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Title 3—

The President

Proclamation 6428 of May 1, 1992

To Implement Duty Reductions for Certain Products of Beneficiary Countries Under the Caribbean Basin Economic Recovery Expansion Act of 1990

By the President of the United States of America

A Proclamation

1. Section 213(h)(1) of the Caribbean Basin Economic Recovery Act (CBERA) (19 U.S.C. 2703(h)(1)), as added by section 212 of the Caribbean Basin Economic Recovery Expansion Act of 1990 (Expansion Act) (Public Law 101–382), directs the President to proclaim reductions in the rates of duty on handbags, luggage, flat goods, work gloves, and leather wearing apparel that are (1) the product of any beneficiary country, and (2) were not designated on August 5, 1983, as eligible articles for purposes of the Generalized System of Preferences (GSP) under title V of the Trade Act of 1974 (19 U.S.C. 2461, *et seq.*). Such goods were excluded from the duty-free treatment afforded under the CBERA by the provisions of section 213(b) of that Act.

2. Section 213(h)(2) of the CBERA provides that the duty reduction required for any such article shall (1) result in a rate that is equal to 80 percent of the rate of duty that applied to the article on December 31, 1991, except that, subject to certain limitations, the reduction may not exceed 2.5 percent ad valorem; and (2) be implemented in 5 equal annual stages with the first one-fifth of the aggregate reduction in the rate of duty being applied to entries, or withdrawals from warehouse for consumption, of the article on or after January 1, 1992.

3. Pursuant to section 213(h) of the CBERA, I have decided that certain existing duties set forth in Rates of Duty 1-General subcolumn of the Harmonized Tariff Schedule of the United States (HTS) for specified handbags, luggage, flat goods, work gloves, and leather wearing apparel should be reduced as set forth in Annex I to this proclamation. In accordance with section 213(b) of the CBERA, as amended by section 212(b) of the Expansion Act, I have decided that it is appropriate to make conforming changes in general note 3(c)(v) to the HTS and to modify the nomenclature of certain HTS subheadings, in order to reflect the tariff treatment to be accorded to such goods.

4. Section 604 of the Trade Act of 1974, as amended (19 U.S.C. 2483), requires the President, from time to time, as appropriate, to embody in the HTS the substance of the provisions of that Act, of other Acts affecting import treatment, and actions thereunder, including removal, modification, continuance, or imposition of any import restriction.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including but not limited to section 604 of the Trade Act of 1974, section 213 of the CBERA, and section 212 of the Expansion Act, do proclaim that:

(1) In order to provide reductions in the Rates of Duty 1-General subcolumn duty rate applicable to certain goods which are the products of designated beneficiary countries under the CBERA, and to implement the provisions of the CBERA, as amended, the HTS is modified as provided in Annex I to this proclamation.

(2) In order to continue the schedule of duty reductions for goods originating in the territory of Canada modified by Annex I to this proclamation, pursuant to Annex 401.2 to the United States-Canada Free-Trade Agreement (the Canada FTA), the HTS is further modified as set forth in Annex II to this proclamation.

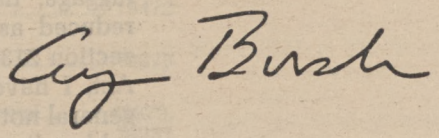
(3) In order to continue the schedule of duty reductions for products of Israel modified by Annex I to this proclamation, pursuant to Annex 1 to the Agreement on the Establishment of a Free Trade Area between the Government of the United States and the Government of Israel (the Israel FTA), the HTS is further modified as set forth in Annex III to this proclamation.

(4) Any provisions of previous proclamations and Executive orders inconsistent with the provisions of this proclamation are hereby superseded to the extent of such inconsistency.

(5)(a) Except as provided in this paragraph, the modifications made by Annex I to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of publication of this proclamation in the Federal Register. Entries of products of countries designated as beneficiary countries for purposes of the Caribbean Basin Economic Recovery Act made after January 1, 1992, and not liquidated as of the 15th day after the date of publication of this proclamation in the Federal Register, shall, if such goods would have qualified for duty reductions under the provisions of Annex I to this proclamation, be liquidated as if entered on such 15th day.

(b) The modifications made by Annexes II and III to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the dates set forth in such annexes.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of May, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and sixteenth.



Billing code 3195-01-M

ANNEX I

MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES (HTS) PURSUANT TO SECTION 213(h) OF THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT (CBERA)

(a) Effective with respect to articles which are the product of any designated beneficiary country under the CBERA that are entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of publication of this proclamation in the Federal Register, the HTS is modified as follows:

(1) General note 3(c)(v) to the HTS is modified--

(A) by inserting, at the end of subdivision (C) of such note, the following sentence: "Whenever a rate of duty other than "Free" appears in the special subcolumn followed by the symbol "E" in parentheses, articles imported into the customs territory of the United States in accordance with the provisions of subdivision (c)(v)(B) of this note from a country or territory listed in subdivision (c)(v)(A) of this note shall be eligible for such rate in lieu of the rate of duty set forth in the "General" subcolumn."

(B) by inserting, in subdivision (D)(3) of such note, the words "except as provided in subdivision (c)(v)(F) of this note," before the word "textile"; and

(C) by inserting at the end thereof the following new subdivision (F):

"(F) Handbags, luggage, flat goods, work gloves, and leather wearing apparel, the product of any beneficiary country, and not designated on August 5, 1983, as eligible articles for purposes of the GSP, are dutiable at the rates set forth in the "Special" subcolumn of column 1 followed by the symbol "E" in parentheses."

(2) The HTS is modified as provided below, with bracketed matter included to assist in the understanding of proclaimed modifications. The following supersedes matter now in the HTS. The subheadings and superior text are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated "Heading/Subheading", "Article Description", "Rates of Duty 1 General", "Rates of Duty 1 Special", and "Rates of Duty 2", respectively.

(A) Subheading 6116.10.18 is superseded by:

	[Gloves,...:]				
	[Gloves,...:]				
	[Other:]				
	[Without fourchettes:]				
	[Cut and sewn...:]				
	"Of vegetable fibers:				
6116.10.13	Containing over 50 percent by weight of plastics or rubber.....	25%	Free (E) 2.5% (IL) 15% (CA)	61%	
6116.10.17	Other.....	25%	[see section (b) of this Annex] (E) 2.5% (IL) 15% (CA)	61%"	

(B) Subheadings 6116.92.60 and 6116.92.90 are superseded by:

	[Gloves,...:]				
	[Other:]				
	[Of cotton:]				
	[Other:]				
	"Made from a pre-existing machine knit fabric:				
6116.92.64	Without fourchettes.....	25%	[see section (b) of this Annex] (E) 2% (IL) 15% (CA)	90%	
6116.92.74	With fourchettes.....	25%	2% (IL) 15% (CA)	90%	

ANNEX I (con.)
2 of 4

(a)(2)(B) (con.):

(B) (con.)

	[Gloves,...:] (con.) [Other:] (con.) [Of cotton:] (con.) [Other:] (con.) Other:			
6116.92.88	Without fourchettes.....	10%	[see section (b) of this Annex] (E) 1% (IL) 6% (CA)	90%
6116.92.94	With fourchettes.....	10%	1% (IL) 6% (CA)	90%"

(C) Subheadings 6116.93.60 and 6116.93.90 are superseded by:

	[Gloves,...:] [Other:] [Of synthetic fiber:] [Other:] "Containing 23 percent or more by weight of wool or fine animal hair:			
6116.93.64	Without fourchettes.....	33.1¢/kg + 7.4%	[see section (b) of this Annex] (E) 3.3¢/kg + 0.7% (IL) 19.8¢/kg + 4.4% (CA)	$1.10/kg + 50%
6116.93.74	With fourchettes.....	33.1¢/kg + 7.4%	3.3¢/kg + 0.7% (IL) 19.8¢/kg + 4.4% (CA)	$1.10/kg + 50%
	Other:			
6116.93.88	Without fourchettes.....	19.8%	[see section (b)] of this Annex] (E) 2% (IL) 11.8% (CA)	90%
6116.93.94	With fourchettes.....	19.8%	2% (IL) 11.8% (CA)	90%"

(D) Subheading 6116.99.50 is superseded by:

	[Gloves,...:] [Other:] [Of other textile...:] [Of artificial...:] "Other:			
6116.99.48	Without fourchettes.....	20%	[see section (b) of this Annex] (E) 0.4% (IL) 12% (CA)	90%
6116.99.54	With fourchettes.....	20%	0.4% (IL) 12% (CA)	90%"

ANNEX I (con.)
3 of 4

(a)(2) (con.):

(E) Subheading 6216.00.12 is superseded by:

	[Gloves,...:]				
	[Impregnated,...:]				
	[Other:]				
	[Without fourchettes:]				
	[Cut and sewn...:]				
	"Of vegetable fibers:				
6216.00.13	Containing over 50 percent by weight of plastics or rubber.....	25%	Free (E) 2.5% (IL) 15% (CA)	25%	
6216.00.17	Other.....	25%	[see section (b) of this Annex] (E) 2.5% (IL) 15% (CA)	25%"	

(F) Subheading 6216.00.39 is superseded by:

	[Gloves,...:]				
	[Other:]				
	[Of cotton:]				
	"Other:				
6216.00.38	Without fourchettes.....	25%	[see section (b) of this Annex] (E) 1.4% (IL) 15% (CA)	25%	
6216.00.41	With fourchettes.....	25%	1.4% (IL) 15% (CA)	25%"	

(G) Subheading 6216.00.52 is superseded by:

	[Gloves,...:]				
	[Other:]				
	[Of man-made fibers:]				
	"Other:				
6216.00.54	Without fourchettes.....	22¢/kg + 11%	[see section (b) of this Annex] (E) 2.2¢/kg + 1.1% (IL) 13.2¢/kg + 6.6% (CA)	99.2¢/kg + 65%	
6216.00.58	With fourchettes.....	22¢/kg + 11%	2.2¢/kg + 1.1% (IL) 13.2¢/kg + 6.6% (CA)	99.2¢/kg + 65%"	

(3) For HTS provisions 6116.10.70 and 6216.00.28, the Rates of Duty 1-Special subcolumn is modified by deleting the "Free (E*)" set forth in such subcolumn for these HTS provisions.

ANNEX I (con.)
4 of 4

(b) Effective with respect to articles which are the product of any designated beneficiary country under the CBERA that are entered, or withdrawn from warehouse for consumption, on or after the dates set forth in the following tabulation.

For each of the following provisions of the HTS (including those as modified by Annex I(a)(2) of this proclamation), the Rates of Duty 1-Special subcolumn in the HTS is modified (a) by inserting in such subcolumn on the 15th day after the date of publication of this proclamation in the Federal Register, the rate of duty specified for such HTS provision in the following tabulation for 1992, followed by the symbol "E" in parentheses, and (b) on January 1 of each of the following years in the following tabulation, the duty rate followed by the symbol "E" in parentheses is deleted and the following rates of duty inserted in lieu thereof.

HTS Provision	1992	1993	1994	1995	1996
4202.11.00	7.7%	7.4%	7%	6.7%	6.4%
4202.12.20	19.5%	19%	18.5%	18%	17.5%
4202.12.40	6.9%	6.6%	6.3%	6%	5.8%
4202.12.60	6.2%	6%	5.7%	5.5%	5.2%
4202.12.80	19.5%	19%	18.5%	18%	17.5%
4202.19.00	19.5%	19%	18.5%	18%	17.5%
4202.21.30	5.1%	4.9%	4.7%	4.5%	4.2%
4202.21.60	9.6%	9.2%	8.8%	8.4%	8%
4202.21.90	8.7%	8.3%	7.9%	7.6%	7.2%
4202.22.15	19.5%	19%	18.5%	18%	17.5%
4202.22.40	8.1%	7.7%	7.4%	7.1%	6.7%
4202.22.45	6.9%	6.6%	6.3%	6%	5.8%
4202.22.60	6.2%	6%	5.7%	5.5%	5.2%
4202.22.80	19.5%	19%	18.5%	18%	17.5%
4202.29.00	19.5%	19%	18.5%	18%	17.5%
4202.31.60	7.7%	7.4%	7%	6.7%	6.4%
4202.32.40	6.9%	6.6%	6.3%	6%	5.8%
4202.32.95	19.5%	19%	18.5%	18%	17.5%
4202.91.00	6.5%	6.3%	6%	5.7%	5.4%
4202.92.15	6.9%	6.6%	6.3%	6%	5.8%
4202.92.20	6.2%	6%	5.7%	5.5%	5.2%
4202.92.30	19.5%	19%	18.5%	18%	17.5%
4202.92.45	19.5%	19%	18.5%	18%	17.5%
4202.92.60	6.9%	6.6%	6.3%	6%	5.8%
4202.92.90	19.5%	19%	18.5%	18%	17.5%
4202.99.00	19.5%	19%	18.5%	18%	17.5%
4203.10.40	5.8%	5.5%	5.3%	5%	4.8%
4203.29.08	13.5%	13%	12.5%	12%	11.5%
4203.29.18	13.5%	13%	12.5%	12%	11.5%
4602.10.21	12%	11.5%	11%	10.5%	10%
4602.10.22	5.6%	5.3%	5.1%	4.9%	4.6%
4602.10.25	17.5%	17%	16.5%	16%	15.5%
4602.10.29	5.1%	4.9%	4.7%	4.5%	4.2%
6116.10.17	24.5%	24%	23.5%	23%	22.5%
6116.10.45	19.3%	18.8%	18.3%	17.8%	17.3%
6116.10.70	13.5%	13%	12.5%	12%	11.5%
6116.92.64	24.5%	24%	23.5%	23%	22.5%
6116.92.88	9.6%	9.2%	8.8%	8.4%	8%
6116.93.64	33.1¢/kg + 7.1%	33.1¢/kg + 6.8%	33.1¢/kg + 6.5%	33.1¢/kg + 6.2%	33.1¢/kg + 5.9%
6116.93.88	19.3%	18.8%	18.3%	17.8%	17.3%
6116.99.48	19.5%	19%	18.5%	18%	17.5%
6216.00.17	24.5%	24%	23.5%	23%	22.5%
6216.00.18	22¢/kg + 10.6%	22¢/kg + 10.1%	22¢/kg + 9.7%	22¢/kg + 9.2%	22¢/kg + 8.8%
6216.00.28	13.5%	13%	12.5%	12%	11.5%
6216.00.38	24.5%	24%	23.5%	23%	22.5%
6216.00.54	22¢/kg + 10.6%	22¢/kg + 10.1%	22¢/kg + 9.7%	22¢/kg + 9.2%	22¢/kg + 8.8%

Annex II

Effective with respect to goods originating in the territory of Canada which are entered, or withdrawn from warehouse for consumption, on or after the dates set forth in the following tabulation.

For each of the following subheadings created by Annex I(a)(2) of this proclamation, on or after January 1 of each of the following years, the rate of duty in the Rates of Duty 1-Special subcolumn in the HTS that is followed by the symbol "CA" in parentheses is deleted and the following rates of duty inserted in lieu thereof.

HTS Provision	1993	1994	1995	1996	1997	1998
6116.10.13	12.5%	10%	7.5%	5%	2.5%	Free
6116.10.17	12.5%	10%	7.5%	5%	2.5%	Free
6116.92.64	12.5%	10%	7.5%	5%	2.5%	Free
6116.92.74	12.5%	10%	7.5%	5%	2.5%	Free
6116.92.88	5%	4%	3%	2%	1%	Free
6116.92.94	5%	4%	3%	2%	1%	Free
6116.93.64	16.5¢/kg + 3.7%	13.2¢/kg + 2.9%	9.9¢/kg + 2.2%	6.6¢/kg + 1.4%	3.3¢/kg + 0.7%	Free
6116.93.74	16.5¢/kg + 3.7%	13.2¢/kg + 2.9%	9.9¢/kg + 2.2%	6.6¢/kg + 1.4%	3.3¢/kg + 0.7%	Free
6116.93.88	9.9%	7.9%	5.9%	3.9%	1.9%	Free
6116.93.94	9.9%	7.9%	5.9%	3.9%	1.9%	Free
6116.99.48	10%	8%	6%	4%	2%	Free
6116.99.54	10%	8%	6%	4%	2%	Free
6216.00.13	12.5%	10%	7.5%	5%	2.5%	Free
6216.00.17	12.5%	10%	7.5%	5%	2.5%	Free
6216.00.38	12.5%	10%	7.5%	5%	2.5%	Free
6216.00.41	12.5%	10%	7.5%	5%	2.5%	Free
6216.00.54	11¢/kg + 5.5%	8.8¢/kg + 4.4%	6.6¢/kg + 3.3%	4.4¢/kg + 2.2%	2.2¢/kg + 1.1%	Free
6216.00.58	11¢/kg + 5.5%	8.8¢/kg + 4.4%	6.6¢/kg + 3.3%	4.4¢/kg + 2.2%	2.2¢/kg + 1.1%	Free

Annex III

Effective with respect to goods which are the product of Israel and entered, or withdrawn from warehouse for consumption, on or after January 1, 1995.

For the following HTS provisions, on January 1, 1995, in the Rates of Duty 1-Special subcolumn, delete the symbol (IL) and the duty rate preceding it, and insert in lieu thereof a "Free" rate of duty followed by the symbol "IL" in parentheses.

6116.10.13	6116.93.64	6216.00.13
6116.10.17	6116.93.74	6216.00.17
6116.92.64	6116.93.88	6216.00.38
6116.92.74	6116.93.94	6216.00.41
6116.92.88	6116.99.48	6216.00.54
6116.92.94	6116.99.54	6216.00.58

[FR Doc. 92-10758
Filed 5-4-92; 4:29 pm]
Billing code 3195-01-C

Presidential Documents

Proclamation 6429 of May 1, 1992

Law Day, U.S.A., 1992

By the President of the United States of America

A Proclamation

More than 200 years after the adoption of our Constitution and Bill of Rights, we Americans continue to enjoy a rich heritage of liberty under law. During this year's observance of Law Day, we celebrate that heritage with special pride, as peoples in new democracies around the world look to our Nation's founding documents—and the laws and institutions duly derived from them—as the surest guarantees of life, liberty, and property rights the world has ever known.

The American Experience demonstrates clearly how the rule of law ensures respect for the rights of individuals while establishing a solid foundation for responsible self-government. Our Constitution provides for the separation of powers within the Federal Government, including our independent judiciary, and reserves to the States, or to the people, those rights and powers that are not expressly delegated to the United States. The authority of the Federal Government comes entirely from the freely given consent of the people and is exercised only in accordance with public laws and due process. Indeed, the rule of law has endured in the United States because of the active and voluntary participation of our citizens at all levels of government, particularly the local level, and because of the deep respect that Americans have had historically for our legal system.

In recent days, the rule of law has been challenged in the most profound way. A jury verdict has been viewed by a large number of Americans as indefensible. There is, however, a difference between frustration with the law and direct assaults upon it. Those frustrated and angered by this outcome must understand: in order to remain a civilized society, we must pursue peaceful, orderly means of resolving such concerns. The wanton destruction of human life and property is not a legitimate expression of outrage with injustice; it is itself injustice. No rationalization, no matter how heartfelt, can make it otherwise. The rule of law, the belief in freedom under the law, is a precious legacy—and our only means of preserving fairness and equality and justice.

On this occasion, we rededicate ourselves with strengthened resolve to ensuring that our legal system provides justice and safety for all citizens. Equal justice under law is the unalienable right of every American. With this right comes to each of us a corresponding responsibility to do our part to make the American system of justice work effectively and fairly, so that the ideals of our Nation's Founders will continue to be achieved and the United States will remain a shining example of freedom and justice throughout the world.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, in accordance with Public Law 87–20 of April 7, 1961, do hereby proclaim May 1, 1992, as Law Day, U.S.A. I urge all Americans to observe this day by reflecting on the timeless ideals enshrined in our Declaration of Independence and Constitution and on the importance of the rule of law in protecting the rights of each individual. I ask that members of the legal profession, civic associations, and the media, as well as educators, librarians, and public officials, promote the observance of this day through appropriate

programs and activities. I also call on all public officials to display the flag of the United States on all government buildings on this day.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of May, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and sixteenth.

George Bush

[FR Doc. 92-10759
Filed 5-4-92; 4:30 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 57, No. 88
Wednesday, May 6, 1992

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

RIN 3206-AE48

Federal Employees Health Benefits; Negotiations for Changes in Benefits and Rates; Nonrenewal of Contracts

AGENCY: U.S. Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final Federal Employees Health Benefits (FEHB) regulations on benefit and rate negotiations and the nonrenewal of contracts at the end of a contract term. These regulations address situations where negotiations break down and either party decides not to renew an existing health benefits contract by issuing a notice of termination at the end of a contract term. This clarification is necessary to address situations where negotiations break down and either party decides not to renew an existing health benefits contract by issuing a notice of termination at the end of a contract term.

EFFECTIVE DATE: June 5, 1992.

FOR FURTHER INFORMATION CONTACT: Abby L. Block, (202) 606-0191 or FTS 266-0191.

SUPPLEMENTARY INFORMATION: On May 6, 1991, OPM issued proposed regulations in the **Federal Register** (56 FR 20553) that amended § 890.203(b) of title 5 of the Code of Federal Regulations to address the situation where OPM and a health benefits plan carrier cannot reach agreement during benefit and rate negotiations, and either party notifies the other party that it does not intend to renew the contract at the end of the existing contract period. A new section, § 890.205, clarified the procedures. OPM also changed the date by which it seeks to complete negotiations from "no later than 3 months prior to the start of the new contract period" to "no later than 4 months prior to the start of the new contract period."

OPM received comments from three FEHBP fee-for-service plan carriers, one union sponsoring an FEHBP employee organization plan, one association representing several fee-for-service plans, and one fee-for-service plan underwriter. OPM invited the commenters to meet with representatives of the Office of Retirement and Insurance Policy to discuss their concerns; four commenters accepted the invitation and met with OPM representatives. The comments are addressed below.

Five comments discussed the change in the regulatory date by which OPM seeks to complete negotiations. One commenter agreed that a reasonable cut-off is necessary, and four commenters opposed the change. Most of those opposing the change believed that the negotiating period was being shortened. This is not the case. For the past several years, OPM, in its annual "call letter" requesting proposals for benefit and rate changes, has stated that it would operate under a schedule that will ensure completion of all negotiations (benefits and rates) by August 15. It has been only in very rare circumstances that negotiations with all plans were not completed by that date. This change merely serves to bring the regulatory date more in line with actual practice. In any event, the date in § 890.203(b) is a "target" date by which OPM *shall seek* to complete negotiations, not the date by which OPM *must* complete negotiations (emphasis added). There is nothing in the regulation to preclude the continuation of negotiations beyond the target date if OPM believes that sufficient progress is being made that negotiations can be successfully concluded in time to meet the deadlines that ensure a timely open season.

