of cost-share and incentive payments paid to a person under this part may not exceed:

(1) $10,000 for any fiscal year; and

(2) $50,000 for any multi-year contract.

(c) CCC shall use the provisions in 7 CFR Part 1400 related to the definition of person and the limitation of payments, except that:

(1) States, political subdivisions, and entities thereof will not be persons eligible for payment.

(2) For purposes of applying the payment limitations provided for in this section, the provisions in part 1400, subpart C for determining whether persons are actively engaged in farming, subpart E for limiting payments to certain cash rent tenants, and subpart F as the provisions apply to determining whether foreign persons are eligible for payment, will not apply.

(3)(i) The NRCS State conservationist may authorize, on a case-by-case basis, payments in excess of $10,000 in any fiscal year, up to the $50,000 limitation in paragraph (b) of this section. However, such increase in payments for a certain year shall be offset by reductions in the payments in subsequent years. CCC will base approval for payments in excess of $10,000 in a fiscal year on the NRCS State conservationist's determination that the approval is justified because:

(A) The practices in the system need to be applied at once so that the system is fully functioning to resolve the natural resource problem;

(B) The natural resource problem is so severe that resolving the problem immediately is needed;

(C) The producer needs to complete the practices in one year so that the farming operation is not interrupted or disturbed by the practice installation over a 5–10 year period; or

(D) The producer can install the practices at a lower total cost when installed in one year, thereby reducing the program payments.

(ii) With respect to land under EQIP contract which is inherited in the second and subsequent years of the contract, the $10,000 fiscal year limitation shall not apply to the extent that the payments from any contracts on the inherited land cause an heir, who was party to an EQIP contract on other lands prior to the inheritance, to exceed the annual limit.

(iii) With regard to contracts on tribal land or BIA allotted land, payments exceeding one limitation may be made to the tribal venture if an official of the BIA or tribal official certifies that no one ''person'' directly or indirectly will receive more than the limitation.

(4) Any cooperative association of producers that markets commodities for producers with respect to the commodities so marketed for producers shall not be considered to be a person eligible for payment.

(5) The status of an individual or entity on the date of application shall be the basis on which the determination of the number of persons involved in the farming operation is made.

(6) A participant shall not be eligible for cost-share or incentive payments for conservation practices on eligible land if the participant receives cost-share payments or other benefits for the same land under the Conservation Reserve Program (16 U.S.C. 3831–3836) or the Wetlands Reserve Program (16 U.S.C. 3837 *et seq.*).

(d) The participant and NRCS must certify that a conservation practice is completed in accordance with the contract before the CCC will approve the payment of any cost-share or incentive payments.

(e) CCC expenditures under a contract entered into during a fiscal year shall not be made until the subsequent fiscal year.

§ 1466.24 Contract modifications and transfers of land.

(a) The participant and CCC may modify a contract if the participant and CCC agree to the contract modification and the conservation plan is revised in accordance with NRCS requirements and is approved by the conservation district.

(b) The parties may agree to transfer a contract with the agreement of all parties to the contract. The transferee shall assume full responsibility under the contract, including operation and maintenance of those conservation practices already installed and to be installed as a condition of the contract.

(c) CCC may require all or a portion of any assistance earned under EQIP to be refunded if a participant sells or loses control of the land under an EQIP contract and the new owner or controller refuses to assume responsibility under the contract.

§ 1466.25 Contract violations and termination.

(a)(1) If CCC determines that a participant is in violation of the terms of a contract or attachments thereto, CCC shall give the participant a reasonable time, as determined by the FSA county committee, in consultation with NRCS, to correct the violation and comply with the terms of the contract and attachments thereto. If a participant continues in violation, the FSA county committee may, in consultation with NRCS, terminate the EQIP contract.

(2) If the FSA county committee determines, in consultation with NRCS, that a participant has submitted false information or filed a false claim, the FSA county committee may terminate the EQIP contract.

(b)(1) If FSA terminates a contract, the participant shall forfeit all rights for future payments under the contract and shall refund all or part of the payments received with interest. The FSA county committee, in consultation with NRCS, has the option of requiring only partial refund of the payments received if a previously installed conservation practice can function independently, are not affected by the violation or other conservation practices that would have been installed under the contract, and the participant agrees to operate and maintain the installed conservation practice for the life span of the practice.

(2) If CCC terminates a contract due to breach of contract or the participant voluntarily terminates the contract before any contractual payments have been made, the participant shall forfeit all rights for further payments under the contract and shall pay such liquidated damages as are prescribed in the contract. The FSA county committee, in consultation with NRCS, will have the option to waive the liquidated damages depending upon the circumstances of the case.

(3) When making all contract termination decisions, CCC may, in addition, give consideration to good faith on the part of the participant and hardships that prevent the participant from complying with the contract terms that are beyond the participant's control, and make additional adjustments accordingly.

(4) The participant may voluntarily terminate a contract if CCC agrees based on CCC's determination that termination is in the public interest.

Subpart C—Administrative Remedies

§ 1466.30 Appeals.

(a) A participant in EQIP may obtain a review of a determination affecting participation in accordance with parts 11, 614, and 780 of this title, except as provided in (b), as appropriate.

(b) In accordance with the provisions of the Department of Agriculture Reorganization Act of 1994, Pub. L. 103–354, the following decisions are not appealable:

(1) Payment rates, payment limits, and cost-share percentages;

(2) The designation of State-approved priority areas, national conservation priority areas, or significant statewide natural resource concerns;

(3) NRCS funding decisions to make allocations to States or priority areas;

(4) Eligible conservation practices; and

(5) Other matters of general applicability.

§ 1466.31 Compliance with regulatory measures.

Participants who carry out conservation practices shall be responsible for obtaining the authorities, rights, easements, or other approvals necessary for the implementation, operation, and maintenance of the conservation practices in keeping with applicable laws and regulations. Participants shall be responsible for compliance with all laws and for all effects or actions resulting from the participant's performance under the contract.

§ 1466.32 Access to operating unit.

Any authorized CCC representative shall have the right to enter an operating unit or tract for the purpose of ascertaining the accuracy of any representations made in a contract or in anticipation of entering a contract, as to the performance of the terms and conditions of the contract. Access shall include the right to provide technical assistance and inspect any work undertaken under the contract. The CCC representative shall make a reasonable effort to contact the participant prior to the exercise of this provision.

§ 1466.33 Performance based upon advice or action of representatives of CCC.

If a participant relied upon the advice or action of any authorized representative of CCC, and did not know or have reason to know that the action or advice was improper or erroneous, the Farm Service Agency county committee, in consultation with NRCS, may accept the advice or action as meeting the requirements of the program and may grant relief, to the extent it is deemed desirable by CCC, to provide a fair and equitable treatment because of the good-faith reliance on the part of the participant.

Thomas A. Weber,

Deputy Vice President, Commodity Credit Corporation.

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