One commenter felt that these regulations change the negotiating rules and that OPM would not have to negotiate at all, but could simply wait until the deadline and issue a notice of nonrenewal. These regulations do not change current negotiating procedures but merely state what happens when negotiations reach an impasse. In fact, existing regulations do not spell out negotiating rules. On the contrary, they state that OPM will review proposals and will notify the carrier of its decision to accept or reject the change. The regulations state that OPM may make a counterproposal, but OPM is not required to do so. However, since the inception of the FEHB Program, OPM (and its predecessor in this function, the Civil Service Commission) has believed bilateral negotiations to be in the best interests of the FEHBP and will continue to conduct negotiations in that manner.

One commenter who opposed the regulations stated that they would allow OPM to terminate a contract after open season materials were distributed. This is not correct. Open season materials could not be completed if negotiations were not concluded with all carriers. In addition, the time frames in these regulations were chosen to guarantee that a decision not to renew and any subsequent review of that decision, if requested by a carrier, could be completed in time for open season materials to be printed without any delay in starting open season.

Four commenters expressed concern that neither the types of disputes nor the applicable standards that would precipitate nonrenewal were set forth. Nonrenewal of a contract is not to be confused with the withdrawal of approval from a carrier. OPM initiates withdrawal of approval procedures when a carrier is in violation of its contract or when a health benefits plan or carrier fails to meet specific standards set forth at §§ 890.201 and 890.202. Nonrenewal of a contract, however, is not contingent upon contract violations or failure to meet specified standards. It is simply an indication that, after at least 3 months of negotiations, an acceptable benefits package or an acceptable price has not been offered, and the parties are unable to reach agreement.

One commenter stated that additional criteria should be provided relating to situations in which either OPM or an FEHB carrier decides not to renew a contract, for reasons other than failure to reach agreement on benefits and rates. It is not envisioned that OPM would issue a notice of intent not to renew a contract in any circumstances other than the failure to reach agreement on benefits and/or rates in a timely manner. There are no criteria

applicable to a carrier's decision not to renew its contract at the end of a contract term. In instances in which a carrier has decided not to renew its contract, OPM has had no choice but to accept the carrier's decision.

Four commenters felt that the nonrenewal procedures did not afford carriers due process or provide sufficient opportunity to be heard. Three commenters thought there was insufficient notice provided. Another commenter stated that disagreements among actuarial professionals should be submitted to a qualified third party, rather than become the cause for nonrenewal of a contract. OPM does not believe that these regulations deny carriers due process. The issuance of a notice of intent not to renew a contract is an action which we would not undertake lightly. OPM would issue such a notice only if, after at least 3 months of negotiations, OPM and a carrier have not been able to reach agreement and do not seem likely to reach agreement. In issuing a notice of nonrenewal, OPM will indicate the reason for the proposed nonrenewal; the carrier has the right to request a review and to appear in person. As part of the review process, the hearing officer may take the opportunity to consult with any entity to clarify issues arising from the failure to reach agreement. In setting the time frames for such a review, OPM did not anticipate that carriers would be preparing and presenting new documentation which was not made available to OPM during negotiations. The time frames given ensure that a final decision can be reached in time to allow open season to proceed as scheduled. It is OPM's goal to avoid the hardship and inconvenience to Federal employees and annuitants which would be caused by the delay of open season.

Three commenters stated that the review procedures do not provide for an impartial decision-maker. We have clarified the regulations to show that the person conducting the review will not have been a party to the initial decision not to renew the contract.

Finally, two commenters pointed out that these regulations will have more serious consequences for employee organization plans than for prepaid plans, since additional employee organization plans are prohibited by law from entering the Program and, therefore, an employee organization plan whose contract is not renewed cannot reapply for Program participation in a subsequent year. OPM is aware of this restriction and is also aware that the termination of a contract for any reason is confusing and disruptive to enrollees of the plan. To avoid such difficulties for both carriers and enrollees, OPM would exercise its option not to renew a contract only after thorough deliberation.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect the administrative procedures used by OPM and FEHB plans.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Government employees, Life insurance, Health insurance.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is amending its regulations under 5 CFR part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for part 890 is revised to read as follows:

Authority: 5 U.S.C. 8913; § 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c–1; subpart L also issued under sec. 599C of Pub.L. 101–513, 104 Stat. 2064.

2. Section 890.203 is amended by revising the current last sentence of paragraph (b) and adding a new last sentence to read as follows:

§ 890.203 Application for approval of, and proposal of amendments to, health benefits plans.

* * * * *

(b) * * * The negotiation period shall begin approximately 7 months before the expiration of the current contract period, and OPM shall seek to complete all benefit and rate negotiations no later than 4 months preceding the contract period to which they will apply. If OPM and the carrier do not reach agreement by this date, either party may give written notice of nonrenewal in accordance with § 890.205 of this part.

3. Section 890.205 is added to read as follows:

§ 890.205 Nonrenewal of contracts of health benefits plans.

(a) Either OPM or the carrier may terminate a contract by giving a written notice of nonrenewal which includes an indication of the reason for the intended action.

(b) Where termination by notice of intent not to renew is made by OPM, the carrier contesting that notice may request that OPM review the proposed decision. Such review shall be conducted by the Director or a representative designated by the Director, who shall not otherwise have been a party to the initial decision to issue a notice of intent not to renew. A request for such review, which may include a request that a representative of the carrier appear personally before OPM, shall be in writing. That request must be received within 10 calendar days of the carrier's receipt of the notice of intent not to renew. Such request shall include a detailed statement as to why the carrier disagrees with OPM's notice of nonrenewal and shall be accompanied by appropriate supporting documentation. Where a carrier has requested review under this section, the final decision by OPM not to renew a health benefits contract shall be communicated to the carrier in writing not more than 30 days after OPM's receipt of the carrier's request for review, unless a later date is mutually agreed upon.

(c) In the absence of a timely request for review as set forth in paragraph (b) of this section, OPM's notice of intent not to renew will become final without further notification.

[FR Doc. 92–10488 Filed 5–5–92; 8:45 am]

BILLING CODE 6325–01–M]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–NM–73–AD; Amdt. 39–8248; AD 92–03–11 R1]

Airworthiness Directives; SAAB–SCANIA–Models SF–340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain SAAB–SCANIA Models SF–340A and SAAB 340B series airplanes, that currently requires replacement of the lavatory circuit breaker and accomplishment of an operational test. The actions specified in this AD are intended to prevent a possible wire overload and resultant

smoke and/or fire in the cabin. This amendment removes four airplanes from the applicability of the AD. This amendment is prompted by a report that the lavatory system wiring configuration on these four airplanes is different from that of the airplanes requiring replacement of the lavatory circuit breaker, and is not subject to the addressed unsafe condition.

DATES: Effective May 6, 1992.

The incorporation by reference of certain publications listed in the regulations was previously approved by the Director of the Federal Register as of March 16, 1992 (57 FR 4847, February 10, 1992).

Comments for inclusion in the Rules Docket must be received on or before July 6, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-73-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from SAAB-SCANIA AB, Product Support, S-581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2145; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: On January 13, 1992, the FAA issued AD 92-03-11, Amendment 39-8166 (57 FR 4847, February 10, 1992), to require replacement of the lavatory circuit breaker on certain SAAB-SCANIA Model SF340A and SAAB 340B series airplanes, and accomplishment of an operational test. That action was prompted by a report that the wire to the lavatory can overheat when there is a failure in the lavatory electrical system. The actions required by that AD are intended to prevent a possible wire overload and resultant smoke and/or fire in the cabin.

Since the issuance of that AD, the Luftfartsverket (LFV), which is the airworthiness authority for Sweden, has advised the FAA that four Model SF-340A series airplanes listed in the applicability of AD 92-03-11 are equipped with a lavatory system wiring configuration that is different from that of the airplanes needing replacement of the lavatory circuit breaker. The lavatory system wiring configuration of the four airplanes is not subject to the electrical system failure problems and, therefore, those airplanes are not subject to the unsafe condition addressed in the existing AD.

Consequently, SAAB-SCANIA has issued Revision 1 to Service Bulletin 340-25-181, dated February 13, 1992, to eliminate these four airplanes from the service bulletin effectivity. The LFV classified this service bulletin as mandatory.

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

Since four Model SF-340A series airplanes have been identified that are not subject to the unsafe condition addressed by AD 92-03-11, this AD revises the existing AD to remove those airplanes from the applicability of the AD.

In accordance with part 39 of the Federal Aviation Regulations and Executive Order 12291, the purpose of AD's is to mandate actions to correct unsafe conditions while imposing the least necessary burden on the public. The unsafe condition addressed by this AD action has been found not to exist with regard to certain airplanes; therefore, to require compliance by those airplanes would be contrary to the purpose of AD rulemaking. Consequently, it is found that notice and opportunity for prior public comment hereon are impracticable and that good cause exists for making this amendment effective upon publication in the **Federal Register.**

With the removal of the four airplanes from the applicability of this rule, the FAA now estimates that 117 airplanes of U.S. registry will be affected by this AD. It will take approximately 1 work hour per airplane to accomplish the required actions, and the average labor rate is $55 per work hour. The estimated cost for required parts is $50 per airplane. Based on these figures, the new total cost impact of the AD on U.S. operators is estimated to be $12,285 (this amount reflects a reduction of $420 for U.S. operators).

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-73-AD." The postcard will be date stamped and returned to the commenter.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44

FR 11034, February 26, 1979); and (3) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8166 (57 FR 4847, February 10, 1992), and by adding a new airworthiness directive (AD), amdendment 39–8248, to read as follows:

AD 92–03–11 R1 Saab–Scania: Amendment 39–8248. Docket 92–NM–73–AD. Revises AD 92–03–11, Amendment 39–8166.

Applicability: Model SF–340A series airplanes, serial numbers 004 through 021, 023 through 028, 030 through 035, 037 through 049, and 051 through 159; and Model SAAB 340B, serial numbers 160 through 169, and 171 through 219; equipped with a forward or aft lavatory; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent a possible wire overload and resultant smoke and/or fire in the cabin, accomplish the following:

(a) Within 3 months after the effective date of this AD, replace the lavatory circuit breaker, 1MG (10A size), with circuit breaker, 1MG (7.5A size), and perform an operational test, in accordance with SAAB–SCANIA Service Bulletin 340–25–181, dated March 7, 1991.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

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

(d) The replacement shall be done in accordance with SAAB–SCANIA Service Bulletin 25–181, dated March 7, 1991. This incorporation by reference was previously approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51 as of March 16, 1992 (57 FR 4847, February 10, 1992). Copies may be obtained from SAAB–SCANIA AB, Product Support, S–581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(e) This amendment becomes effective on May 6, 1992.

Issued in Renton, Washington, on April 23, 1992.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–10403 Filed 5–5–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 91–AEA–16]

Revocation of Transition Area: Gloucester, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document revokes the 700 foot Transition Area established at Gloucester, VA, due to the cancellation of all Standard Instrument Approach Procedures (SIAP) to the Francis J. Mellar Field (formerly Gloucester Airport), Gloucester, VA.

EFFECTIVE DATE: 0901 u.t.c. June 25, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA–530, F.A.A. Eastern Region, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–0857.

SUPPLEMENTARY INFORMATION:

History

On September 23, 1991, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revoke the 700 foot Transit Area established at Gloucester, VA, due to the cancellation of all SIAPs of the Francis J. Mellar Field, Gloucester, VA (56 FR 54813).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. The Gloucester Transition Area designation will be removed from § 71.181 of FAA Handbook 7400.7, effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1.

The Rule

This amendment to part 71 of the Federal Aviation Regulations revokes the 700 foot Transition Area established at Gloucester, VA, due to the cancellation of all SIAPs at the Francis J. Mellar Field, Gloucester, VA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas, Incorporation by reference.

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published April 30, 1991, and effective November 1, 1991, is amended as follows:

Section 71.181 Transition Areas

* * * * *

AEA VA TA Gloucester, VA [Removed]

* * * * *

Issued in Jamaica, New York, on April 10, 1992.

Gary W. Tucker,

Manager, Air Traffic Division.

[FR Doc. 92-10520 Filed 5-5-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF JUSTICE

28 CFR Part 0

Delegation of Authority To Deny Requests Under the Freedom of Information Act and the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This memorandum delegates the authority previously granted to the Assistant Attorney General, Civil Rights Division to deny requests made under the Freedom of Information Act and the Privacy Act. This delegation will increase efficiency in processing Freedom of Information and Privacy Acts requests.

EFFECTIVE DATE: May 6, 1992.

FOR FURTHER INFORMATION CONTACT: Nelson D. Hermilla, Chief, Freedom of Information/Privacy Acts Branch, Civil Rights Division, United States Department of Justice, Washington, DC 20530, telephone (202-514-4209).

SUPPLEMENTARY INFORMATION: This memorandum pertains to a matter of internal Department management. 5 U.S.C. 553(b)(A). It is not a major rule within the meaning of E.O. 12291. It does not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b).

List of Subjects in 28 CFR Part 0

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

Accordingly, chapter I of title 28 of the Code of Federal Regulations is amended as set forth below:

PART 0—[AMENDED]

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

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

2. The appendix to subpart J of part 0 of title 28, Code of Federal Regulations is amended by removing the text of Memorandum 78-1 and adding a note in its place, and by adding in numerical order Memorandum 92-3, to read as follows:

Appendix to Subpart J—Civil Rights Division

* * * * *

[Memo 78-1]

Note: Civil Rights Division Memo 78-1 was superseded by Civil Rights Division Memo 92-3 appearing at [insert page cite and date of publication in the **Federal Register**].

* * * * *

[Memo 92-3]

Delegation of Authority to Deny Freedom of Information Act and Privacy Act Requests

1. The Chief of the Freedom of Information/Privacy Acts Branch will assume the duties and responsibilities previously assigned to the Assistant Attorney General by 28 CFR 16.4 (b) and (c) and 28 CFR 16.42(b), as amended July 1, 1991, and defined in those sections, for denying requests and obtaining extensions of time under the Freedom of Information Act, 5 U.S.C. 552 *et seq.*, and the Privacy Act, 5 U.S.C. 552a *et seq.*

2. The Chief of the Freedom of Information/Privacy Acts Branch who signs a denial or partial denial of a request for records made under the Freedom of Information Act or the Privacy Act shall be the "person responsible for the denial" within the meaning of 5 U.S.C. 552(a)(6)(C) and shall be responsible for denials made in accordance with 5 U.S.C. 552a (j) and (k).

3. This authority is limited to those records which are in the systems of records under the custody and control of the Civil Rights Division of the United States Department of Justice. The authority delegated herein may be redelegated by the Assistant Attorney General by internal memorandum.

Dated: April 29, 1992.

John R. Dunne,

Assistant Attorney General, Civil Rights Division.

[FR Doc. 92-10475 Filed 5-5-92; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE TREASURY

31 CFR Part 12

Equal Opportunity in Employment: Contract Compliance

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury is removing the regulations at 31 CFR part 12 and reserving the part for future use. Part 12 sets out the hearing rules for proceedings involving Treasury contractors alleged to have failed to comply with the requirements of Executive Order 11246, as amended. Executive Order 12608 transferred Treasury's enforcement functions to the Department of Labor in 1987; thus, part 12 has been superseded by Labor Department regulations and may no longer be used by Treasury as part of its enforcement of equal opportunity requirements in contracts.

EFFECTIVE DATE: May 6, 1992.

FOR FURTHER INFORMATION CONTACT: Ronald A. Glaser, Director, Office of Equal Opportunity Program, Department of the Treasury, room 5110 Annex, Washington, DC 20220, telephone (202) 343-9075.

SUPPLEMENTARY INFORMATION: The authority for 31 CFR part 12 is Executive Order 11246, as amended. The source of 31 CFR part 12 is 41 FR 6760, Feb. 13, 1976, unless otherwise noted.

There have been significant changes in the Executive Orders and regulations governing the enforcement of equal employment requirements for government contractors since 1976.

Executive Order 12086 (Oct. 5, 1978), as amended by Executive Order 12608 (Sept. 9, 1987), provides that "functions concerned with being primarily responsible for the enforcement of the equal employment opportunity provisions of [Executive Order 11246] are transferred or reassigned to the Secretary of Labor from * * * the Department of the Treasury." Since the enforcement functions implemented by 31 CFR part 12 have been transferred to the Secretary of Labor by Executive Order 12608, 31 CFR part 12 has been rendered obsolete.

Because this final rule relates to agency management and merely removes obsolete regulations, good cause exists to dispense with the notice of public procedure requirements of 5 U.S.C. 553(b) and the delayed effective date requirement of 5 U.S.C. 553(d). Similarly, this rule is not subject to Executive Order 12291. Because no notice of proposed rulemaking is required by 5 U.S.C. 553 or any other law, the provisions of The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

List of Subjects in 31 CFR Part 12

Administrative practice and procedure, Equal employment opportunity, Government contracts.

Part 12—[REMOVED]

For the reasons set forth in the Preamble, 31 CFR part 12 is removed.

Authority: E.O. 12086 (Oct. 5, 1978); E.O 12608 (Sept. 9, 1987).

David M. Nummy,

Assistant Secretary of the Treasury (Management).

[FR Doc. 92-10364 Filed 5-5-92; 8:45 am]

BILLING CODE 4810-25-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA 6-1-5330; A-1-FRL-4088-3]

Approval and Promulgation of Air Quality Implementation Plan; Revision to the Virginia Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision amends the motor vehicle Inspection and Maintenance (I/M) Program. On March 9, 1987, IPA officially notified the Governor of the Commonwealth of Virginia that the Northern Virginia I/M program was not operating at a level that provided for achievement of the minimum emission reduction requirements (MERR) for hydrocarbons and carbon monoxide as required in the Virginia SIP. EPA requested that the operating problems be corrected by developing and implementing a corrective action plan. In response, the Commonwealth significantly revised and improved the program by adopting new regulations for governing the I/M program operation and new emission analyzer specifications. These changes became effective on January 1, 1989. The intended effect of this action is to approve the regulations that the Commonwealth has adopted in an effort to eliminate the I/M operating problems and to fulfill the I/M emission reduction commitments made in its approved Northern Virginia ozone attainment plan. This action is being taken in accordance with section 110 of the Clean Air Act.

EFFECTIVE DATE: This action will become effective July 6, 1992 unless EPA receives notice June 5, 1992 that adverse or critical comments will be submitted. If the effctive date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at Air, Radiation and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, SW., Washington DC 20460; and Virginia Department of Air Pollution Control, P.O. Box 10089, Richmond, Virginia, 23240.

FOR FURTHER INFORMATION CONTACT: Mrs. Kelly Bunker, (215) 597-4554; FTS 597-4554.

SUPPLEMENTARY INFORMATION: On September 28, 1989, the Commonwealth of Virginia submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of Regulation VR 120-99-01, Regulation for the Control of Motor Vehicle Emissions; Regulation VR 120-99-02, Regulation for Vehicle Emission Control Program Analyzer Systems; and the Motor Vehicle Emissions Control Law. Also submitted as part of the revision was information concerning the Northern Virginia 1982 SIP emission reduction shortfall. On January 18, 1990, the Commonwealth formally requested that the portion of the submittal addressing the SIP shortfall be removed from the SIP revision.

In section 172(b)(11)(B) of the Clean Air Act, nonattainment plans for major urban areas which required an extension beyond 1982 for attainment of the National Ambient Air Quality Standards (NAAQS) for ozone or carbon monoxide were required to include a motor vehicle I/M program as an element of the 1979 SIP revisions.

The Commonwealth of Virginia requested an extension of the deadline beyond 1982 and consequently included I/M as an element in its 1979 SIP revision. This program was implemented on December 11, 1981.

The Virginia program was audited by EPA in June of 1984. The audit revealed serious operating problems related to improper testing and excessive issuance of cost waivers. EPA determined that, based on the low failure rate of 2% and the high waiver rate of 32%, the program failed to meet the minimum level of performance originally required in the approved SIP. On March 9, 1987, EPA sent a letter to the Governor of Virginia requesting that a corrective action plan be developed and implemented to eliminate the operating problems.

The House of Representatives Committee report on the 1977 Clean Air Act Amendments required I/M programs to meet minimum emission reduction requirements (MERR). The report identified MERR as the level of effectiveness of the New Jersey I/M program at the time. The NJ I/M program design included the following: A start year of 1983, a pre-1981 model year failure rate of 20%, a 20 model year coverage, a zero percent waiver rate for both pre and post 1981 model year vehicles, a compliance rate of 100%, an annual, centralized program design, coverage of all light duty vehicles up to 6,000 pounds, and an idle test.

As specified in the January 22, 1981 (46 FR 7182) notice titled, "State Implementation Plans, Approval of 1982 Ozone and Carbon Monoxide Plan Revisions for Areas Needing an Attainment Date Extension", EPA requires that the following elements be included as part of an I/M program in order to achieve the minimum emission reduction requirements:

(1) Inspection test procedures,

(2) Emissions standards,

(3) Inspection station licensing requirements,

(4) Emission analyzer specification and maintenance/calibration requirements,

(5) Recordkeeping and record submittal requirements,

(6) Quality control, audit, and surveillance procedures,

(7) Procedures to assure that noncomplying vehicles are not operated on public roads,

(8) Any other official program rules, regulations, and procedures,

(9) A public awareness plan, and

(10) A mechanics training program if additional emission reduction credits are being claimed for mechanics training.

In addition, as discussed in an EPA I/M policy memorandum dated July 17, 1978, all decentralized programs, of which Virginia is one, must also comply with the following requirements:

1. All official inspection facilities must be licensed. Provisions for the licensing of inspection facilities must insure that the facility has obtained, prior to licensing, analytical instrumentation which has been approved for use by the appropriate state, local, or regional government agency. A representative of the facility must have received instructions in the proper use of the instruments and in vehicle testing methods, and must have demonstrated proficiency in these methods. The facility must agree to maintain records and to submit to inspection of the facility. The appropriate government agency must have provisions for penalties for facilities which fail to follow prescribed procedures and for misconduct.

2. Records required to be maintained should include the description (make, year, license number, etc.) of each vehicle inspected, and its emission test results. Records must also be

maintained on the calibration of testing equipment.

3. Summaries of these inspection records should be submitted on a periodic basis to the governing agency for auditing.

4. The governing agency should inspect each facility periodically to check the facilities' records, check the calibration of the testing equipment and observe that proper test procedures are followed.

5. The governing agency should have an effective program of unannounced/unscheduled inspections both as a routing measure and as a complaint investigation measure. It is also recommended that such inspections be used to check the correlation of instrument readings among inspection facilities.

6. The governing agency should operate a "referee" station where vehicle owners may obtain a valid test to compare to a test from a licensed station. At least one "referee" station must be present in each I/M metropolitan area.

A summary of the major changes made to the Virginia I/M program to fulfill the above listed requirements can be found in the technical support documents (TSD) related to this action. A copy of that TSD may be obtained, upon request, from the EPA Regional Office listed in the ADDRESSES section of this notice. In addition, the TSD contains the results of EPA's MOBILE4 analyses which demonstrate that the program meets MERR. As for making up the shortfall from the program that began in 1983, the carbon monoxide (CO) credits obtained from the 1989 program from 1989 to 1992 must be applied to make up the CO shortfall and the hydrocarbon (HC) credits obtained from 1989 to 1991 must be applied to make up the HC shortfall. Consequently, these credits cannot be applied toward any future attainment demonstrations or toward meeting future I/M emission reduction requirements.

This revision to the Virginia SIP was adopted by the State Air Pollution Control Board on October 28, 1988 and April 28, 1989. As required by 40 CFR 51.102, the Commonwealth of Virginia has certified that, after adequate public Notice, on October 18, 1988, a public hearing was held in respect to this SIP revision.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective July 6, 1992 unless, June 5, 1992, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by simultaneously publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective on July 6, 1992.

Final Action

EPA is approving this revision to the Virginia SIP, which amends the Northern Virginia Motor Vehicle I/M program by adopting new regulations for governing the I/M program operation (Regulation VR 120–99–01) and new emission analyzer specifications (Regulation VR 120–99–02). This approval is based on a determination that the revision meets MERR and the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

The Agency has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

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.

Under 5 U.S.C. 605(b), I certify that this SIP revision approving revisions to Virginia's I/M program will not have a significant economic impact on a substantital number of small entities. (See 46 FR 8709.)

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291.

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 July 6, 1992. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: December 17, 1991.

Stanley L. Laskowski,

Regional Administrator, Region III.

PART 52—[AMENDED]

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

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

Authority: 42 U.S.C. 7401–7642.

Subpart VV—Virginia

2. Section 52.2420 is amended by adding paragraph (c) (97) as to read ad follows:

§ 52.2420 Identification of plan.

* * * * * * *

(c) * * *

(97) Revision to the State Implementation Plan submitted by the Virginia Department of Air Pollution Control on September 28, 1989.

(i) Incorporation by reference,

(A) Letter from the Virginia Department of Air Pollution Control dated September 28, 1989 submitting a revision to the Virginia State Implementation Plan.

(B) "Regulation for the Control of Motor Vehicle Emission" (VR 120–99–01) as published in *The Virginia Register of Regulations* (Monday, July 31, 1989–Volume 5, Issue 22, pp. 3226–3241), with an effective date of October 1, 1989.

(C) "Regulation for Vehicle Emission Control Program Analyzer System" (VR 120–99–02), as published in *The Virginia Register of Regulations* (Monday, November 21, 1988—Volume 5, Issue 4, pp. 557–583), with an effective date of January 1, 1989.

[FR Doc. 92–10428 Filed 5–5–92; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20472, (202) 646–2754.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Administrator has resolved any appeals resulting from this notification.

The modified base (100–year) flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base (100–year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified base flood elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

This rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 is revised to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arkansas:					
Benton (FEMA Docket No. 7038).	City of Centerton	October 28, 1991, November 4, 1991, The Daily Record.	The Honorable Sherman Kinyon, Mayor of the City of Centerton, Benton County, P.O. Box 208, Centerton, Arkansas 72719.	October 18, 1991.	050399
Colorado:					
Adams & Arapahoe	City of Aurora (Docket No. 7041).	January 8, 1992, January 15, 1992, Aurora Sentinel.	The Honorable Paul E. Tauer, Mayor, City of Aurora, 1470 South Havana Street, Aurora, Colorado 80012.	December 4, 1991, January 3, 1992.	080002
Garfield	City of Glenwood Springs (Docket No. 7041).	December 6, 1991, December 13, 1991, Glenwood Post.	The Honorable Ted O'Leary, Mayor, City of Glenwood Springs, 806 Cooper Avenue, Glenwood Springs, CO 81601.	November 15, 1991.	080205
Connecticut:					
Hartford (FEMA Docket No. 7038).	City of Bristol	Bristol Press, October 29, 1991, November 5, 1991.	The Honorable William T. Stortz, Mayor of the City of Bristol, Hartford County, 111 North Main, Bristol, Connecticut 06010.	October 15, 1991.	090023
Illinois:					
Madison (Docket No. FEMA 7038).	City of Granite	November 14, 1991, November 21, 1991, Granite City Press Record.	The Honorable Von Dee Cruse, Mayor, City of Granite City, 2060 Edison Avenue, Granite City, Illinois 62040.	October 31, 1991.	170443

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
DuPage (Docket No. FEMA 7036).	City of Oakbrook Terrace	October 11, 1991, October 18, 1991, Oakbrook Terrace Press.	The Honorable Richard Sarallo, Mayor, City of Oakbrook Terrace, 17 West 275 Butterfield Road, Oakbrook Terrace, Illinois 60181.	September 26, 1991.	170215
Indiana:					
Hamilton (Docket No. FEMA 7038).	City of Carmel	November 22, 1991, November 29, 1991, Carmel Daily Ledger.	The Honorable Dottie Hancock, Mayor, City of Carmel, 1 Civic Square, Carmel, Indiana 46032.	January 27, 1992.	180081
Maine:					
Hancock (FEMA Docket No. 7036).	Town of Lamoine	September 12, 1991, September 19, 1991, Ellsworth American.	Mr. Richard Davis, Selectman of the Town of Lamoine, R.F.D. 2, Box 129 AB, Ellsworth, Maine 04605.	August 29, 1991.	230285 A
Mississippi:					
Madison (Docket No. FEMA 7038).	City of Ridgeland	November 28, 1991, December 5, 1991, Madison County Journal.	The Honorable Gene F. McGee, Mayor, City of Ridgeland, 500 Highway 51 South, P.O. Box 217, Ridgeland, Mississippi 39158.	December 5, 1991.	280110
New York:					
Erie (FEMA Docket No. 7036).	Village of East Aurora	September 12, 1991, September 19, 1991, East Aurora Bee.	The Honorable John V. Pagliaccio, Mayor of the Village of East Aurora, Erie County, 571 Main Street, East Aurora, New York 14052.	September 3, 1991.	365335 B
Ohio:					
Medina (Docket No. FEMA 7038).	City of Brunswick	October 31, 1991, November 7, 1991, The Medina County Gazette.	The Honorable Judith Beadell-Rapp, Mayor, City of Brunswick, City Hall, 4095 Center Road, Brunswick, Ohio 44212.	October 8, 1991.	390380
Oklahoma:					
Cleveland (FEMA Docket No. 7036).	City of Norman	September 10, 1991, September 17, 1991, The Norman Transcript.	The Honorable Vick Reynolds, Mayor of the City of Norman, P.O. Box 370, Norman, Oklahoma 73070.	August 28, 1991.	400046 C
Tennessee:					
Shelby (Docket No. FEMA 7038).	City of Millington	November 13, 1991, November 20, 1991, Millington Staff.	The Honorable George R. Harvell, Jr., Mayor, City of Millington, P.O. Box 247, Millington, Tennessee 38083.	October 31, 1991.	470178
Virginia:					
Fairfax (FEMA Docket No. 7041).	Town of Herndon	November 22, 1991, November 29, 1991, The Herndon Observer.	The Honorable Thomas Davis Rust, Mayor of the Town of Herndon, P.O. Box 427, Herndon, Virginia 22070.	November 7, 1991.	510052

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: April 29, 1992.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 92-10540 Filed 5-5-92; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA-7043]

Changes in Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) flood elevations for new buildings and their contents and for second layer coverage on existing buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Administrator reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20472, (202) 646-2754.

SUPPLEMENTARY INFORMATION: The modified base (100-year) flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in

their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entitities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This interim rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

This interim rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This interim rule does not involve any collection of information for purposes of the Paperwork Reduction Act.

Executive Order 12612, Federalism

This interim rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This interim rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama	Tuscaloosa	City of Northport	Apr. 3, 1992, Apr. 10, 1992, *Tuscaloosa News.*	The Honorable Wayne Rose, Mayor, City of Northport, P.O. Drawer 569, Northport, AL 35476.	Mar. 18, 1992	010202
	Tuscaloosa	City of Northport	Mar. 26, 1992, Apr. 2, 1992, *Tuscaloosa News.*	The Honorable Wayne Rose, Mayor, City of Northport, P.O. Drawer 569, Northport, AL 35476.	Mar. 18, 1992	010202
Arizona	Pima	Unincorporated areas	Mar. 6, 1992, Mar. 13, 1992, *Arizona Daily Star.*	The Honorable Reg Morrison, Chairman, Pima County, Board of Supervisors, 130 West Congress Street, 11th floor, Tucson, AZ 85701.	Feb. 10, 1992	040073
California	Napa	City of Calistoga	Mar. 19, 1992, Mar. 26, 1992, *Weekly Calistogan.*	The Honorable Jim Hughes, Mayor, City of Calistoga, 1232 Washington Street, Calistoga, CA 94515.	Feb. 26, 1992	060206
California	Riverside	City of Corona	May 20, 1992, May 27, 1992, *Corona Daily Independent.*	The Honorable William Franklin, Mayor, City of Corona, P.O. Box 2805, Corona, CA 91718.	Apr. 21, 1992	060250
Colorado	Larimer	City of Fort Collins	May 1, 1992, May 8, 1992, *The Coloradoan.*	The Honorable Susan Kirkpatrick, Mayor, City of Fort Collins, P.O. Box 580, Fort Collins, CO 80522.	Apr. 20, 1992	080102
California	Santa Clara	City of Milpitas	Mar. 18, 1992, Mar. 25, 1992, *Milpitas Post.*	The Honorable Peter McHugh, Mayor, City of Milpitas, 455 East Calaveras Boulevard, Milpitas, CA 95035.	Mar. 9, 1992	060344
California	Monterey	Unincorporated areas	Mar. 5, 1992, Mar. 12, 1992, *Salinas Californian.*	The Honorable Sam Karas, Chairman, Monterey County, Board of Supervisors, 1200 Aguagito Road, Monterey, CA 93940.	Feb. 21, 1992	060195
California	Riverside	City of Palm Springs	Feb. 27, 1992, Mar. 5, 1992, *The Desert Sun.*	The Honorable Sonny Bono, Mayor, City of Palm Springs, City Hall, P.O. Box 2743, Palm Springs, CA 92263.	Feb. 14, 1992	060257
California	Placer	City of Rocklin	Apr. 10, 1992, Apr. 17, 1992, *Press-Tribune.*	The Honorable Peter Hill, Mayor, City of Rocklin, City Hall, 3970 Rocklin Road, Rocklin, CA 95677.	Mar. 26, 1992	060242

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
California	Monterey	City of Salinas	Mar. 5, 1992, Mar. 12, 1992, *Salinas Californian.*	The Honorable Alan Styles, Mayor, City of Salinas, 200 Lincoln Avenue, Salinas, CA 93901.	Feb. 21, 1992	060202
California	Sacramento	Unincorporated areas	Apr. 23, 1992, Apr. 30, 1992, *Sacramento Bee.*	Mr. Douglas M. Fraleigh, Director, Sacramento County, Department of Public Works, 827 Seventh Street, room 304, Sacramento, CA 95814.	Apr. 9, 1992	060262
California	Sacramento	Unincorporated areas	Mar. 31, 1992, Apr. 7, 1992, *Sacramento Bee.*	Mr. Douglas M. Fraleigh, Director, Sacramento County, Department of Public Works, 827 Seventh Street, room 301, Sacramento, CA 95814.	Mar. 19, 1992	060262
California	San Joaquin	Unincorporated areas	Apr. 23, 1992, Apr. 30, 1992, *The Stockton Record.*	The Honorable Edward Simas, Chairman, San Joaquin County, Board of Supervisors, 222 East Weber Avenue, room 701, Stockton, CA 95202.	Apr. 13, 1992	060299
Colorado	Arapahoe	City of Greenwood Village.	May 7, 1992, May 14, 1992, *The Villager.*	The Honorable Rollin Barnard, Mayor, City of Greenwood Village, 6060 South Quebec Street, Greenwood Village, CO 80111.	Apr. 20, 1992	080195
Colorado	Summit	Town of Frisco	Jan. 22, 1992, Jan. 29, 1992, *Summit Sentinel.*	The Honorable Jim Spenst, Mayor, Town of Frisco, P.O. Box 370, Frisco, CO 80443.	Dec. 27, 1991	080245
Hawaii	Hawaii	Unincorporated areas	May 15, 1992, May 22, 1992, *Hawaii Tribune Herald.*	The Honorable Lorraine R. Inouye, Mayor, Hawaii County, 25 Aupuni Street, Hilo, HI 96720.	Apr. 22, 1992	155166
Hawaii	Maui	Unincorporated areas	Apr. 23, 1992, Apr. 30, 1992, *Maui News.*	The Honorable Linda Crockett Lingle, Mayor, Maui County, 250 South High Street, Wailuku, Maui, HI 96793.	Apr. 3, 1992	150003
Illinois	DuPage and Cook	Village of Burr Ridge	Mar. 6, 1992, Mar. 13, 1992, *Burr Ridge Doings.*	The Honorable William Zucek, President of the Village of Burr Ridge, 7660 County Line Road, Burr Ridge, IL 60521.	Feb. 27, 1992	170071 B
Illinois	Cook	Village of Justice	Apr. 10, 1992, Apr. 17, 1992, *Southtown Economist.*	The Honorable Edward Rusch, Jr., Mayor of the Village of Justice, 7800 Archer Road, Justice, IL 60458.	Mar. 26, 1992	170112 D
Louisiana	St. Mary Parish	Town of Berwick	Mar. 23, 1992, Mar. 30, 1992, *The Daily Review.*	The Honorable Emmett Hardaway, Mayor of the Town of Berwick, St. Mary Parish, P.O. Box 486, Berwick, LA 70342.	Mar. 16, 1992	220194 B
Louisiana	St. Mary Parish	City of Patterson	Mar. 23, 1992, Mar. 30, 1992.	The Honorable C.A. "Gus" Lipari, Mayor of the City of Patterson, P.O. Box 89, 203 Park Street, Patterson, LA 70392.	Mar. 16, 1992	220197 B

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Louisiana	Unincorporated areas	Plaquemines Parish	May 1, 1992, May 8, 1992, *Plaquemines Gazette.*	The Honorable Luke A. Petrovich, Parish President, Plaquemines Parish Government, P.O. Box 829, Port Sulphur, LA 70083.	Apr. 9, 1992	220139 B&C
Michigan	Macomb	Township of Macomb	Mar. 13, 1992, Mar. 20, 1992, *The Macomb Daily.*	Mr. John D. Brennan, Macomb Township Supervisor, 19925 23 Mile Road, Mount Clemens, MI 48044.	Mar. 2, 1992	260445 B
Nevada	Clark	City of Boulder City	May 7, 1992, May 14, 1992, *Boulder City News.*	The Honorable Eric Lundgaard, Mayor, City of Boulder City, 401 California Avenue, Boulder City, NV 89005.	Apr. 20, 1992	320004
North Carolina	Durham	City of Durham	Mar. 30, 1992, Apr. 6, 1992, *Durham Morning Herald.*	The Honorable Harry E. Rodenheizer, Jr., Mayor of the City of Durham, 101 City Hall Plaza, Durham, NC 27701.	Mar. 23, 1992	370086 D
Ohio	Franklin	City of Gahanna	Apr. 29, 1992, May 6, 1992, *Rocky Fork Enterprise.*	The Honorable James F. McGregor, Mayor of the City of Gahanna, Franklin County, 200 South Hamilton Road, Gahanna, OH 43230–2996.	Apr. 14, 1992	390171 B
Pennsylvania	Berks	Township of Oley	Apr. 21, 1992, Apr. 28, 1992, *Reading Eagle.*	Mr. Frederick Eyrich, Chairman of the Township of Oley Board of Commissioners, P.O. Box 19, Oley, PA 19547.	Apr. 13, 1992	420965 B
Pennsylvania	Centre	Township of Ferguson	Apr. 16, 1992, Apr. 23, 1992, *Centre Daily Times.*	Mr. Mark Kunkle, Manager for the Township of Ferguson, 3147 Research Drive, State College, PA 16801.	Mar. 20, 1992	420260 C
Texas	Harris	Unincorporated areas	Apr. 29, 1992, May 6, 1992, *Houston Chronicle.*	The Honorable John Lindsay, County Commissioner's Court, Harris County, Ninth Floor Court Room, 1001 Preston, Houston, TX 77002.	Mar. 19, 1992	480287
Texas	Bexar	City of San Antonio	Apr. 3, 1992, Apr. 10, 1992, *Express News.*	The Honorable Nelson Wolff, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Mar. 25, 1992	480045
Texas	Smith	City of Tyler	Apr. 3, 1992, Apr. 10, 1992, *Tyler Courier Times.*	The Honorable James R. Montgomery, Mayor of the City of Tyler, P.O. Box 2039, Tyler, TX 75710.	Mar. 27, 1992	480571 B
Virginia	Independent City	City of Harrisonburg	Feb. 27, 1992, Mar. 5, 1992, *Daily News Record.*	Mr. Roger D. Baker, Acting Manager of the City of Harrisonburg, 345 South Main Street, Harrisonburg, VA 22801.	Feb. 19, 1992	510076 B
Virginia	Loudoun	Town of Leesburg	Feb. 20, 1992, Feb. 27, 1992, *Loudoun Times Mirror.*	The Honorable Steven C. Brown, Manager, Town of Leesburg, 25 West Market Street, P.O. Box 88, Leesburg, VA 22075.	Feb. 12, 1992	510090

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: April 29, 1992.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 92-10539 Filed 5-5-92; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 402

State Legalization Impact Assistance Grants (SLIAG)

AGENCY: Office of Refugee Resettlement, ACF, HHS.

ACTION: Final rule with comments.

SUMMARY: This rule amends the final rule implementing the State Legalization Impact Assistance Grants (SLIAG). This action changes the deadline by which States' Fiscal Year 1993 SLIAG applications are due from October 1, 1992 to July 1, 1992, and the deadline by which a State's FY 1993 application must be approved by the Secretary from December 15, 1992 to September 15, 1992. It also requires that States report actual costs for the first and second quarters of FY 1992 along with their FY 1993 applications. These actions are necessary so that FY 1993 allocations, which by Congressional action must be made available to States by October 15, 1992, may be calculated and awarded by the mandated deadline.

DATES: Final rule effective May 6, 1992; Comments must be received on or before June 5, 1992.

ADDRESSES: Comments may be mailed to Division of State Legalization and Repatriation, Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade, SW., 6th floor, Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: David B. Smith (Director), 202-401-9255 (FTS 441-9255).

SUPPLEMENTARY INFORMATION: State Legalization Impact Assistance Grants (SLIAG) are mandated by the Immigration Reform and Control Act of 1986 (IRCA) (Pub. L. 99-603), as amended. The purpose of SLIAG is to lessen the financial impact on State and local governments that may result from the legalization of aliens under IRCA.

Public Law 102-170, dated November 26, 1991, further amends IRCA in two important respects:

(1) It amends section 204(a)(1)(C), which appropriates funds that have been previously deferred from fiscal years 1990 and 1991 to fiscal year 1993 for costs incurred on or after October 1, 1989 (including Federal, State and local administrative costs); and

(2) It adds a paragraph creating section 204(b)(5), which directs the Secretary to make allotments to States under paragraph (1) no later than October 15, 1992.

The Department published a final rule, 45 CFR part 402, implementing section 204 of IRCA, on March 10, 1988. It has subsequently amended that rule in response to programmatic and administrative requirements. The SLIAG regulation at 45 CFR 402.43 currently requires that States' applications for any fiscal year must be received by October 1 of that fiscal year, and that those applications must be approvable by the Secretary by December 15 of that fiscal year. In order to be responsive to new section 204(b)(5) of IRCA described above, it is necessary to change the date by which States' FY 1993 applications must be received by the Department, and the date by which a State's FY 1993 application must be approvable by the Secretary. This rule amends § 402.43 by establishing those dates as July 1, 1992 and September 15, 1992, respectively.

SLIAG allocations are made to States based on the factors enumerated in § 402.31(a) of the SLIAG regulation. Fifty percent of a State's allocation in a fiscal year is based on the ratio of SLIAG-related costs in the State to the total of all such costs in all States. Currently, this ratio is determined using States' cost data pursuant to 45 CFR 402.31(b), including actual cost data required under 45 CFR 402.51(e), for all fiscal years prior to the year of the appropriation.

Since FY 1993 allotments must be made to States by October 15, 1992, States will not have reported FY 1992 actual cost information in time for the Department to use it for the allocation formula. The inability of States to include their FY 1992 actual cost data in the allocation process may cause an inequitable treatment of States in the allocation of FY 1993 funds. In order that the best data available be used in the Computation of State SLIAG allocations, we are requiring that States submit actual cost data for the first and second quarters of FY 1992 along with their FY 1993 applications. This will ensure that all States will be treated equitably in the allocation process, based on the best available information.

We are therefore amending § 402.31(b) to establish that the computation of State allocations for FY 1993 will include States; actual cost data for the first and second quarters of FY 1992, and § 401.51(e) to require that actual cost data for those two quarters must be reported along with States' FY 1993 applications, that is, by July 1, 1992.

It is important to note that the total reporting burden on States has not changed. Section 402.51(c) requires that States provide information on the status of each fiscal year's funds, as of September 30, for the fiscal year. This requirement, which is reported using SF-269, remains unchanged by this amendment. Section 402.51(e) requires that States must report the actual SLIAG-related costs incurred during the fiscal year. This amendment divides that requirement into two separate reporting dates; that is, the first and second quarters of FY 1992 actual cost data must be reported along with FY 1993 applications by July 1, 1992, and the third and fourth quarters of FY 1992 actual cost data must be reported by the regulatory due date for annual reports, no later than 90 days after the end of the Federal fiscal year.

In addition to the fact that the total regulatory reporting burden remains unchanged by these amendments, a State may still amend its annual report on actual SLIAG/related costs at any time to reflect current information. This means that a State would not be precluded from reporting its actual SLIAG-related costs for all of FY 1992 as part of its annual report due no later than 90 days after the end of the fiscal year, even though it will have reported two quarters of actual costs along with its FY 1993 application. Alternatively, the State could report updated actual SLIAG-related costs for the first and second quarters along with its report on the third and fourth quarters.

Because the amendments set out in this rule pertain to agency procedure or practice under section 553(b) of the Administrative Procedure Act, we have dispensed with a Notice of Proposed Rulemaking. We will consider any comments received and, if necessary, publish another rule.

Regulatory Procedures

In accordance with 5 U.S.C. 605(b), the Secretary certifies that this rule does not have a significant adverse economic impact on small business entities. This rule is not a major rule within the meaning of section 1(b) of E.O. 12291.

Paperwork Reduction Act

Although this amendment requires States to report actual costs for the first and second quarters of FY 1992 along with their FY 1993 applications, this rule

imposes no new reporting or recordkeeping requirements subject to Office of Management and Budget clearance.

(Catalogue of Federal Domestic Assistance Program No. 13.786, State Legalization Impact Assistance Grants)

List of Subjects in 45 CFR Part 402

Administrative cost, Allocation formula, Aliens, Allotment, Education, Grant programs, Immigration, Immigration Reform and Control Act, Public assistance, Public health assistance, Reporting and recordkeeping requirements, State Legalization Impact Assistance Grants.

Dated: March 5, 1992.

Jo Anne B. Barnhart,

Assistant Secretary for Children and Families.

Dated: April 24, 1992.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set out in the preamble, 45 CFR part 402 is amended as follows:

PART 402—STATE LEGALIZATION IMPACT ASSISTANCE GRANTS

1. The authority citation for part 402 continues to read as follows:

Authority: 8 U.S.C. 1255a note, as amended.

2. Section 402.31(b) is amended by designating the first sentence in that paragraph as paragraph (b)(1), and revising it and revising the second sentence, adding a new third sentence, and designating the newly revised second, newly added third and the fourth sentences as paragraph (b)(2) to read as follows:

§ 402.31 Determination of allocations.

* * * * *

(b) *Calculation of allocations.* (1) Each time the Department calculates State allocations, it will use the best data then available to the Secretary on the distribution of eligible legalized aliens by State.

(2) For all years except FY 1993, the Department will determine each State's SLIAG-related costs to be included in the computation of its allocation for a fiscal year by adding to the sum of SLIAG-related costs reported for all previous fiscal years by that State, pursuant to § 402.51(e) (1) and (2), the total amount of estimated SLIAG-related costs included in the State's approved application for that fiscal year, pursuant to § 402.41(c) (1) and (2). For FY 1993, the Department will add to the amount of estimated SLIAG-related costs included in the State's approved application for FY 1993 the sum of SLIAG-related costs for all previous years ending with FY 1991, and the first and second quarters of FY 1992, pursuant to § 402.51(e)(4). * * *

3. Section 402.43 is amended by revising the first sentence and adding a new second sentence in paragraph (a), and by revising the first sentence and adding a new second sentence in paragraph (b), to read as follows:

§ 402.43 Application deadline.

(a) An application from a State for SLIAG funds for any Federal fiscal year except FY 1993 must be received by the Department by October 1 of that fiscal year. Applications for FY 1993 must be received by July 1, 1992. * * *

(b) In order to receive funds under this part, a State's application for any fiscal year except FY 1993 must be approvable by the Secretary by December 15 of that fiscal year. Applications for FY 1993 must be approvable by the Secretary by September 15, 1992. * * *

* * * * *

4. Section 402.51 is amended by revising the first sentence in paragraph (e)(1) and adding paragraph (e)(4) and the OMB control number at the end of this section to read as follows:

§ 402.51 Reporting.

* * * * *

(e)(1) For all years except FY 1992, a State's annual report must also provide the actual SLIAG-related costs incurred during the fiscal year.* * *

* * * * *

(4) For FY 1992, a State must report actual SLIAG-related costs, pursuant to paragraphs (e) (1), (2) and (3) of this section, for the first and second quarters, along with its application for SLIAG funding for FY 1993, in accordance with § 402.43(a) of this part, and for the third and fourth quarters in accordance with paragraph (a) of this section.

(Approved by the Office of Management and Budget under control number 0970–0079)

[FR Doc. 92–10610 Filed 5–5–92; 8:45 am]

BILLING CODE 4130–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 1

[FCC–92–191]

Comparative Hearing Process; Electromagnetic Spectrum Allocation, Licensing, and Use

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order makes minor clarifying amendments regarding the processing of hearing cases. The amendment of §§ 0.251 and 1.115 of the Commission's rules will promote efficiency and innovation in the allocation, licensing, and use of electromagnetic spectrum.

EFFECTIVE DATE: May 6, 1992.

FOR FURTHER INFORMATION CONTACT: Jim Mullins, Office of General Counsel, Federal Communications Commission (202) 254–6530.

SUPPLEMENTARY INFORMATION:

Order

Adopted: April 16, 1992.

Released: April 30, 1992.

By the Commission:

1. By this *Order*, the Commission adopts minor clarifying amendments to §§ 0.251 and 1.115 of the Commission's Rules, 47 CFR 0.251 and 1.115.

2. We are amending § 0.251(f)(12), relating to the timely disposition of applications for review of routine comparative decisions involving applications for new facilities. The amendment will make clear that, as we contemplated, the new procedures for timely disposition of comparative cases apply to the Commission's review of exceptions filed directly with the Commission as well as to the review of matters coming before us following a decision by the Review Board. See Proposals to Reform the Commission's Comparative Hearing Process to Expedite the Resolution of Cases, 6 FCC Rcd 157, 164 (1990).

3. We are also amending our rule concerning review of dispositions by the Review Board of interlocutory appeals filed as a matter of right pursuant to 47 CFR 1.301(a). The rule states that an application for review of such interlocutory Review Board rulings "may" be filed separately with the Commission after such ruling rather than as part of an application for review of the Review Board's final decision. See 47 CFR 1.115(e)(1); see also Amendment of §§ 1.115, 1.245, and 1.301 of the Commission's Rules and Regulations Regarding Review of Motions to Disqualify Presiding Officer, 5 FCC Rcd 5366 (1990). The word "may" was intended to inform parties that an application for review of a denial by the Review Board of such an appeal was permissible, and not to afford such parties a choice of filing an application for review either at the time of the Review Board's interlocutory ruling or after its final decision. In order to clarify

this ambiguity, we are amending § 1.115(e)(1) to remove any doubt that such an application for review must be filed, if at all, immediately following the Review Board's interlocutory ruling.

4. Accordingly, *it is ordered* That §§ 0.251(f)(12) and 1.115(e)(1) of the Commission's Rules are amended as set forth below, effective upon publication in the **Federal Register.**[1]

List of Subjects

47 CFR Part 0

(Organization and functions).

47 CFR Part 1

Administrative practice and procedure.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Changes

47 CFR parts 0 and 1 are amended as follows:

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

PART 0—COMMISSION ORGANIZATION

Authority: Section 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

2. Section 0.251 is amended by revising paragraph (f)(12) to read as follows:

General Counsel

§ 0.251 Authority delegated.

* * * * *

(f) * * *

(12) In preparing decisions for Commission consideration:

(i) On applications for review of routine broadcast comparative cases involving applicants for only new facilities or

(ii) When exceptions to Initial Decisions are filed directly with the Commission

the General Counsel will make every effort to submit such draft decisions for Commission consideration within four months of the filing of the last responsive pleading. If the commission is unable to adopt a decision in such cases within five months of the last responsive pleading, it shall issue an order indicating that additional time will be required to resolve the case.

* * * * *

[1] Because these rule changes are a matter of agency organization, practice or procedure, a notice and comment proceeding is not required, 5 U.S.C. 553(b)(A), and the rule changes may be made effective upon publication in the **Federal Register.** See 5 U.S.C. 553(d).

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

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303; Implement 5 U.S.C. 552, unless otherwise noted.

4. Section: 1.115(e)(1) is amended by revising the last sentence to read as follows:

§ 1.115 Application for review of action taken pursuant to delegated authority.

* * * * *

(e)(1) * * * Applications for review of interlocutory rulings made by the Review Board (see §§ 0.365(b), 1.301(b)) shall be filed only as a part of the application for review of the Board's final decision, except that applications for review of rulings by the Board pursuant to § 1.301(a) must be filed separately after such ruling by the Board.

* * * * *

[FR Doc. 92–10515 Filed 5–5–92; 8:45 a.m.]

BILLING CODES 6712–01–M

OFFICE OF PERSONNEL MANAGEMENT

48 CFR Parts 1649 and 1652

RIN: 3206–AE47

Federal Employees Health Benefits Acquisition Regulations Termination of Contracts; Contract Clauses

AGENCY: U.S. Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing final regulations to identify the sections of 5 U.S.C., chapter 89, and 5 CFR, part 890, which govern the termination of Federal Employees Health Benefits (FEHB) contracts. This clarification is necessary because different sections of the law and regulations govern different types of contract terminations.

EFFECTIVE DATE: June 5, 1992.

FOR FURTHER INFORMATION CONTACT: Abby L. Block, (202) 606–0191.

SUPPLEMENTARY INFORMATION: On May 6, 1991, OPM issued proposed regulations in the **Federal Register** (56 FR 20574) that amended § 1649.002–70 of title 48 of the Code of Federal Regulations (FEHBAR) to identify which sections of the FEHB law and regulations control the nonrenewal of an FEHB contract at the end of the contract term. The regulation also implemented section 7002(c) of Public Law 101–508, which exempts FEHB Program carriers, underwriters, and plan administrators from State taxes on FEHB premiums. These final regulations deal with the contract nonrenewal portion of the proposed regulations; final regulations on the State premium tax portion were published November 12, 1991.

OPM received no comments relating to these proposed FEHBAR regulations.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Felexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily clarify existing regulations.

List of Subjects in 48 CFR Parts 1649 and 1652

Administrative practice and procedure, Government contracts, Health insurance.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is amending its regulations under 48 CFR parts 1649 and 1652 as follows:

PART 1649—TERMINATION OF CONTRACTS

1. The authority citation for part 1649 continues to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

2. Section 1649.002–70 is revised to read as follows:

§ 1649.002–70 Applicability of the FAR to FEHB acquisitions.

(a) Termination of FEHB contracts because of withdrawal of approval is controlled by 5 U.S.C. 8902(e) and 5 CFR 890.204.

(b) Termination of FEHB contracts because of nonrenewal of the contract at the end of the contract term is controlled by 5 U.S.C. 8902(a) and 5 CFR 890.205.

(c) The procedures for settlement of contracts after they are terminated shall be those contained in FAR part 49.

PART 1652—CONTRACT CLAUSES

1. The authority citation for part 1652 continues to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

3. Section 1652.249–70 is amended by revising paragraph (a) of the clause to read as follows:

§ 1652.249–70 Renewal and withdrawal of approval.

* * * * *

(a) Pursuant to 5 U.S.C. 8902(a), the contract renews automatically for a term of 1 year each January 1st, unless written notice of intent not to renew is given either by OPM or the Carrier not less than 60 calendar days before the renewal date, or unless modified by mutual agreement.

* * * * *

[FR Doc. 92–10489 Filed 5–5–92; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 920412–2112]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule and notice of 1992 fishery management measures; request for comments.

SUMMARY: The Secretary of Commerce (Secretary) issues an emergency interim rule and notice to establish fishery management measures for the ocean salmon fisheries off Washington, Oregon, and California for 1992. Specific fishery management measures vary by fishery and area. Together they establish fishing areas, seasons, quotas, legal gear, recreational fishing days and catch limits, possession and landing restrictions, and minimum lengths for salmon taken in the exclusive economic zone (3–200 nautical miles) off Washington, Oregon, and California. Some of the management measures comport with the regulations implementing the 1984 framework amendment to the Fishery Management Plan for Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California. However, some of the measures deviate from the framework regulations and consequently require implementation through issuance of an emergency interim rule. The management measures are intended to prevent overfishing, to apportion the ocean harvest equitably among non-treaty commercial and recreational and treaty Indian fisheries, and to provide for treaty Indian and non-treaty inside fisheries and spawning escapement.

DATES: *Effective:* Those management measures being implemented under 50 CFR part 661 are effective from 0001 hours Pacific Daylight Time (P.d.t.), May 1, 1992, until modified, superseded, or rescinded. The amendments to part 661 are effective from 0001 hours P.d.t., May 1, 1992, until 2400 hours P.d.t. August 4, 1992. *Comments:* Public comments will be considered if received by May 18, 1992.

ADDRESSES: Comments on the management measures, including those being implemented under 50 CFR part 661 and those being implemented under emergency authority of section 305(c) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), may be sent to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115–0070; or E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Boulevard, suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140, or Rodney R. McInnis at 310–980–4030.

SUPPLEMENTARY INFORMATION:

Background

The ocean salmon fisheries off Washington, Oregon, and California are managed under a "framework" fishery management plan for ocean salmon fisheries off the coasts of Washington, Oregon, and California (FMP). The framework FMP was approved in 1984 and has been amended four times since then (52 FR 4146, February 10, 1987; 53 FR 30285, August 11, 1988; 54 FR 19185, May 4, 1989; 56 FR 26774, June 11, 1991). Regulations at 50 CFR part 661 provide the mechanism for making preseason and inseason adjustments to the management measures, within limits set by the FMP, by notice in the **Federal Register**.

This notice and emergency interim rule implement management measures for the 1992 ocean salmon fisheries recommended by the Pacific Fishery Management Council (Council) at its April 7–10, 1992 meeting. Some of the management measures comport with the framework regulations implementing the FMP. The remaining measures deviate from the framework FMP and implementing regulations as recommended by the Council with one provision added by the Secretary. These deviations require implementation through use of the emergency rulemaking authority of section 305(c) of the Magnuson Act. The emergency interim rule will remain in effect for 90 days and may be extended for a second 90-day period.

Schedule Used to Establish 1992 Management Measures

In accordance with the FMP, the Council's Salmon Technical Team (STT) and staff economist prepared several reports for the Council, its advisors, and the public. The first report, "Review of 1991 Ocean Salmon Fisheries," summarizes the 1991 ocean salmon fisheries and assesses how well the Council's management objectives were met in 1991. The second report, "Preseason Report I Stock Abundance Analysis for 1992 Ocean Salmon Fisheries," provides the 1992 salmon stock abundance projections and analyzes the impacts on the stocks and Council management goals if the 1991 regulations or regulatory procedures were applied to the 1992 stock abundance.

The Council met on March 9–13, 1992 in Seattle, Washington, to develop proposed management options for 1992. Three commercial and three recreational fishery management options were proposed for further analysis and public comment. These options presented various combinations of management measures designed to protect weak stocks and provide for ocean harvests of more abundant stocks of coho and chinook salmon, including options for no commercial or recreational fishing off Washington, Oregon, and California and 1992. After the March Council meeting, the STT and staff economist prepared a third report, "Preseason Report II Analysis of Proposed Regulatory Options for 1992 Ocean Salmon Fisheries," which analyzes the effects of the proposed 1992 management options. This report also was distributed to the Council, its advisors, and the public.

Public hearings on the proposed options were held March 30–April 1 and April 6, 1992 in Olympia, Washington; Astoria and Coos Bay, Oregon; and Eureka and Millbrae, California.

The Council met on April 7–10, 1992 in Millbrae, California, to adopt its final 1992 recommendations. Following the April Council meeting, the STT and staff economist prepared a fourth report, "Preseason Report III Analysis of Council-Adopted Management Measures for 1992 Ocean Salmon Fisheries," which analyzes the environmental and socio-economic effects of the Council's final recommendations. This report also was distributed to the Council, its advisors, and the public.

Resource Status

Some salmon runs returning to Washington, Oregon, and California

streams in 1992 are expected to be larger than in 1991. They include modest improvements in lower Columbia River fall hatchery chinook and some Washington coastal and Puget Sound natural coho salmon stocks.

Primary resource concerns are for Klamath River fall chinook; upper Columbia River spring and summer chinook; Oregon Production Index area coho stocks destined for the Columbia River and the California and Oregon coasts, particularly Oregon coastal natural coho; and some Washington coastal and Puget Sound natural coho, particularly the Hood Canal and Stillaguamish and Skagit rivers stocks. Management of all of these stocks is impacted by interjurisdictional agreements among tribal, State, Federal, and/or Canadian managers.

Chinook Salmon Stocks

Abundance of California Central Valley fall-run chinook stocks is expected to be similar to the 1991 run which was the third lowest since 1970. The Central Valley stocks have suffered from the extended drought in California, yet they are relatively abundant compared to other chinook stocks along the Pacific coast. Modeling predicts, however, that if the 1991 ocean fishing regulations were applied to the expected 1992 abundance, the resulting spawning escapement in 1992 would fall below the 122,000–180,000 goal range.

While there is no preseason stock abundance projection for the Sacramento River winter-run chinook, it is a consideration in establishing ocean fishing regulations because the run is listed as threatened under the Endangered Species Act. Escapements of Sacramento River winter-run chinook totaled only 127 adults in 1991, well below the 500 adults estimated in 1990, and only 0.6 percent of the 1971–1975 average of 22,500 adults.

Klamath River fall-run chinook are the primary management concern off southern Oregon and northern California. The abundance of Klamath fall-run chinook is expected to be at a record low of 60,800 age-3 and age-4 fish at the beginning of the 1992 fishing season. This forecast is less than one-half the previous record low forecast, which was made for the 1991 season, and is approximately the same as the post-season estimate of 1991 abundance. Ocean escapement to the Klamath River in 1991 totaled 31,700 adult fish, the lowest inriver run size since comprehensive inriver monitoring began in 1978.

The spawning escapement goal for the Klamath River system is between 33 and 34 percent of the potential number of adult salmon with a minimum of 35,000 natural spawners (fish that spawn outside of the hatcheries). Due to the low projected abundance for 1992, the minimum natural spawner requirement is the controlling factor in the escapement goal for the Klamath River system. Based on the extremely low preseason forecast of abundance, the 35,000 natural spawner minimum would not be met in 1992, even in the absence of any fishing in the ocean or in the river. With no fishing impacts during 1992, about 30,000 natural spawners would return to the spawning grounds, and the total spawning run would be 40,600 including hatchery fish. Should this forecast prove accurate, 1992 will be the third consecutive year in which the Klamath River spawning escapement goal is not reached. This circumstance would trigger an overfishing review by the Council to determine what additional measures are needed to meet the goal.

Oregon coastal chinook stocks include south-migrating and localized stocks primarily from southern Oregon streams, and north-migrating chinook stocks which generally originate in central and northern Oregon streams. Abundance of south-migrating and localized stocks is expected to be similar to the depressed level in 1991, and below the long-term average. These stocks are important contributors to ocean fisheries off Oregon and northern California. The generalized expectation for north-migrating stocks is for a continuation of average to above abundance as observed in recent years. These stocks contribute primarily to ocean fisheries off British Columbia and Alaska. It is expected that the aggregate Oregon coastal chinook spawning escapement goal of 150,000 to 200,000 naturally spawning adults will continue to be met.

Estimates of Columbia River chinook abundance vary by stock as follows.

(1) *Upper Columbia River Spring and Summer Chinook.* The 71,400 upriver spring chinook predicted to return to the river are 19 percent above the 1991 run size of 59,800 fish, and 26 percent greater than the 1979–1984 average of 56,600 fish. The 1992 stock status reflects a slight increase from the 1991 return but a significant decline from recent improvements (1985–1990) in the depressed status of this stock. The 1985–1990 increases from the poor returns in the early 1980s are primarily the result of increases of hatchery stocks. The natural stock component remains depressed. Ocean escapement is expected to be significantly below the goal of 115,000 adults counted at Bonneville Dam. Upriver spring chinook are affected only slightly by ocean harvests in Council area fisheries, with the contribution of these stocks being generally one percent or less of the total chinook catch north of Cape Falcon, Oregon. Expected ocean escapement of 24,200 adult upriver summer chinook is based on the previous 3-year average of ocean escapements. The 1992 stock status remains extremely depressed, with ocean escapement being about 70 percent below the lower end of the spawning escapement goal range of 80,000 to 90,000 adults counted at Bonneville Dam. Upriver summer chinook migrate to the far north and are not a major contributor to ocean fisheries off Washington and Oregon. However, concern for increasing harvest rates of upriver spring and summer chinook stocks within Council jurisdiction still was a major factor in determining total allowable impacts in Council fisheries for 1992, especially with the recent listing of Snake River wild spring and summer chinook as a threatened species under the Endangered Species Act (57 FR 14653, April 22, 1992).

(2) *Willamette River Spring Chinook.* Willamette River spring chinook returns are projected to be 103,900 fish, slightly above the 1991 run of 103,600 fish, and 60 percent greater than the 1980–1984 average return of 65,000 fish. Willamette River spring chinook stocks are important contributors to Council area fishery catches north of Cape Falcon.

(3) *Columbia River Fall Chinook.* Four distinct fall chinook stock units initially were identified and recently a fifth stock unit has been added, as follows.

(a) Upriver bright fall chinook ocean escapement is expected to be at a near record low of 66,000 adults, 35 percent below the 1991 return of 102,200 adults, and 41 percent below the 1981–1985 average return of 111,900 adults. The escapement goal for upriver bright fall chinook is 40,000 adults above McNary Dam. This stock has a northern ocean migratory pattern and contributes less than 10 percent to Council area fisheries north of Cape Falcon.

(b) Lower river natural fall chinook ocean escapement is forecast at about 17,400 adults, 13 percent below the 1991 run size of 19,900 adults.

(c) Lower river hatchery fall chinook ocean escapement is forecast at 121,500 adults, a 94 percent increase over the observed return of 62,600 adults in 1991, and 13 percent above the average return of 107,200 adults in 1981–1985, a period of relatively low returns. This stock has been declining sharply since the record high return in 1987; however, a rebound is predicted in 1992. Lower Columbia River fall chinook stocks normally

account for more than half the total catch in Council area fisheries north of Cape Falcon, with lower river hatchery fall chinook being the single largest contributing stock.

(d) Spring Creek hatchery fall chinook ocean escapement is projected to be about 41,300 adults, 21 percent less than the 1991 return of 52,300 adults; the 1981–1985 average ocean escapement was 63,300 adults. The Spring Creek hatchery fall chinook stock has been rebuilding slowly since the record low return in 1987.

(e) In recent years, the mid-Columbia bright fall chinook stock has been increasing and is at a level worthy of consideration in management planning. These fall chinook are returns primarily from hatchery releases of bright stock in the area below McNary Dam, although some natural spawning in tributaries in that area is also occurring. Mid-Columbia bright fall chinook ocean escapement is projected to be about 41,000 adults, 12 percent above the 1991 return of 36,600 adults.

Also of concern are Snake River wild fall chinook, recently listed as a threatened species under the Endangered Species Act (57 FR 146353), April 22, 1992). Information on the stock's ocean distribution and fishery impacts are not available. In addition, there is substantial uncertainty on the abundance of ocean and inriver populations. Attempts have been made to represent Snake River wild fall chinook by the Lyons Ferry Hatchery stock, the latter being widely distributed and harvested by ocean fisheries from southern California to Alaska.

Washington coastal and Puget Sound chinook generally migrate to the far north and are affected insignificantly by ocean harvests from Cape Falcon to the U.S.-Canada border.

Coho Salmon Stocks

The Oregon Production Index (OPI) is an annual index of coho abundance from Leadbetter Point, Washington, south through California. Oregon coastal and Columbia River coho stocks are the primary components of the OPI. For use beginning in 1988, the Council adopted revised estimation procedures which were expected to more accurately predict abundance of the following individual OPI area stock components: Public hatchery, private hatchery, Oregon coastal natural (OCN) for rivers and lakes, and Salmon Trout Enhancement Program. Prediction methodologies are described in the Council's "Preseason Report I Stock Abundance Analysis for 1988 Ocean Salmon Fisheries." The 1992 OPI is 652,700 coho, 61 percent below the 1991 preseason forecast of 1,681,300 coho, and 67 percent below the 1991 observed level of 1,991,500 fish. The 1992 estimate includes 265,700 OCN coho, 37 percent below the 1991 preseason forecast of 421,900 fish, and 28 above the 1991 observed level of 200,300 fish. The 1991 spawning escapement of the OCN stocks was 109,100 fish, 45 percent below the spawning escapement goal of 200,000 adults. The spawning escapement goal for OCN coho has not been met for three consecutive years, which under the FMP triggered an overfishing review by a Council-appointed work group. The Council considered the work group's conclusions and recommendations for this year's management process and beyond.

Some Washington coastal natural coho stocks are expected to be more abundant than forecast in 1991, while stock abundance for Puget Sound natural coho stocks combined is expected to be slightly above the 1991 forecast. Ocean escapements expected from 1992 Council management measures are sufficient to provide for some inside area fishery harvest and still achieve spawning escapement goals or minimum acceptable levels for most Washington coastal and Puget Sound natural coho stocks.

Hood Canal and Stillaguamish and Skagit rivers natural coho escapements are the primary resource conservation constraints in both ocean and inside fisheries. Even with no ocean or inside fisheries, Hood Canal natural coho would not meet the spawning escapement goal of 19,100 natural spawners in 1992. State and tribal managers negotiated a preseason agreement on a package of ocean and inside fisheries to achieve the highest escapement possible while still meeting the needs and socio-economic concerns of treaty Indian and non-treaty Indian fishermen.

Pink Salmon Stocks

Major pink salmon runs return to the Fraser River and Puget Sound only in odd-numbered years. Consequently, pink salmon runs are not of management concern in 1992.

Emergency Actions

Facing critical resource conservation and socio-economic problems in coastal salmon fisheries and communities, the Council recommended, at its April 7–10 meeting, 1992 annual management measures, some of which require deviation from the FMP and its implementing regulations. The Council requested the Secretary to implement those 1992 management measures through the emergency authority of section 305(c) of the Magnuson Act. The two emergency actions are necessary (1) to allow an ocean harvest of Klamath River fall chinook which will return fewer than the 35,000 natural fish spawning escapement floor to the Klamath River, and (2) to reduce the ocean harvest rate on OCN coho from 47 to 40 percent and transfer 5,000 coho from the recreational allocation to the commercial allocation south of Cape Falcon. The Council's request for emergency changes is based upon the following:

(1) The 1992 annual management measures, including the emergency changes, represent several complicated and negotiated compromises among numerous groups. The compromises are intended to protect, to the extent possible, the weakest salmon runs, to provide the greatest opportunity for users to harvest the more abundant stocks, and to alleviate depressed economic conditions in the salmon fishing industry and its dependent communities;

(2) There was insufficient time to amend the FMP through the formal Magnuson Act procedures, between February, when biological data on the abundance of coastal salmon runs became available to the Council, and the first of May, when the major commercial fishing seasons begin;

(3) Substantial evidence was presented to the Council that severe economic hardship would result for most of the Oregon and California coastal communities unless a minimal ocean harvest of Klamath River fall chinook was allowed; and

(4) As in 1991, substantial evidence was presented that the preseason ocean abundance for OCN coho stocks has been consistently overestimated during previous years leading to an ocean harvest rate that was too high and spawning escapement falling short of its goal. In April 1991 the Council directed the formation of an overfishing work group to review the status of OCN coho. This assessment was completed in February 1992 and included a review of the stock abundance predictor. The Council did not have time to complete a thorough review and revise the ocean estimation methodology. Therefore, the Council has recommended a reduction in the ocean harvest rate from 47 percent, which is the rate established by amendment 7 to the FMP, to 40 percent to compensate for what it believes to be a faulty ocean abundance predictor. Unless amended by this emergency rule, the ocean harvest rate will be the 47 percent established under the FMP, and insufficient natural spawners are likely

to escape the ocean fisheries to meet spawning needs. The reduction in the OCN ocean harvest rate places a disproportionate amount of the conservation burden on the troll fishery. Therefore, the Council recommended that, based on agreement by commercial and recreational industry representatives, 5,000 coho from the recreational allocation south of Cape Falcon be transferred to the commercial allocation. This number of fish represents the anticipated 2 percent harvest rate by the recreational fishery in inside waters.

Therefore, NMFS is using its emergency authority under the Magnuson Act to replace language in sections II.B. and IV.A. of the appendix to 50 CFR part 661. These emergency measures will be effective for an initial period ending 90 days from the date of publication of this emergency rule and will probably be extended an additional 90 days. The specific changes to the appendix are described below.

1. Klamath River Fall Chinook Spawning Escapement Goal

At its March 9–13 meeting, the Council adopted three ocean management options for public comment that included a range of ocean harvest rates on Klamath River fall chinook of 0 to 10 percent in 1992. To place these harvest rates in perspective, the harvest sharing agreement adopted by the Klamath Fishery Management Council, which expired in 1991, called for an ocean harvest rate of 32.5 percent of the Klamath River fall chinook. The spawning escapement goal for naturally spawning Klamath River fall chinook is 33–34 percent of the potential adults from each brood of natural spawners, but no fewer than 35,000 naturally spawning adults in any one year. The 35,000 natural spawning escapement floor, which is an integral part of the spawning escapement goal, provides a safe level of spawners under a range of environmental conditions, based on experience since regular monitoring began in 1978. The 1990 and 1991 actual natural spawning escapements of 15,600 and 13,000, respectively, were well below the escapement floor. As indicated before, even in the absence of any ocean or inriver fishing in 1992, the expected natural escapement would total no more than 31,000. The desire to achieve the 35,000 natural fish spawning escapement floor for the Klamath River was balanced against the social and economic costs of complete closure of salmon fisheries from central Oregon through central California and the forgone harvest of stronger stocks of chinook as well as coho.

The Council heard considerable testimony that a complete ban on all ocean harvest of Klamath fall chinook (the no-fishing option) would be socially and economically devastating to Oregon and California coastal communities which historically relied on fishing and logging as major sources of income for local residents. Community leaders and fishermen testified that although coastal communities had survived severely restricted fisheries in recent years, a complete prohibition of fishing could result in irreversible social and economic dislocation. After careful consideration of the potential long-term biological impacts of falling below the 35,000 natural fish spawning escapement floor, the Council adopted recommendations for ocean fishing seasons and quotas that are the most restrictive in history but are expected to result in natural spawning of 26,000–27,000 adults. In rejecting the no-fishing option, the Council noted that spawning escapements in the past had fallen to even lower levels without long-term harm to the stock. Spawning escapement in 1984 was only 23,600 adults including hatchery fish, and those spawners contributed to record runs in 1987 and 1988. Favorable habitat conditions in the river and in the ocean probably accounted for the success of that brood year. Such conditions are not predictable or manageable. For this reason the Council recommended ocean fisheries that would not reduce the number of spawners to as few as returned in 1984. Although the Council was greatly concerned about the conservation of Klamath River fall chinook stocks, it determined that it was necessary to allow a modest fishery in order to attempt to avert the dramatic effects of a total fishing ban on the many already depressed coastal communities.

Thus, the Council recommended a target harvest rate on Klamath fall chinook of 8 percent of the ocean population, a 50 percent reduction from the target harvest rate in 1991, and 67 percent below the actual harvest rate in 1991. This ocean harvest rate includes the 2 percent harvest impact already taken in the late-season fisheries in 1991 and only 6 percent in the 1992 fisheries through August 31. Of this 6 percent, 1 percent is allotted for a very limited recreational fishery in the Klamath Management Zone (KMZ), the area from Humbug Mountain, Oregon, to Horse Mountain, California, and 2.5 percent each is allotted to the fisheries north and south of the KMZ. To the north, the 2.5 percent harvest rate is divided 1.0 percent for recreational fisheries and 1.5 percent for commercial fisheries. To the south, the harvest rate is divided 1.25 percent each to the recreational and commercial fisheries. This distribution of Klamath harvest is intended to provide the greatest economic benefit to coastal communities while spreading it fairly along the coast and to allow the most opportunity to harvest stronger salmon stocks, such as Sacramento River fall chinook, with the least impact on Klamath chinook.

The salmon management measures recommended by the Council and implemented by this rule are expected to provide approximately 26,000 to 27,000 natural spawners to the Klamath River depending on the level of inriver fishing. In determining this number of spawners the Council recognized the probable harvest in the river and that the risk of reducing the long-term productivity of the Klamath fall chinook run is increased as the number of natural spawners decreases. Native American fishers on the Klamath and Trinity River System strongly advocated the elimination of all ocean fishing impacts on this year's Klamath fall chinook. In discussions within the Klamath Fishery Management Council and the Pacific Fishery Management Council, representatives of the tribes stated that they would forgo all but their ceremonial harvest in the river if the ocean fisheries were not allowed to take Klamath chinook. They also expressed their intent to harvest the same number of Klamath chinook as are allowed the non-tribal fisheries if the ocean fisheries are not closed. The projected natural spawning escapement of about 27,000 fish from the 8 percent ocean harvest rate assumes that the inriver fishery will take fewer fish than are taken in the ocean fishery. If the Klamath Indian tribes harvest the same number of fish as are projected to be caught in the non-tribal fisheries, the natural spawning escapement would fall to slightly under 26,000 fish.

One additional concern relative to Klamath harvest is the accuracy of the prediction methodology, and the risk of harvesting at higher than the predicted harvest rate in this year of low abundance. Last year, the predicted ocean harvest rate was 16 percent, and the actual ocean harvest rate was 24 percent. Therefore, in order to provide increased assurance that the target harvest will not be exceeded, chinook quotas are being imposed on fisheries on Klamath stocks for the first time. The quotas only apply to the fisheries through August 31, because by then the 1992 spawners, which the quotas are designed to protect, have left the ocean

and the remaining harvest is on the following year's spawners.

The Secretary has carefully considered the conservation risks to the Klamath River fall chinook stocks, the depressed economic conditions in coastal communities, and the expected levels of inriver harvest. The Secretary concurs with the Council's recommendation to allow an overall harvest rate of 8 percent (2 percent in late-season fisheries in 1991 and 6 percent in 1992 through August 31), with the additional protection of chinook quotas, as striking a reasonable balance between the conservation needs of the Klamath fall chinook and the social and economic needs of coastal communities.

2. Reduction in OCN Ocean Harvest Rate From 47 to 40 Percent

The method of determining the OCN coho spawning escapement goal and harvest rate was adopted by the Council in 1986 and implemented by amendment 7 to the FMP (52 FR 4146, February 10, 1987). Amendment 7 established an OCN spawning escapement floor of 135,000 fish for estimated ocean abundances of 270,000 fish or less. The spawning escapement goal changes to 50 percent of the ocean abundance (50 percent harvest rate) for ocean abundances between 270,000 and 400,000 fish, and is capped at 200,000 fish for ocean abundances greater than 400,000 fish. The current ocean abundance predictor was adopted for use by the Council beginning with the 1988 fishing season following a detailed Council review in late 1987.

The ocean abundance predictor for OCN coho for rivers is based on a modified Ricker spawner-recruit model adjusted for ocean survival using Oregon Production Index smolt to jack survival. The predictor for OCN coho for lakes production, about 4 percent of the total OCN stocks, is calculated from the most recent three-year average adult stock abundance.

The methodology for predicting OCN abundance has had mixed results since 1984. Despite a rigorous technical review of the OCN predictor by the Council in 1987, the predictor has consistently overestimated abundance since its adoption in 1988, for an average overprediction of about 40 percent in 1988–90. For 1991, the preseason prediction for OCN river and lake systems of 421,900 was 111 percent above the preliminary postseason estimate of 200,300 coho. Furthermore, the 1991 OCN coho spawning escapement of 109,100 fish was significantly below both the 1991 spawning escapement goal of 200,000 adults, and the escapement floor of 135,000 fish.

For 1992, the predicted ocean abundance for OCN river and lake systems is 265,700 coho. In accordance with amendment 7, the spawning escapement goal would be 135,000 fish and the total harvest rate would be 49 percent, divided into a 47 percent ocean harvest rate and an anticipated 2 percent freshwater harvest rate. In the absence of an emergency amendment, the ocean harvest rate of 47 percent must be applied to the original abundance estimate that will drive the spawning escapement below the desired level if, as anticipated, the abundance estimate is too high. The Council is not able to implement at this time a new predictive methodology that is more reliable than the current predictor. The Council is currently evaluating a revised methodology. Therefore, the Council concluded that the harvest rate must be reduced in order to compensate for the overestimation bias, reverse the trend of failing to meet spawning escapement goals, and better ensure protection of OCN coho stocks. The Council has recommended that the ocean harvest rate on OCN coho be established at 40 percent. As in 1991, the Council believes that the additional conservatism regarding the harvest rate is warranted and is necessary to guard against the recent rend of overestimating the ocean abundance and underachieving spawning escapement goals.

The Council considered that, under the existing allocation schedule, the reduction in the OCN ocean harvest rate places a disproportionate amount of the conservation burden on the troll fishery because a comparable reduction in the recreational fishery in inside waters is not anticipated. Therefore, the Council recommended that 5,000 coho from the recreational allocation south of Cape Falcon be transferred to the commercial allocation. This deviation from the coho allocation schedule was agreed to by commercial and recreational industry representatives as a means to share the conservation burden. The amount of fish transferred is equivalent to the anticipated freshwater harvest by the recreational fishery (an average of 2 percent of the total OCN abundance was harvested in freshwater during 1986–1991).

Management Measures for 1992

The Council adopted allowable ocean harvest levels and management measures for 1992 that are designed to apportion the burden of protecting the weak stocks discussed above equitably among ocean fisheries and to allow maximum harvest of natural and hatchery runs surplus to inside fishery and spawning needs. The management measures below reflect the council's recommendations except where otherwise noted.

South of Cape Falcon

In the area south of Cape Falcon, management measures were adopted based primarily on concerns for Klamath River fall chinook, Sacramento River winter chinook, and OCN coho. The greatest constraint on the ocean management measures was the low abundance of Klamath River fall chinook as described above.

Winter run chinook from the Sacramento River are listed under the Endangered Species Act (ESA) as a threatened species. In 1991, NMFS concluded a formal Section 7 ESA consultation with the Council regarding the impacts of the ocean salmon fishing regulations on the winter run. The biological opinion issued from that consultation determined that the 1990 level of impacts from the ocean fisheries would not jeopardize the continued existence of the winter run. NMFS also recommended shortening the recreational fishing season off central California and closure of an area at the mouth of San Francisco Bay during the time when winter run are entering the Bay. These recommended conservation measures were implemented in 1991 and remain a part of the salmon management measures for 1992. The overall impact of the 1992 salmon management program on winter run is expected to be substantially less than in 1990, the base year for the biological opinion. This expectation is based on the harvest rate model for the Central Valley Index stocks of fall chinook which will experience a harvest rate of 34 percent in 1992 as compared to 79 percent in 1990. These rates are only indicators of the relative impact on winter run because they are less vulnerable to the ocean fisheries than are the fall chinook due to the timing of the seasons and their growth and migration.

Commercial Troll Fisheries

Chinook quotas are being implemented for the first time in many areas in 1992 to further ensure that the ocean impacts on Klamath fall chinook do not exceed those that have been modeled. In past years, areas to the north or south of the KMZ have experienced increased catches when the KMZ has been closed to troll fishing. These increased catches resulted in higher than expected Klamath chinook impacts which contributed to the

aggregate ocean fisheries exceeding the planned harvest rate. Specifically, commercial troll fisheries are limited to quotas of 10,000 chinook during May in the area between Point Reyes and Point San Pedro, California, and 8,000 chinook during August in the area between Point Arena and Point San Pedro. While the Council recommended the 10,000-chinook quota for the May fishery, it specifically rejected the need for establishing a August chinook quota. Nevertheless, the Secretary believes the quota is a necessary safeguard to prevent overfishing and adds the 8,000-chinook quota for the August fishery and the provision to account for quota overage and underage by the earlier fishery in order to provide additional control over fishery impacts on Klamath River fall chinook. Troll fisheries in other areas south of Cape Falcon are not limited by any chinook quotas because of the minor contribution of Klamath stocks to the fisheries.

Commercial troll fisheries south of Cape Falcon are limited to an overall impact (catch and hooking mortality) quota of 60,000 coho and a catch quota of 57,000 coho. Within the overall impact quota there are subarea impact ceilings which allow harvests of no more than 40,000 coho south of Cascade Head, Oregon, and no more than 10,000 coho south of Point Arena, California. The overall commercial quota south of Cape Falcon was increased by a transfer of 5,000 coho from the recreational allocation. An inseason reallocation to the troll fishery of any portion of the south of Cape Falcon recreational quota projected to be in excess of sport fishery needs will be made no later than August 15.

From Point San Pedro to the U.S.-Mexico border, the commercial fishery for all salmon except coho will open May 1 through May 31. The all-salmon season will open June 1 through the earlier of September 30 or the coho quota, at which time the fishery will reopen for all salmon except coho and continue through September 30.

From Point Reyes to Point San Pedro, the commercial all-except-coho fishery will open May 1 through the earlier of May 10 or 10,000-chinook quota. The area from Point Arena to Point San Pedro will open for all salmon August 1 through the earliest of August 31 or attainment of the coho quota or 8,000-chinook quota. Any quota overage or underage from the May fishery will be subtracted from or added to the 8,000 chinook quota for the August fishery. If the coho quota is reached, the fishery will reopen for all salmon except coho and continue through August 31. If the chinook quota is reached, the fishery will close through August 31. If coho quota remains, beginning September 1 the fishery from Point Arena to Point San Pedro will continue or reopen without a chinook quota through September 30.

The area between Florence South Jetty, Oregon, and Point Arena, California, is closed to commercial salmon fishing throughout the season.

From Cape Falcon to Florence South Jetty, the all-except-coho season will open May 1 through May 31 with gear restricted to no more than 4 spreads per line. The all-salmon fishery in this area will open July 22 with a species ratio landing restriction of at least 1 chinook for each 2 coho landed and continue through the earlier of August 31 or the coho quota. Upon attainment of the coho quota, the fishery in the area affected will reopen for all salmon except coho and continue through August 31. Beginning September 1 the area between Cape Falcon and Florence South Jetty will be open for all salmon except coho through October 31.

Recreational Fisheries

The recreational fisheries south of Cape Falcon are limited by an overall catch quota of 172,000 coho. Upon attainmant of the overall coho quota, recreational fisheries between Cape Falcon and Humbug Mountain will close; recreational fisheries south of Humbug Mountain will remain open. Recreational fisheries between Florence South Jetty and Point San Pedro are limited to subarea impact quotas through August 31 as follows: 39,400 chinook between Point Arena and Point San Pedro, 3,400 chinook between Horse Mountain and Point Arena, 3,500 chinook between Humbug Mountain and Horse Mountain, and 3,700 chinook between Florence South Jetty and Humbug Mountain. Upon attainment of a subarea impact quota, the recreational fishery in that subarea will close through August 31. A new gear restriction will affect anglers in California such that no person may use more than one rod and line while recreationally fishing north of Point Conception (such a restriction has been in effect off Washington and Oregon).

The recreational fishery between Point San Pedro and the U.S.-Mexico border opens on the nearest Saturday to March 1 through the nearest Sunday to November 1 for all salmon with a two-fish daily bag limit.

From Point Arena to Point San Pedro, the recreational fishery for all salmon is separated into individual seasons, all of which have a two-fish daily bag limit. Three seasons before August 31 are subject to closure upon attainment of the overall impact quota of 39,400 chinook and are as follows: (a) The entire area from Point Arena to Point San Pedro is open the nearest Saturday to March 1 through May 31, except that the conservation zone at the mouth of San Francisco Bay is closed the nearest Saturday to March 1 through the nearest Friday to March 31; (b) only the mouth of San Francisco Bay as described by the conservation zone is open June 1 through June 29 to address safety concerns of fishermen who would otherwise have to fish south of Point San Pedro by providing fishing opportunity in this localized area; and (c) the entire area from Point Arena to Point San Pedro will reopen for the third season June 30 through August 31. Beginning September 1 the fishery will continue or reopen, without a chinook quota, through the nearest Sunday to November 1.

From Horse Mountain to Point Arena, the recreational fishery for all salmon is separated into individual seasons, all of which have a two-fish daily bag limit. Two seasons before August 31 are subject to closure upon attainment of the overall impact quota of 3,400 chinook and are as follows: The first season is open the nearest Saturday to February 15 through May 31, followed by a second season open June 30 through August 31. Beginning September 1 the fishery will continue or reopen, without a chinook quota, through the nearest Sunday to November 15.

The recreational fishery between Humbug Mountain and Horse Mountain (KMZ) will open for all salmon July 6 through September 7 and is subject to closure upon attainment of the impact quota of 3,500 chinook in effect through August 31. This fishery is open Monday through Wednesday only, with a one-fish daily bag limit, except that the conservation zone at the mouth of the Klamath River is closed August 1 through August 31. If necessary to achieve a season ending date of September 7, the fishing days per week may be adjusted on or about July 29.

From Florence South Jetty to Humbug Mountain, the recreational fishery for all salmon has individual seasons, all of which will open Sunday through Thursday only with a two-fish daily bag limit, no more than four fish in seven consecutive days, and no more than 20 fish per year. The first season will open May 1 through May 27 shoreward of a line generally representing the 27 fathom curve. The second season will open June 14 through the earlier of September 20 or attainment of the overall coho quota or impact quota of 3,700 chinook in effect

through August 31. The fishery may be restricted to all salmon except chinook to extend the season. If coho quota remains, beginning September 1 the fishery will continue or reopen without a chinook quota. If necessary to achieve a season ending date of September 20, the fishing days per week may be adjusted on or about July 29.

From Cape Falcon to Florence South Jetty, the recreational fishery for all salmon has individual seasons, all of which will open Sunday through Thursday only with a two-fish daily bag limit, no more than four fish in seven consecutive days, and no more than 20 fish per year. The first season will open May 1 through May 27 shoreward of a line generally representing the 27 fathom curve. The second season will open June 14 through the earlier of September 20 or the overall coho quota. If necessary to achieve a season ending date of September 20, the fishing days per week may be adjusted on or about July 29.

North of Cape Falcon

From the U.S.-Canada border to Cape Falcon, ocean fisheries are managed to protect depressed upper Columbia River spring and summer chinook, lower Columbia River hatchery fall chinook, and natural coho stocks of Hood Canal and the Stillaguamish and Skagit Rivers. Ocean treaty and non-treaty harvests and management measures were established by the Council based in part on negotiations between Washington State fishery managers, user groups, and the Washington coastal, Puget Sound, and Columbia River treaty Indian tribes as authorized by the U.S. District Court in *U.S.* v. *Washington, U.S.* v. *Oregon,* and *Hoh Indian Tribe et al.* v. *Baldrige.*

Preseason coho salmon abundance forecasts were for depressed runs to the Queets, Skagit, Stillaguamish, and Hood Canal streams. The Hood Canal coho run was forecast to be well below the spawning escapement goal of 19,100 even if all ocean and inside (Strait of Juan de Fuca and Puget Sound) fisheries were totally eliminated. Negotiations of ocean and inside fisheries, and acceptable spawning escapements for 1992 were successfully completed. The 160,000 ocean fishery coho total allowable catch for 1992 represents a 50 percent reduction from the 1991 ocean coho total allowable catch, and inside fisheries will be restricted by the State of Washington and treaty Indian tribes to unprecedented levels.

In the process of determining the total allowable chinook catch in the ocean north of Cape Falcon, the Council was concerned that the impacts on Snake River spring/summer and fall chinook stocks which are listed as threatened species under the Endangered Species Act (57 FR 14653, April 22, 1992) did not exceed recent years' level of impacts. For Snake River wild spring chinook, the available information indicates that it is highly unlikely these fish are impacted in Council area fisheries. For Snake River wild summer chinook, these fish comprise only a very small proportion of total chinook abundance in the Council management area, and it is unlikely these fish are significantly impacted in Council area fisheries. For Snake River wild fall chinook caught in Council area fisheries, the Team estimated a reduction of 40 percent in the ocean exploitation rate under the Council's recommended 1992 ocean measures compared to the 1986–1990 average by using the Lyons Ferry Hatchery stock to represent Snake River wild fall chinook.

All non-treaty commercial troll and recreational ocean fisheries are limited by either an overall 80,000-chinook quota, or impacts on critical Washington coastal and Puget Sound natural coho stocks equivalent to the preseason coho quota of 160,000 (including coho hooking mortality associated with May/June chinook fisheries). Based on the recommendation of the Salmon Advisory Subpanel representatives for the area north of Cape Falcon, the commercial fishery exchanged 21,000 coho for 7,000 chinook from the recreational fishery. Therefore, the commercial fishery is limited by overall quotas of 47,000 chinook and 19,000 coho, and the recreational fishery is limited by overall quotas of 33,000 chinook and 141,000 coho.

Commercial Troll Fisheries

The commercial fishery for all salmon except coho from the U.S.-Canada border to Cape Falcon will open May 1 through the earlier of June 15 or attainment of the 42,100-chinook guideline. The fishery for all salmon between the U.S.-Canada border and Cape Falcon will open July 20 through the earliest of August 31 or guidelines of 4,400 chinook or 18,100 coho. This fishery will follow a cycle of 2 days open and 3 days closed and is subject to a possession and landing limit of 30 coho per opening and gear restricted to 6-inch plugs or larger only and no more than 4 spreads per line. If sufficient quota remains from this fishery, an all-salmon fishery will open between Leadbetter Point and Cape Falcon September 8 through the earliest of September 30 or attainment of the overall chinook or coho quotas. The all-salmon fishery in Washington State waters between Cape Alava and the south end of Destruction Island will open September 15 through the earliest of October 31 or subarea quotas of 500 chinook or 500 coho, only within 0 to 3 nautical miles of shore, and is limited by State regulations to those vessels preregistered with the Washington Department of Fisheries between August 17 and August 28. This fishery will follow a cycle of 4 days open and 3 days closed. The conservation zone at the mouth of the Columbia River is closed for the entire season.

Recreational Fisheries

In 1992 there is a recreational all-except-coho fishery in Washington State waters east of the Bonilla-Tatoosh Line only, from May 1 through the earlier of May 31 or 1,000-chinook quota, with a two-fish daily bag limit.

Recreational all-salmon fisheries are divided into four subareas. Opening dates, subarea quotas, bag limits, and area restrictions are described below. The fisheries in all subareas will be open Sunday through Thursday only and will close the earliest of October 1 or attainment of subarea coho quota or overall chinook quota. Chinook guidelines for each subarea will provide a basis for inseason management measures to restrain chinook harvest but will not serve as quotas.

Between Leadbetter Point and Cape Falcon, the fishery will open June 29 through September 13 with a 67,500 coho subarea quota, a two-fish daily bag limit, no more than four fish in seven consecutive days, and open only 0–3 nautical miles of shore. No earlier than September 14, the fishery in this area is open 0–200 nautical miles of shore with a separate 3,000 coho subarea quota and a two-fish daily bag limit. The conservation zone at the Columbia River mouth is closed for the entire season.

Between the Queets River and Leadbetter Point, the fishery will open July 6 with a 54,400 coho subarea quota, a two-fish daily bag limit, no more than four fish in seven consecutive days, and open only 0–6 nautical miles of shore.

Between Cape Alava and the Queets River, the fishery will open July 13 with a 3,000 coho subarea quota, a one-fish daily bag limit, no more than four fish in seven consecutive days, and open only 0–6 nautical miles of shore.

Between the U.S.-Canada border and Cape Alava, the fishery will open July 6 with a 13,100 coho subarea quota, a two-fish daily bag limit, no more than four fish in seven consecutive days, and open only within one-half nautical mile of shore.

Treaty Indian Fisheries

Treaty Indian troll fisheries north of Cape Falcon are governed by quotas of

33,000 chinook and 68,000 coho salmon. Treaty troll seasons, minimum length restrictions, and gear restrictions were developed by the tribes and agreed to by the Council. The all-except-coho seasons will open May 1 and extend through June 30, if the chinook quota is not reached. The all-salmon seasons will open no earlier than July 1 and extend through the earliest of September 30 or chinook or coho quota. The minimum length restrictions for all treaty ocean fisheries, excluding ceremonial and subsistence harvest, is 24 inches for chinook and 16 inches for coho.

The following tables and text are the management measures recommended by the Council for 1992 and, as specified, for 1993. The Secretary concurs with these recommendations, with some additions as described above, and finds them responsive to the goals of the FMP, the requirements of the resource, and the socio-economic factors affecting resource users. The management measures are consistent with requirements of the Magnuson Act and other applicable law including United States obligations to Indian tribes with treaty-secured fishing rights.

The following management measures are adopted for 1992 and, as specified, for 1993 under 50 CFR part 661.

BILLING CODE 3510-22-M

Table 1. Commercial management measures for 1992 ocean salmon fisheries.

(Note: This table contains important restrictions in Parts A, B, C, D, and E which must be followed for lawful participation in the fishery.)

A. SEASONS, SUBAREA QUOTAS, AND SPECIES

(Shaded areas represent closures.)

APR	MAY	JUNE	JULY	AUGUST	SEP/OCT
U.S.-CANADA BORDER					U.S.-CANADA BORDER
	5/1 thru earlier of 6/15 or chinook guideline of 42,100. All except coho. Conservation Zone 1, Columbia River mouth, is closed (C.3.). See D.1.		7/20 thru earliest of 8/31 or guidelines of 18,100 coho or 4,400 chinook. All salmon. Possession and landing limit of 30 coho per opening. Cycle of 2 days on/3 days off. Gear restricted to 6-inch plugs or larger only and no more than 4 spreads per line. Conservation Zone 1, Columbia River mouth, is closed (C.3.). See D.2.		CAPE ALAVA 9/15 thru earliest of 10/31 or quotas of 500 coho or 500 chinook. All salmon. Cycle of 4 days on/3 days off. Open 0-3 nautical miles from shore. Limited participation fishery. See D.3. DESTRUCTION ISL. (47°40'30" N. LAT.)
				LEADBETTER POINT If quota remains from July/August fishery then: 9/8 thru earliest of 9/30 or overall chinook or coho quotas (E.1.). All salmon. Conservation Zone 1, Columbia River mouth, is closed (C.3.). See D.4.	
CAPE FALCON					CAPE FALCON
	5/1 thru 5/31. All except coho. No more than 4 spreads per line.		7/22 thru earlier of 8/31 or coho quota (E.2.). All salmon. Species ratio landing restriction of at least 1 chinook for each 2 coho. If coho quota met, continue as all except coho thru 8/31. See D.5.		9/1 thru 10/31. All except coho.
FLORENCE SOUTH JETTY					FLORENCE SOUTH JETTY
HUMBUG MOUNTAIN					HUMBUG MOUNTAIN
HORSE MOUNTAIN					HORSE MOUNTAIN

BILLING CODE 3510-22-C

Table 1. Commercial management measures for 1992 ocean salmon fisheries (continued).

APR	MAY	JUNE	JULY	AUGUST	SEP/OCT
HORSE MOUNTAIN					HORSE MOUNTAIN
POINT ARENA					POINT ARENA
			8/1 thru earliest of 8/31 or coho quota (E.2.) or chinook quota (E.3.). All salmon. If coho quota met, continue as all except coho. If chinook quota met, close thru 8/31.	9/1 thru 9/30. All salmon thru coho quota (E.2.), then all except coho.	
POINT REYES					POINT REYES
	5/1 thru earlier of 5/10 or chinook quota (E.3.). All except coho.		8/1 thru earliest of 8/31 or coho quota (E.2.) or chinook quota (E.3.). All salmon. If coho quota met, continue as all except coho. If chinook quota met, close thru 8/31.	9/1 thru 9/30. All salmon thru coho quota (E.2.), then all except coho.	
POINT SAN PEDRO					POINT SAN PEDRO
	5/1 thru 5/31. All except coho.	6/1 thru 9/30. All salmon thru coho quota (E.2.), then all except coho.			
U.S.-MEXICO BORDER					U.S.-MEXICO BORDER

B. MINIMUM SIZE LIMITS

[Inches]

	Chinook		Coho		Pink
	Total length	Head-off	Total length	Head-off	
North of Cape Falcon	28.0	[1] 21.5	16.0	12.0	None.
Cape Falcon to Humbug Mountain	26.0	19.5	16.0	12.0	None.
South of Humbug Mountain	26.0	19.5	22.0	16.5	None.

[1] It is illegal to land salmon in Washington with the head cut off. Chinook not less than 26 inches (19.5 inches head-off) taken in open seasons south of Cape Falcon may be landed north of Cape Falcon only when the season is closed north of Cape Falcon.

C. General Requirements, Restrictions, and Exceptions

C.1. *Hooks*—Single point, single shank barbless hooks are required.

C.2. *Line Restriction*—Off California, no more than 6 lines per boat are allowed.

C.3. *Conservation Zone 1*—The ocean area surrounding the Columbia River mouth bounded by a line extending for 6 nautical miles due west from North Head along 46°18′00″ N. latitude to 124°13′18″ W. longitude, then southerly along a line of 167° True to 46°11′06″ N. latitude and 124°11′00″ W. longitude (Columbia River Buoy), then northeast along Red Buoy Line (continuing to Buoy #2, then to Buoy #4, then to Buoy #2SJ, then continuing on) to the tip of the south jetty, is closed.

C.4. *Transit Through Closed Areas with Salmon on Board*—It is unlawful for a vessel, which has been issued an ocean salmon permit by any state, to have troll gear in the water while transiting any area closed to salmon fishing while possessing salmon.

C.5. *Landing Salmon in Closed Areas*—Legally caught salmon may be landed in closed areas unless otherwise prohibited by these regulations.

C.6. *Meeting Landing Restrictions*—It is illegal to meet species ratio landing restrictions by including any salmon which have been previously landed.

C.7. Consistent with Council management objectives, the State of Oregon may establish some additional late-season, all-salmon-except-coho fisheries in state waters.

D. Possession, Landing and Special Restrictions by Management Area

If prevented by unsafe weather conditions or mechanical problems from meeting special management area landing restrictions, vessels must notify the U.S. Coast Guard and receive acknowledgement of such notification prior to leaving the area. This

notification shall include the name of the vessel, port where delivery will be made, approximate amount of salmon (by species) on board, and the estimated time of arrival.

D.1. *U.S.-Canada Border to Cape Falcon, May/June All-Salmon-Except-Coho Season*—The State of Oregon may require vessels landing fish from this fishery to the area south of Cape Falcon to notify the Newport office of the Oregon Department of Fish and Wildlife between 8 a.m. and 5 p.m. on the day of landing or the following weekday if such landing occurs on a weekend or outside office hours. The notification shall include the name of the vessel, port where delivery will be made, and the number of chinook landed. Following any closure of this fishery, vessels must land and deliver the fish within 48 hours of the closure.

D.2. *U.S.-Canada Border to Cape Falcon, All-Salmon Season Beginning in July*—The fishery will follow a cycle of 2 days open and 3 days closed, continuing the cycle until the earliest of 8/31 or attainment of the coho or chinook guideline. Each vessel may possess, land and deliver not more than 30 coho per open period. All salmon caught in the area must be landed and delivered in the area or in adjacent closed areas within 24 hours of each closure. The possession and landing limit, gear restriction, and number of days open each week may be modified prior to or during the fishery to best utilize the available harvest.

D.3. *Cape Alava to 47°40'30" N. Latitude (South End of Destruction Island) Inside 3 Miles, All-Salmon Season*—Limited participation fishery in Washington State waters. Vessels must preregister with the Washington Department of Fisheries (WDF) between the dates of 8/17 and 8/28. A fish per boat quota will be established by WDF and the season opened 9/15 thru 9/18, followed by a 3-day closure, and reopening on 9/22 thru 9/25, continuing this cycle until the earliest of 10/31 or the coho or chinook quota. Following each closure, preregistered vessels must reregister within 48 hours. Reopening announcements will include updated per vessel catch quota. Vessels must land and deliver the fish within 24 hours of each closure within the area.

D.4. *Leadbetter Point to Cape Falcon During September*—Season opens only if sufficient quota remains from July/August season north of Cape Falcon to allow at least one full day of fishing. The possession and landing limit, gear restrictions, and number of days open each week will be determined inseason prior to the opening to best utilize the available harvest.

D.5. *Cape Falcon to Florence South Jetty During All-Salmon Season*—There is a species ratio landing restriction such that at least 1 chinook must be landed for each 2 coho landed, except that a landing of 2 coho and no chinook is allowed. Mixed loads of chinook and coho or coho-only loads must be delivered within this management area (or adjacent closed area). In addition, all coho caught north of Cascade Head must be delivered north of Cascade Head, and all coho caught south of Cascade Head must be delivered south of Cascade Head. All chinook in possession must be delivered with the coho. There are no restrictions on the place of delivery of chinook-only loads. Chinook and coho salmon possessed or landed in this management area may not be returned or transferred to any vessels except vessels licensed to buy salmon. The species ratio landing restriction may be modified inseason to best utilize the available harvest.

E. Quotas

E.1. *Chinook and Coho Quotas North of Cape Falcon*—All non-treaty troll and recreational ocean fisheries will be limited by either (a) an overall 80,000 chinook quota or (b) impacts on critical Washington coastal and Puget Sound natural coho stocks equivalent to the preseason coho quota of 160,000 (including hooking mortality associated with May/June chinook fisheries). Preseason species trade with recreational fishery of 21,000 coho for 7,000 chinook. Therefore, the troll fishery will be limited by overall quotas of 47,000 chinook and 19,000 coho. Any transfers between subarea quotas of 5,000 fish or less shall be done on a fish-for-fish basis.

E.2. *Coho Quotas South of Cape Falcon*—The troll fishery from Cape Falcon to the U.S.-Mexico border will be limited to an overall combined catch and hooking mortality (impact quota) of 60,000 coho. The overall preseason catch quota for this impact is 57,000 coho. Within the overall impact quota there are (a) a 70 percent subarea impact ceiling (catch plus hooking mortality) which allows a harvest of no more than 40,000 coho south of Cascade Head and (b) a 17 percent subarea impact ceiling (catch plus hooking mortality) which allows a harvest of no more than 10,000 coho south of Point Arena. An inseason reallocation to the troll fishery of any portion of the south of Cape Falcon recreational quota projected to be in excess of sport fishery needs will be made no later than August 15. For 1992, the overall commercial quota south of Cape Falcon was increased by a preseason transfer of 5,000 coho from the recreational allocation.

E.3. *Chinook Quotas Between Point Arena and Point San Pedro*—The troll fishery in May from Point Reyes to Point San Pedro will be limited by a catch quota of 10,000 chinook, and the troll fishery in August from Point Arena to Point San Pedro will be limited by a catch quota of 8,000 chinook through August 31. Any quota overage or underage from the May fishery from Point Reyes to Point San Pedro will be subtracted from or added to the quota for the August fishery from Point Arena to Point San Pedro.

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Table 2. Recreational management measures for 1992 ocean salmon fisheries.

(Note: This table contains important restrictions in Parts A, B, C, and D which must be followed for lawful participation in the fishery.)

A. SEASONS, SUBAREA QUOTAS, SPECIES, AND BAG LIMITS

(Shaded areas represent closures.)

FEB/MAR/APR	MAY	JUNE	JULY	AUGUST	SEP/OCT/NOV
U.S.-CANADA BORDER					U.S.-CANADA BORDER
	Open east of Bonilla-Tatoosh Line only. 5/1 thru earlier of 5/31 or chinook quota of 1,000. All except coho. Open 7 days a week. 2 fish per day.		7/6 thru earliest of 10/1 or overall chinook quota (D.1.) or coho subarea quota of 13,100. Open Sun. thru Thurs. only. All salmon. 2 fish per day. No more than 4 fish in 7 consecutive days. Open only within 1/2 mile of shore. Inseason management may be used to maintain season length and keep chinook catch within a guideline of 2,400.		
CAPE ALAVA					CAPE ALAVA
			7/13 thru earliest of 10/1 or overall chinook quota (D.1.) or coho subarea quota of 3,000. Open Sun. thru Thurs. only. All salmon. 1 fish per day. No more than 4 fish in 7 consecutive days. Open only inside 6 miles. Inseason management may be used to maintain season length and keep chinook catch within a guideline of 800.		
QUEETS RIVER					QUEETS RIVER
			7/6 thru earliest of 10/1 or overall chinook quota (D.1.) or coho subarea quota of 54,400. Open Sun. thru Thurs. only. All salmon. 2 fish per day. No more than 4 fish in 7 consecutive days. Open only inside 6 miles. Inseason management may be used to maintain season length and keep chinook catch within a guideline of 18,800. Coho remaining in subarea quota after closure will be transferred into 9/14 all-salmon fishery between Leadbetter Point and Cape Falcon.		
LEADBETTER POINT					LEADBETTER POINT
			6/29 thru earliest of 9/13 or overall chinook quota (D.1.) or coho subarea quota of 67,500. Open Sun. thru Thurs. only. All salmon. 2 fish per day. No more than 4 fish in 7 consecutive days. Open only inside 3 miles. Conservation Zone 1, Columbia River mouth, is closed (C.3.). Inseason management may be used to maintain season length and keep total chinook catch for entire season within a guideline of 10,000. If still open, the ocean fishery may be curtailed upon the opening of the Buoy 10 fishery and the remaining coho and chinook guideline transferred to the 9/14 all-salmon fishery.	No earlier than 9/14 thru earliest of 10/1 or overall chinook quota (D.1.) or coho subarea quota of 3,000. Open Sun. thru Thurs. only. All salmon. 2 fish per day. No more than 4 fish in 7 consecutive days. Cons. Zone 1 is closed (C.3.).	
CAPE FALCON					CAPE FALCON

Table 2. Recreational management measures for 1992 ocean salmon fisheries (continued).

FEB/MAR/APR	MAY	JUNE	JULY	AUGUST	SEP/OCT/NOV
CAPE FALCON					CAPE FALCON
	5/3 thru 6/11. Open Sun. thru Thurs. only. All salmon. 2 fish per day. No more than 4 fish in 7 consecutive days and no more than 20 fish per year (C.7.). Open only within the 27 fathom curve (C.6.).		6/14 thru earlier of 9/20 or coho quota (D.2.). Open Sun. thru Thurs. only. All salmon. 2 fish per day. No more than 4 fish in 7 consecutive days and no more than 20 fish per year (C.7.). On or about 7/29, the STT will analyze the landings and determine any adjustments in daily closures necessary to attain season ending date of 9/20. This could involve an increase or decrease in days closed per week.		
FLORENCE SOUTH JETTY					FLORENCE SOUTH JETTY
	5/3 thru earlier of 6/11 or chinook quota (D.3.). Open Sun. thru Thurs. only. All salmon. 2 fish per day. No more than 4 fish in 7 consecutive days and no more than 20 fish per year (C.7.) Open only within the 27 fathom curve (C.6.).		6/14 thru earliest of 9/20 or coho quota (D.2.) or chinook quota (D.3.). Open Sun. thru Thurs. only. All salmon. 2 fish per day. No more than 4 fish in 7 consecutive days and no more than 20 fish per year (C.7.). Fishery may be restricted inseason to all salmon except chinook to extend duration. If coho quota remains, fishery will continue or reopen on 9/1 without being constrained by a chinook quota. On or about 7/29, the STT will analyze the landings and determine any adjustments in daily closures necessary to control coho catch rate and attain season ending date of 9/20. This could involve an increase or decrease in days closed per week.		
HUMBUG MOUNTAIN					HUMBUG MOUNTAIN
			7/6 thru earlier of 9/7 or chinook quota (D.4.). Open Mon. thru Wed. only. All salmon 1 fish per day. Conservation Zone 2, Klamath River mouth, closed 8/1 thru 8/31 (C.4.). Fishery continues or reopens without chinook quota beginning 9/1. Progress review on or about 7/29 to consider adjustments in daily closures necessary to attain season ending date of 9/7. This could involve an increase or decrease in days closed per week. No more than 1 rod per angler (C.2.).		
HORSE MOUNTAIN					HORSE MOUNTAIN
	Nearest Sat. to 2/15 thru earlier of 5/31 or chinook quota (D.5.). All salmon. 2 fish per day. No more than 1 rod per angler (C.2.).		6/30 thru earlier of 8/31 or chinook quota (D.5.). All salmon. 2 fish per day. No more than 1 rod per angler (C.2.).	9/1 thru nearest Sun. to 11/15. All salmon. 2 fish per day. No more than 1 rod per angler (C.2.).	
POINT ARENA					POINT ARENA
	Nearest Sat. to 3/1 thru earlier of 5/31 or chinook quota (D.6.). All salmon. 2 fish per day. No more than 1 rod per angler (C.2.). Conservation Zone 3, mouth of San Francisco Bay, closed the nearest Sat. to 3/1 thru the nearest Fri. to 3/31 (C.5.).	BOLINAS POINT Open only in Conservation Zone 3 (C.5.). 6/1 thru earlier of 6/29 or chinook quota (D.6.). All salmon. 2 fish per day. No more than 1 rod per angler (C.2.).	6/30 thru earlier of 8/31 or chinook quota (D.6.). All salmon. 2 fish per day. No more than 1 rod per angler (C.2.).	9/1 thru nearest Sun. to 11/1. All salmon. 2 fish per day. No more than 1 rod per angler (C.2.).	
POINT SAN PEDRO					POINT SAN PEDRO
	Nearest Sat. to 3/1 thru nearest Sun. to 11/1. All salmon. 2 fish per day. No more than 1 rod per angler north of Point Conception (C.2.).				
U.S.-MEXICO BORDER					U.S.-MEXICO BORDER

BILLING CODE 3510-22-C

B MINIMUM SIZE LIMITS

[Total length in inches]

	Chinook	Coho	Pink
North of Cape Falcon.	24.0	16.0	None
Cape Falcon to Humbug Mountain.	20.0	16.0	None.
South of Humbug Mountain.	20.0	20.0	None, except 20.0 off California.

C. Special Requirements, Restrictions, and Exceptions

C.1. *Hooks*—Single point, single shank barbless hooks are required north of Point Conception, California.

C.2. *Rod Restriction*—No person may use more than one rod and line while fishing from the U.S.-Canada border south to Point Conception, California.

C.3. *Conservation Zone 1*—The ocean area surrounding the Columbia River mouth bounded by a line extending for 6 nautical miles due west from North Head along 46°18'00" N. latitude to 124°13'18" W. longitude, then southerly along a line of 167° True to 46°11'06" N. latitude and 124°11'00" W. longitude (Columbia River Buoy), then northeast along Red Buoy Line (continuing to Buoy #2, then to Buoy #4, then to Buoy #2SJ, then continuing on) to the tip of the south jetty is closed.

C.4. *Conservation Zone 2*—The ocean area surrounding the Klamath River mouth bounded on the north by 41°38'48" N. latitude (approximately 6 nautical miles north of the Klamath River mouth), on the west by 124°23'00" W. longitude (approximately 12 nautical miles off shore), and on the south by 41°26'48" N. latitude (approximately 6 nautical miles south of the Klamath River mouth), is closed 8/1 thru 8/31.

C.5. *Conservation Zone 3 (Sacramento River Winter-Run Chinook Conservation Closure)*—The ocean area bounded by a line commencing at Bolinas Point (Marin County, 37°54'17" N. latitude, 122°43'35" W. longitude) southerly to Duxbury Buoy to Channel Buoy 1 to Channel Buoy 2 to Point San Pedro (San Mateo County, 37°35'40" N. latitude, 122°31'10" W. longitude) is closed the nearest Sat. to 3/1 thru the nearest Fri. to 3/31 (2/27 thru 4/2 in 1993).

C.6. *Area Within the 27 Fathom Curve*—The ocean area that is bounded by a line from Cape Falcon to 45°46'00" N, 124°01'20" W. (approximately 1.6 nautical miles west of Cape Falcon) to 45°04'15" N, 124°04'00" W. (approximately 2.2 nautical miles northwest of Cascade Head) to 44°40'40" N, 124°09'15" W. (approximately 3 nautical miles west of Yaquina Head) to 44°08'30" N, 124°12'00" W (approximately 3 nautical miles west of Heceta Head) to 43°40'15" N, 124°14'30" W (approximately 0.5 nautical miles west of the Umpqua Whistle Buoy) to 43°31'30" N, 124°17'00" W (approximately 1.7 nautical miles west of the beach) to 43°15'15" N, 124°28'00" W (approximately 3 nautical miles west of the beach) to 43°01'30" N, 124°29'05" W. (approximately 2 nautical miles west of Four Mile Creek) to 42°56'00" N, 124°33'10" W. (approximately 2.4 nautical miles west of the mouth of Floras Creek) to 42°50'20" N, 124°38'30" W. (approximately 3.4 nautical miles west of Cape Blanco) to 42°40'30" N, 124°28'45" W. (approximately 1.1 nautical mile west of Humbug Mountain) to Humbug Mountain.

C.7 *Annual Possession Restriction Between Cape Falcon and Humbug Mountain*—No more than 20 salmon of any species may be retained per year from the ocean area between Cape Falcon, Oregon, and Humbug Mountain, Oregon.

C.8. *Inseason Management*—To meet preseason management objectives, certain inseason regulatory modifications may be necessary, such as action to extend the duration of fisheries to the end of scheduled seasons or to keep within chinook harvest guidelines for management subareas. This may involve extensions or reductions in areas open to fishing or changes in species which may be landed.

The procedure for any inseason transfer of coho among recreational subareas north of Cape Falcon will be as follows:

After conferring with representatives of the affected ports and the SAS recreational representatives north of Cape Falcon, NMFS may transfer coho inseason among recreational subareas to help meet the recreational season duration objectives (for each subarea). Any transfers between subarea quotas of 5,000 fish or less shall be done on a fish-for-fish basis.

C.9. Consistent with Council management objectives, the State of Oregon may establish some additional late season, all-salmon-except-coho fisheries in state waters.

D. Quotas

D.1. *Chinook and Coho Quotas North of Cape Falcon*—All non-treaty troll and recreational ocean fisheries will be limited by either (a) an overall 80,000 chinook quota or (b) impacts on critical Washington coastal and Puget Sound natural coho stocks equivalent to the preseason coho quota of 160,000. Preseason species trade with commercial fishery of 7,000 chinook for 21,000 coho. Therefore, the recreational fishery will be limited by overall catch quotas of 33,000 chinook and 141,000 coho.

D.2. *Coho Quotas South of Cape Falcon*—Overall recreational catch is limited to a catch quota of 172,000 coho from Cape Falcon to the U.S.-Mexico border. When this coho quota is reached, all recreational fisheries between Cape Falcon and Humbug Mountain will close. Any recreational all-salmon fisheries open south of Humbug Mountain will continue open until their chinook quotas have been met. An inseason reallocation to the troll fishery of any portion of the south of Cape Falcon recreational quota projected to be in excess of sport fishery needs will be made no later than August 15. For 1992, the overall recreational quota south of Cape Falcon was decreased preseason by a transfer of 5,000 coho to the commercial allocation.

D.3. *Chinook Quota Between Florence South Jetty and Humbug Mountain*—The recreational fishery will be limited through August 31 by an impact quota (including hooking mortality associated with any all-except-chinook fishery) of 3,700 chinook.

D.4. *Chinook Quota Between Humbug Mountain and Horse Mountain*—The recreational fishery will be limited through August 31 by an impact quota of 3,500 chinook.

D.5. *Chinook Quota Between Horse Mountain and Point Arena*—The recreational fishery will be limited through August 31 by an impact quota of 3,400 chinook.

D.6. *Chinook Quota Between Point Arena and Point San Pedro*—The recreational fishery will be limited through August 31 by an impact quota of 39,400 chinook.

A. Seasons, Species, Minimum Size Limits, and Gear Restrictions

TABLE 3.—TREATY INDIAN MANAGEMENT MEASURES FOR 1992 OCEAN SALMON FISHERIES

[Note: This table contains important restrictions in Parts A, B, and C which must be followed for lawful particiption in the fishery]

Tribe and area boundaries	Open seasons	Salmon species	Minimum size limit (inches)		Special restrictions by area
			Chinook	Coho	
Makah—That portion of the Fishery Management Area (FMA) north of 48°02'15" N. latitude (Norwegian Memorial) and east of 125°44'00" W. longitude.	May 1 thru earlier of June 30 or chinook quota.	All except coho	24		Barbless hooks. No more than 8 fixed lines per boat, or no more than 4 hand-held lines per person.
	No earlier than July 1 thru earliest of September 30 or chinook or coho quota.	All	24	16	
Quileute—That portion of the FMA between 48°07'36" N. latitude (Sand Point) and 47°31'42" N. latitude (Queets River) east of 125°44'00" W. longitude.	May 1 thru earlier of June 30 or chinook quota.	All except coho	24		Barbless hooks. No more than 8 fixed lines per boat.
	No earlier than July 1 thru earliest of September 30 or chinook or coho quota.	All	24	16	
Hoh—That portion of the FMA between 47°54'18" N. latitude (Quillayute River) and 47°21'00" N. latitude (Quinault River) east of 125°44'00" W. longitude.	May 1 thru earlier of June 30 or chinook quota.	All except coho	24		Barbless hooks. No more than 8 fixed lines per boat.
	No earlier than July 1 thru earliest of September 30 or chinook or coho quota.	All	24	16	
Quinault—That portion of the FMA between 47°40'06" N. latitude (Destruction Island) and 46°53'18" N. latitude (Point Chehalis) east of 125°44'00"W. longitude.	May 1 thru earlier of June 30 or chinook quota.	All except coho	24		Barbless hooks. No more than 8 fixed lines per boat.
	No earlier than July 1 thru earliest of September 30 or chinook or coho quota.	All	24	16	

B. Special Requirements, Restrictions, and Exceptions

B.1. All boundaries may be changed to include such other areas as may hereafter be authorized for that tribe's treaty fishery by a federal court.

B.2. Applicable lengths, in inches, for dressed, head-off salmon, are 18 inches for chinook and 12 inches for coho. Minimum size and retention limits for ceremonial and subsistence harvest are as follows:

Makah Tribe—None.

Quileute, Hoh, and Quinault tribes—Not more than 2 chinook longer than 24 inches in total length may be retained per day. Chinook less than 24 inches total length may be retained.

B.3. The areas within a 6-mile radius of the mouths of the Queets River (47°31'42" N. latitude) and the Hoh River (47°45'12" N. latitude) will be closed to commercial fishing. A closure within 2 miles of the mouth of the Quinault River (47°21'00" N. latitude) may be enacted by the Quinault Nation and/or the State of Washington and will not adversely affect the Secretary of Commerce's management regime.

C. Quotas

C.1. The overall ocean quotas for the Washington coastal tribes are: 33,000 chinook and 68,000 coho salmon. These quotas include troll catches by the Klallam and Makah tribes in Washington State Statistical Area 4B from May 1 through September 30.

Gear Definitions and Restrictions

In addition to gear restrictions shown in Tables 1, 2, and 3, the following gear definitions and restrictions will be in effect.

Troll Fishing Gear

Troll fishing gear for the Fishery Management Area (FMA) is defined as one or more lines that drag hooks behind a moving fishing vessel.

In that portion of the FMA off Oregon and Washington, the line or lines must be affixed to the vessel and must not be intentionally disengaged from the vessel at any time during the fishing operation.

Recreational Fishing Gear

Recreational fishing gear for the FMA is defined as angling tackle consisting of a line with not more than one artificial lure or natural bait attached.

In that portion of the FMA off Oregon and Washington, the line must be attached to a rod and reel held by hand or closely attended; the rod and reel must be held by hand while playing a hooked fish. No person may use more than one rod and line while fishing off Oregon or Washington.

In that portion of the FMA off California, the line must be attached to a rod and reel held by hand or closely attended. Weights directly attached to a line may not exceed four (4) pounds. No person may use more than one rod and line while fishing off California north of Point Conception.

Fishing includes any activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; therefore using gear capable of harvesting salmon during an open salmon season, whether or not the intent is to harvest salmon, is fishing for salmon.

Geographical Landmarks

Wherever the words "nautical miles of shore" are used in this rule, the distance is measured from the baseline from which the territorial sea is measured.

Georgraphical landmarks referenced in this notice are at the following locations:

Bonilla-Tatoosh Line.	A straight line drawn from Bonilla Point on Vancouver Island, British Columbia, to the light on Tatoosh Island, Washington, then to the most westerly point on Cape Flattery.
Cape Alava	48°10'00" N. lat.
Queets River	47°31'42" N. lat.
South end of Destruction Island.	47°40'30" N. lat.
Leadbetter Point.	46°38'10" N. lat.
North Head	46°18'00" N. lat.
Red Buoy Line	Seaward along the south jetty of the Columbia River to the visible tip of the jetty and then to Buoy #2SJ, then southwesterly to Buoy #4, continuing southwesterly to Buoy #2, and then to the Columbia River Buoy, then due west along 46°11'06" N. latitude.
Cape Falcon	45°46'00" N. lat.
Cascade Head	45°03'50" N. lat.
Florence South Jetty.	44°01'00" N. lat.
Humbug Mountain.	42°40'30" N. lat.
Horse Mountain.	40°05'00" N. lat.
Point Arena	38°57'30" N. lat.

Point Reyes	37°59'44" N. lat.
Point San Pedro.	37°35'40" N. lat.
Point Conception.	34°27'00" N. lat.

Inseason Notice Procedures

Actual notice of inseason management actions will be provided by a telephone hotline administered by the Nortwest Region, NMFS, 206–526–6667 or 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts. These broadcasts are announced on Channel 16 VHF–FM and 2182 KHz at frequent intervals. The announcements designate the channel or frequency over which the Notice to Mariners will be immediately broadcast. Inseason actions will also be filed with the **Federal Register** as soon as practicable. Since provisions of these management measures may be altered by inseason actions, fishermen should monitor either the telephone hotline or Coast Guard broadcasts for current information for the area in which they are fishing.

Classification

The 1992 and specified 1993 management measures described above are based on the most recent data available. The aggregate data upon which the measures are based are available for public inspection at the offices of the Regional Directors (see ADDRESSES) during business hours until the end of the comment period.

Seasons that begin prior to May 1 are set under the authority of 50 CFR part 661, and not under the Secretary's emergency authority and, thus, are effective until modified, superseded, or rescinded.

1992 Late Season

The recreational season from Horse Mountain to Point Arena in November is set under the authority of 50 CFR part 661, and not under the Secretary's emergency authority and, thus, is effective until modified, superseded, or rescinded.

Preseason Notice of 1992 Management Measures

Some of the actions taken in this notice are taken under 50 CFR part 661. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator) has determined that they are consistent with the Magnuson Act and other applicable law, are in compliance with Executive Order 12291, and are covered by the Regulatory Flexibility Analysis and Final Supplemental Environmental Impact Statement prepared for the framework amendment to the FMP. These actions impose no information-collection requirements under the Paperwork Reduction Act.

Section 661.23 of the ocean salmon regulations states that the Secretary will publish a notice establishing management measures each year and will invite public comments prior to its effective date. If the Secretary determines, for good cause, that a notice must be issued without affording a prior opportunity for public comment, comments on the notice will be considered if received by the Secretary during the period 15 days after the filing of the notice with the Office of the Federal Register

Because of the depressed status of some salmon stocks, and the need to reduce harvest in some areas to prevent overfishing and achieve the FMP's spawning escapement goals, the Secretary has determined that time does not permit a comment period prior to the date the management measures must be in effect. Comments will be considered if received within 15 days after the filing of the notice with the Office of the Federal Register.

The public had opportunity to comment on these management measures during the process of their development. The public participated in the March and April Council, STT, and Salmon Advisory Subpanel meetings, and in public hearings held in Washington, Oregon, and California in late March and early April, which generated the management actions recommended by the Council and approved by the Secretary. Written public comments were invited by the Council between the March and April Council meetings.

Emergency Actions

The Assistant Administrator also has determined that the measures described in the preamble that deviate from the FMP and its implementing regulations are necessary to respond to emergency situations and are consistent with the Magnuson Act and other applicable law. The measures falling under emergency authority of section 305(c) of the Magnuson Act (emergency rule) involve the following as listed in the preamble: (1) Provision for an overall ocean harvest rate on Klamath River fall chinook of 8 percent (2 percent for September and October fisheries in 1991, and 6 percent for 1992 fisheries through August 31) that will result in the Klamath fall chinook spawning escapement floor of 35,000 naturally spawning adults not being met, and (2) reduction of the OCN coho ocean harvest rate from 47 to 40 percent and a shift of 5,000 coho from the recreational fishery allocation to the commercial fishery allocation south of Cape Falcon. The Secretary has determined that continuation of the regulations that the emergency measures are intended to replace would not prevent overfishing. In addition, implementing regulations in conformance with the existing plan and without using emergency authority would not adequately protect the OCN coho, would not achieve the optimum yield from the resource, would not apportion the ocean and inside harvests equitably among fisheries, and would cause unduly severe adverse economic impacts on fishermen and coastal communities. Therefore, it is necessary to amend those portions of the framework FMP and its implementing regulations by emergency action pursuant to 16 U.S.C. 1855(c).

The Assistant Administrator finds that the reasons justifying the promulgation of this emergency rule on an emergency basis also make it impracticable and contrary to the public interest to provide prior notice and opportunity for comment or to delay for 30 days the effective date of these emergency regulations, as required by section 553(b) and (d) of the Administrative Procedure Act. The public had opportunities to comment on the substance of this emergency rule during meetings of the Council at its advisory committees in March and April 1992. The public will also have an opportunity to comment on the emergency measures during the comment period provided by this emergency rule.

The Assistant Administrator has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Washington, Oregon, and California, and the San Francisco Bay Conservation and Development Commission. This determination has been submitted for review by the responsible agencies under section 307 of the Coastal Zone Management Act.

This emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that order. This rule is being reported to the director of the Office of Management and Budget, with an explanation of why it is not possible to follow the regular procedures of that order.

The Council prepared an environmental assessment (EA) for this action and the Assistant Administrator

concluded that there will be no significant impact on the human environment. A copy of the EA is available from the Regional Directors (see **ADDRESSES**).

This emergency rule does not contain a collection of information for purposes of the Paperwork Reduction Act.

The Regulatory Flexibility Act does not apply to this rule because, as an emergency rule, it was not required to be promulgated as a proposed rule and the rule is issued without opportunity for prior public comment. Since notice and opportunity for comment are not required to be given under section 553 of the Administrative Procedure Act, and since no other law requires that notice and opportunity for comment be given for this rule, under sections 603(a) and 604(a) of the Regulatory Flexibility Act no initial or final regulatory flexibility analysis has to be or will be prepared.

This emergency rule does not contain policies with known federalism implications sufficient to warrant preparation of the federalism assessment under Executive Order 12612. Washington, Oregon, and California are expected to implement State regulations compatible with the Federal rule.

On March 31, 1991, NMFS issued a biological opinion that considered the effects of the FMP on Sacramento River winter-run chinook salmon. The opinion concluded that implementation of the plan is not likely to jeopardize the continued existence of the species. The 1992 season falls within the scope of the 1991 opinion, and the seasons and managment measures comply with the recommendations and incidental take conditions contained in the biological opinion. Therefore, it was not necessary to reinitiate consultation on Sacramento River winter-run chinook salmon.

On May 1, 1992, NMFS issued a biological opinion that considered the effects of the 1992 salmon management measures on wild sockeye salmon, wild spring/summer chinook salmon, and wild fall chinook salmon from the Snake River. The opinion concluded that the fishery in 1992 under the FMP is not likely to jeopardize the continued existence of the listed stocks.

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

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Dated: May 1, 1992.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 661 and its appendix are amended as follows:

PART 661—OCEAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

1. The authority citation for part 661 continues to read as follows:

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

Appendix [Amended]

2. In the appendix, section II.B., paragraph 2.(b)(ii)(A), which pertains to coho allocation south of Cape Falcon up to 350,000 allowable ocean harvest, is suspended and a new paragraph 2.(b)(ii)(E) is added, effective May 1, 1992, through August 4, 1992, to read as follows:

* * * * *

(E) In 1992, coho south of Cape Falcon are allocated as follows: To the recreational fishery a catch quota of 172,000 coho, and to the troll fishery an impact (catch and hooking mortality) quota of 60,000 coho, which is equivalent to a catch quota of 57,000 coho.

* * * * *

3. Effective May 1, 1992, through August 4, 1992, in the appendix, section IV.A., in the table "Summary of Specific Management Goals for Stocks in the Salmon Management Unit," footnote 3, which pertains to Klamath River fall chinook, is suspended and a new footnote 3a is added immediately after footnote 3 in the table. The following text is added as set forth below.

3a. In 1992, the Klamath River fall chinook will not be managed to meet the spawning escapement floor. The chinook will be managed to protect its long-term productivity.

4. Effective May 1, 1992, through August 4, 1992, in the appendix, section IV.A., in the table "Summary of Specific Management Goals for Stocks in the Salmon Management Unit," footnote 4, which pertains to Oregon coastal natural (OCN) coho, is suspended and a new footnote 4a is added immediately after footnote 4 in the table. The footnote text is added as set forth below.

4a. In 1992, the OCN coho spawning escapement goal is based on an ocean harvest rate on OCN coho of 40 percent.

[FR Doc. 92-10572 Filed 5-1-92; 3:46 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 88
Wednesday, May 6, 1992

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 607 and 618

RIN 3052-AB19

Assessment and Apportionment of Administrative Expenses; General Provisions

AGENCY: Farm Credit Administration (FCA).

ACTION: Notice of intent to establish a negotiate rulemaking committee to negotiate and develop proposed assessment regulations; request for comments.

SUMMARY: The FCA intends to establish a negotiated rulemaking committee to negotiate and develop proposed amendments to its assessment regulations. These regulations prescribe the method for assessing Farm Credit System (System) institutions for the FCA's annual expenses in administering the Farm Credit Act of 1971.

This notice contains a list of the interests that the FCA has identified as likely to be significantly affected by the assessment regulations, along with the persons proposed to represent such interests.

The FCA expects negotiating sessions to begin in early June and conclude in early August, 1992. Based on this tentative schedule, the FCA anticipates publishing proposed assessment regulations during the fourth quarter of 1992.

In addition to soliciting comments on the establishment of the negotiating committee and its composition, this notice explains how interested persons may apply or nominate another person for membership on the committee.

DATES: The FCA must receive comments and applications or nominations for membership on the negotiating committee by June 5, 1992.

ADDRESSES: Comments and applications or nominations for membership on the negotiating committee may be mailed or delivered (in triplicate) to Jean Noonan, General Counsel, Farm Credit Administration, McLean, Virginia 22102–5090. Copies of all communications received will be available for examination by interested parties in the Office of General Counsel, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Robert S. Child, Senior Credit Specialist, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4189, TDD (703) 883–4444,

or

William L. Larsen, Senior Attorney, Regulatory and Legislative Law Division, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: In accordance with the Negotiated Rulemaking Act of 1990, 5 U.S.C. 581 *et seq.*, the FCA intends to establish a negotiated rulemaking committee to develop and negotiate proposed amendments to its assessment regulations. The assessment regulations prescribe the mothod for assessing Farm Credit System institutions for the FCA's annual expenses in administering the Farm Credit Act of 1971, 12 U.S.C. 2001 *et seq.* (1971 Act). A complete discussion of the current assessment procedures and the need for new regulations can be found in the FCA's notice of proposed rulemaking published at 56 FR 13424, April 2, 1991.

Negotiated rulemaking is an informal rulemaking technique relatively new to Federal agencies. In passing the Negotiated Rulemaking Act, Congress specifically "encourage[d] agencies to use the process when it enhances the informal rulemaking process." 5 U.S.C. 581. In essence, negotiated rulemaking invovles the consensus development and negotiation of the terms of a proposed rule by a committee chaired by a neutral mediator and composed of the proposing Federal agency and representative "interests" that will be significantly affected by the rule. Interests represent the viewpoints of various similarly situated parties with respect to the rule proposal. The statutory guideline for the maximum number of represented interests on the negotiating committee is 25 or fewer, one of which must be the agency.

I. The Assessment Regulations

The operating expense of the FCA in administering the Farm Credit Act are paid by the institutions of the System. Section 5.15 of the 1971 Act establishes the process by which System institutions are assessed for their share of FCA administrative expenses. Implementing regulations are found at 12 CFR 618.8230. Prior to the beginning of every fiscal year, the FCA must determine the cost of administering the 1971 Act of the succeding year as well as the amount of assessments needed to pay such expenses and maintain a necessary reserve. On the basis of the assessment determination, the FCA must apportion the assessment among System institutions in a manner "determined to be equitable" by the FCA. 12 U.S.C. 2250(a)(2)(A). The FCA then assesses and collects the allocations on a periodic basis during the fiscal year.

The current FCA assessment proces was developed before Congress enacted the Agricultural Credit Act of 1987, Public Law 100–233, (1987 Act). The 987 Act provided for substantial restructuring of the System and gave impetus to, among other developments, the creation of Farm Credit Banks (FCBs) from the merger of Federal land banks and Federal intermediate credit banks, the formation of the National Bank for Cooperatives (CoBank) from the merger of 10 banks for cooperatives (BCs) with the Central Bank for Cooperatives, and the merger of some Federal land bank associations (FLBAs) and production credit associations (PCAs) into agricultural credit associations (ACAs). The 1987 Act also increased the complexity and the requirements applicable to the regulatory, supervisory and examination functions of the FCA.

The structural and regulatory changes brought about by the 1987 Act led the FCA to examine its current assessment process to determine whether it remained valid and fair. On the basis of this examination, the FCA concluded that the current assessment formula needed to be revised. In April, 1991, the FCA published a notice of proposed rulemaking that proposed to establish an asset-based formula for assessments of System institutions. 56 FR 13424, *supra*. The comments received indicated a concern that the asset-based formula

as proposed would create inequities due to the method by which assets of banks and associations would be counted for assessment purposes. Further, some commenters strongly urged that alternative assessment procedures be explored before adoption of an asset-based formula.

The FCA is persuaded that other assessment procedure options should be considered. Rather than publish a modified assessment proposal at this stage in the rulemaking, however, the FCA has determined that negotiated rulemaking may provide a creative means to achieve an equitable assessment formula and is, therefore, in the public interest. The FCA is hopeful that all interested parties and the public will benefit from face-to-face negotiation and cooperation in the development of proposed assessment regulations, and further, that the use of negotiated rulemaking will increase the acceptability and improve the substance of any resulting proposal. In determining that negotiated rulemaking is appropriate and feasible for the assessment issue, the FCA conducted a survey of all System institutions. Of 65 institutions responding, 63 favored the use of negotiated rulemaking to develop the assessment regulations.

In the negotiated rulemaking herein proposed by the FCA, all System institutions will be respresented directly or indirectly by type, size, financial conditions, and geographic location. The negotiating committee will be able to examine alternative assessment procedures as it attempts to reach agreement on terms of proposed assessment regulations. Representative System institutions will have the opportunity to test the differential effect of various assessment approaches in the context of give-and-take negotiations. Consistent with its legal obligations, the FCA will use the consensus recommendation of the negotiating committee as the basis for proposed assessement regulations to be published at the conclusion of the negotiations.

II. The Negotiated Rulemaking

A. Subject and Scope of Negotiation

Pursuant to the Negotiated Rulemaking Act, the negotiating committee will be chartered to develop proposed assessment regulations that accord with §5.15 of the 1971 Act. The proposed regulations must be equitable and capable of effective administration by the FCA. No subjects or regulations other than the assessment procedures will be developed or negotiated by the negotiating committee.

Issues that may be considered by the negotiating committee include:

(1) The proportional assessment contributions of different types of System institutions;

(2) Whether it is more equitable to use an asset-based assessment procedure as originally proposed by the FCA or a system based on some other factor or combination of factors;

(3) The direct assessment of all System institutions rather than banks only as in the current regulations; and

(4) Any other issues directly related to the assessment process.

B. List of Significantly Affected Interests

The FCA believes that all of the over 260 institutions of the Farm Credit System are significantly affected by and interested in the assessment regulations by virtue of their required assessment payments. On the other hand, negotiated rulemaking is practical only if there are a limited number of interests at the negotiating table. Accordingly, the Negotiated Rulemaking Act sets a general limit of 25 negotiating interests, one of which must be the proposing agency.

To meet the statutory and practical requirements of negotiated rulemaking, the FCA has attempted to select a balanced and representative group of System institutions. With respect to banks and associations of the System, the FCA used four major criteria to choose a negotiating committee: (1) Type of institution, (2) size of institution, (3) financial condition of institution, and (4) geographical location of institution. The FCA developed these criteria from the responses to its Systemwide negotiated rulemaking survey.

Applying these criteria, the FCA first grouped together several of the 12 Farm Credit System districts. Within these combined districts, the FCA next sought to achieve a balanced representation based on type, size, and financial condition of institution. To the extent possible, the same criteria were then applied to achieve Systemwide balance. Finally, the FCA had to determine the willingness of individual institutions to participate in good faith negotiations and, as important, to represent the interests of similarly situated institutions that will not be able to participate in the negotiations due to the statutory limitation on the number of interests. Most of the banks and associations listed below volunteered to participate in the negotiated rulemaking in their responses to the FCA's Systemwide survey. In addition, some of the institutional representatives were nominated by other similarly situated institutions in their districts.

There are three System BCs, one very large and two relatively small. To ensure balanced representation of the three BCs, the FCA has selected Springfield BC and CoBank, which was formed 3 years ago by the merger of 10 BCs and the Central Bank for Cooperatives. CoBank represents the large interest and Springfield the smaller interests.

The FCA proposes the following list of interests and representative institutions for participation in the negotiated rulemaking to develop proposed assessment regulations:

District: Baltimore, Columbia, Springfield Mountain ACA, North Central Jersey ACA, Baltimore FCB.
District: Jackson, Louisville, Ag Credit ACA, Mid-America ACA.
District: Omaha, Spokane, Midlands ACA, Spokane FCB.
District: St. Louis, St. Paul, Eastern Missouri PCA/FLCA, Mandan PCA/FLCA, West Central Minnesota ACA, St. Paul FCB.
District: Texas, Wichita, Lubbock PCA, Wichita PCA/FLBA, Texas FCB.
District: Western, Colusa FLCA, North Coast ACA, Sacramento Valley PCA/FLCA.
BCs: CoBank, Springfield BC.

FCA will be represented in the negotiated rulemaking by Victor A. Cohen, FCA Assistant General Counsel. Mr. Cohen is also the FCA's designated alternative dispute resolution specialist pursuant to the Administrative Dispute Resolution Act, 5 U.S.C. 581 *et seq. C. Facilitator.*

The FCA has selected the Federal Mediation and Conciliation Service (FMCS) to facilitate the negotiated rulemaking. This selection is subject to approval by the negotiated rulemaking committee. The FMCS is an independent Federal agency with extensive experience in collective bargaining mediation and alternative dispute resolution, including negotiated rulemaking. Congress specified in the Negotiated Rulemaking Act that FMCS may furnish facilitators for negotiated rulemaking. 5 U.S.C. 588(b).

D. Proposed Agenda and Schedule

The FCA tentatively expects to hold up to five 2-day negotiating sessions on a biweekly basis beginning on or about June 8, 1992 and concluding on or about August 4, 1992. The meetings of the negotiating committee will be held at the FCA's McLean, Virginia headquarters unless otherwise announced. As required by the Federal Advisory Committee Act, 5 U.S.C. App. 2, the meetings of the negotiating committee will be open to the public.

The first meeting of the negotiating committee will be organizational in nature and include a training session lasting approximately half a day. The balance of the agenda of the organizational session will be devoted to establishment of committee procedures, discussion of logistical and scheduling needs, identification of issues, and, to the extent possible, substantive discussions.

The agenda for the remaining sessions will be largely controlled by the progress of negotiations. As noted, however, the FCA expects that negotiations will conclude in early August, and every effort will be made to keep the negotiations on schedule. Assuming the negotiations conclude as scheduled, the FCA would anticipate publishing for comment during the fourth quarter of 1992 a Notice of Proposed Rulemaking based on the consensus of the negotiated rulemaking committee regarding amended FCA assessment regulations.

E. Administrative Support

The FCA will provide such administrative support to the negotiating committee as is necessary to the effective operation of the negotiating committee, including secretarial and technical assistance. The FCA also will supply meeting facilities for the negotiating committee at its McLean, Virginia headquarters.

III. Solicitation of Comments

The FCA solicits comments on its proposal to establish the assessment regulations negotiated rulemaking committee and on its proposed membership. Instructions for submission of comments are set forth above under the Dates and Addresses captions.

IV. Application for Membership on Negotiating Committee

The FCA believes that the negotiating committee listed above fairly represents a balanced cross-section of interests in the assessment regulations. Notwithstanding, the Negotiated Rulemaking Act provides that—

"[p]ersons who will be significantly affected by a proposed rule and who believe that their interests will not be adequately represented by any person specified in [the agency's proposed committee list] may apply for, or nominate another person for, membership on the negotiated rulemaking committee to represent such interests with respect to the proposed rule." 5 U.S.C. 584(b).

Section 584(b) further provides that—

"[e]ach application or nomination shall include—

(1) the name of the applicant or nominee and a description of the interests such person shall represent;

(2) evidence that the applicant or nominee is authorized to represent parties related to the interests the person proposes to represent;

(3) a written commitment that the applicant or nominee shall actively participate in good faith in the development of the rule under consideration; and

(4) the reasons that the persons specified in the [agency's notice] do not adequately represent the interests of the person submitting the application or nomination."

Instructions for submission of applications or nominations for membership on the negotiating committee pursuant to section 584(b) of the Negotiated Rulemaking Act are set forth above under the Dates and Addresses captions. Any applications or nominations submitted will receive careful consideration by the FCA.

Dated: May 1, 1992.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 92-10547 Filed 5-5-92; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Summary Notice No. PR-92-5]

Petition for Rulemaking; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before July 6, 1992.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. 26798, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Angela M. Washington, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-5571.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on April 29, 1992.

Denise D. Castaldo,

Manager, Program Management Staff.

Petitions for Rulemaking

Docket No.: 26798.

Petitioner: Casa Aircraft USA, Inc.

Regulations Affected: 14 CFR 25.1523, 91.531, and 121.385.

Description of Petition: The petitioner proposes to change the Federal Aviation Regulations to (1) amend the minimum crew complement standards of Part 25 to allow cargo aircraft having a maximum takeoff weight of 20,000 pounds to be type certificated for a single pilot; and (2) amend the operating requirements of Parts 91 and 121 to permit the crew complement to be determined by the type certificate for aircraft having a maximum takeoff weight of 20,000 pounds when being used for the transport of cargo only.

Petitioner's Reason for the Request: The petitioner believes that the present regulatory structure governing single pilot-certification of medium-sized cargo aircraft is convoluted and repetitive. The petitioner further states that the minimum crew complement regulations impose significant and costly burdens on both operators and manufacturers of medium-sized cargo aircraft. Finally, the arbitrary limits imposed by the regulations inhibit the development of new technology related to cockpit layout

and design and fail to take into account the enormous improvement in systems reliability.

[FR Doc. 92-10524 Filed 5-5-92; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 91-AEA-25]

Proposed Increase in Operating Hours of Control Zone; Chincoteague (Wallops Island), VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration (FAA) has been advised of the increased operating hours of the NASA Wallops Flight Facility Air Traffic Control Tower, Wallops Island, VA. As a result, the FAA is proposing to amend the operating hours of the control zone established at this location to coincide with the actual operating hours of the control tower. Additionally, this control zone would be renamed as the Wallops Island, VA, Control Zone to coincide with the geographic location of the airport upon which the control zone is based. Furthermore, the geographic coordinates of the airport are being updated to reflect the actual location and the airport name is being updated.

DATES: Comments must be received on or before June 1, 1992.

ADDRESSES: Send comments on the rule in triplicate to: George Dodelin, Manager, System Management Branch, AEA-530, Docket No. 91-AEA-25, F.A.A. Eastern Region, Fitzgerald Federal Building # 111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, AEA-7, F.A.A. Eastern Region, Fitzgerald Federal Building # 111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the System Management Branch, AEA-530, F.A.A. Eastern Region, Fitzgerald Federal Building # 111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, F.A.A. Eastern Region, Fitzgerald Federal Building # 111, John F. Kennedy International Airport, Jamaica, NY 11430; telephone: (718) 553-0857.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 91-AEA-25". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the propsoed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA-7, F.A.A. Eastern Region, Fitzgerald Federal Building # 111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the operating hours of the Chincoteague, VA, Control Zone, due to an increase in operating hours at the NASA Wallops Flight Facility. The description of the control zone is published § 71.171 of Handbook 7400.7 effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1.

The FAA has determined that this proposed regulation only involves an established body of technical regulation for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation Safety, Control Zones, Incorporation by Reference.

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510; Executive Order 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.171 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published April 30, 1992, and effective November 1, 1991, is amended as follows:

Section 71.171 Control Zones

* * * * *

AEA VA CZ Chincoteague, VA [Removed; see Wallops Island, VA]

* * * * *

AEA VA CZ Wallops Island, VA
NASA Wallops Flight Facility, Wallops Island, VA (lat. 37°56'30"N., long. 75°27'45"W.)

Within a 4.4-mile radius of NASA Wallops Flight Facility and within 1.8 miles each side of the Snow Hill, MD, VOR 181° radial, extending from the 4.4-miles radius to 2.2 miles south of the VOR. This control zone shall be effective duirng the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Jamaica, New York, on April 21, 1992.

Gary W. Tucker,

Manager, Air Traffic Division.

[FR Doc. 92-10519 Filed 5-5-92; 8:45 am]

BILLING CODE 4910-13-M

(14 CFR Part 73

[Airspace Docket No. 91-AWP-13]

Proposed Amendment to Restricted Area R-2504; Camp Roberts, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the boudaries and time of designation for Restriction Area R-2504, Camp Roberts, CA. A Special Use Airspace Review was conducted at Camp Roberts in November 1990. The review team recommended that the boundaries of R-2504 be redefined to encompass firing points located on Camp Roberts that lie outside the current description of R-2504. The proposal would add "other times by NOTAM at least 24 hours in advance" to the existing time of designation of "0600 to 2400 PST, daily." This addition would provide operational flexibility needed to meet future requirements.

DATES: comments must be received on or before June 12, 1992.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, AWP-500 Docket No. 91-AWP-13, Federal Aviation Administration, P. O., Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Linda Ullom, MIlitary Operations Program Office (ATM-420), Office of Air Traffic System Management, Federal Aviation Administrtion, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-7683.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 91-AWP-13." The postcard will be date/time stamped and returned to the commenter. Send comments on environmental and land use aspects to: Mr. Brian Duke, Headquarters Camp Roberts, ATTN: CACR-DFE-EVR, Camp Roberts, CA 93451-5000, Phone (805) 238-8418. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 73.25 of part 73 of the Federal Aviation Regulations (14 CFR part 73) to amend the boundaries and time of designation for R-2504, Camp Roberts, CA. In November 1990, a Special Use Airspace Review team recommended that the boundaries of R-2504 be redefined to encompass firing points located on Camp Roberts that lie outside the current description of R-2504. In August 1991, a controlled firing area (CFA) was authorized at Camp Roberts. The CFA covers the area discussed by the review team. The California Army National Guard used the CFA as part of their summer annual training exercise. The area provides an enhanced training environment by allowing access to terrain which proposes new challenges to the training commanders. It allows maximum utilization of existing weapons and munitions. It provides additional space to support the artillery firing conducted by eight artillery battalions. This notice proposes to replace the CFA by expanding the restricted area. The existing time of designation of "0600 to 2400 PST, daily" would be amended by adding "other times by NOTAM at least 24 hours in advance." This provision would allow for operational flexibility in accomplishing the mission. Additionally, the using agency would be amended to show the military service involved, i.e., U.S. Army, Headquarters, Camp Roberts, CA. Section 73.25 of part 73 of the Federal Aviation Regulations was republished in FAA Handbook 7400.8 dated November 1, 1991.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. An environmental review of the proposal will be completed prior to any final decision.

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 73 of the Federal Aviation Regulations (14 CFR part 73) as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; 1522; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 73.25 [Amended]

2. Section 73.25 is amended as follows:

R–2504 Camp Roberts, CA [Revised]

Boundaries. Beginning at lat. 35°51'11" N., long. 120°47'55" W.; to lat. 35°50'30" N., long. 120°45'30" W.; to lat. 35°48'00" N., long. 120°45'35" W.; to lat. 35°46'36" N., long. 120°43'50" W.; to lat. 35°43'11" N., long. 120°43'50" W.; to lat. 35°42'58" N., long. 120°45'33" W.; to lat. 35°41'30" N., long. 120°45'30" W.; to lat. 35°41'30" N., long. 120°47'30" W.; to lat. 35°42'00" N., long. 120°49'00" W.; to lat. 35°44'38" N., long. 120°51'22" W.; to lat. 35°47'15" N., long. 120°51'22" W.; to the point of beginning.

Designated altitudes. Surface to 15,000 feet MSL.

Time of Designation. 0600 to 2400 daily; other times by NOTAM at least 24 hours in advance.

Controlling agency. FAA, Oakland ARTCC.

Using agency: U.S. Army, Headquarters, Camp Roberts, CA.

Issued in Washington, DC, on March 30, 1992.

Harold W. Becker

Manager, Airspace Rules and Aeronautical Information Division.

[FR Doc. 92–10518 Filed 5–5–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 5, 20, 100, 101, 105, and 130

[Docket No. 92N–0198]

Nutrition Labeling; Small Business Exemption Public Forums

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public forums.

SUMMARY: The Food and Drug Administration (FDA) is announcing its joint participation with the Food Safety and Inspection Service in the three public forums previously announced by the Food Safety and Inspection Service (FSIS) in the Federal Register of April 21, 1992 (57 FR 14499). FDA requests that food manufacturers that make products regulated by FDA and other interested parties attend one of the three forums, or submit written comments, to address issues concerning a potential legislative change in the exemption based on the size of a firm in the Nutrition Labeling and Education Act of 1990 (1990 amendments). Comments on FDA's proposals that implement the 1990 amendments have indicated that the current exemption may not be adequate to eliminate the significant hardship that some small food manufacturers could face from their efforts to comply with the 1990 amendments. Legislative change may be the only way to provide relief to these manufacturers.

DATES: The public forums will be held on May 12, 14, and 21, 1992, from 9 a.m. to 4:30 p.m. Written notices of participation in the forums should be filed by May 8, 1992. Submissions of written information should be filed with the FDA Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD. 20857, by June 5, 1992.

ADDRESSES: The public forums will be held at the following locations:

May 12, 1992: Hilton Plaza Inn, One East 45th St., Kansas City, MO 64111.

May 14, 1992: Radison Hotel, Courtland and International Blvd., Atlanta, GA 30303.

May 21, 1992: Sir Francis Drake, 450 Powell St., San Francisco, CA 94102.

Transcripts of the public forums and copies of data and information submitted during the forums will be available for public examination at the Office of the FSIS Hearing Clerk, rm. 3171, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, under Docket Number 91–006P and FDA's Dockets Managements Branch (address above) under the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Richard A. Williams, Jr., Center for Food Safety and Applied Nutrition (HFF–303), Food and Drug Administration, 200 C St. SW., Washington DC 20204, 202–485–0271.

SUPPLEMENTARY INFORMATION: The 1990 amendments, which, in part, amended the Federal Food, Drug, and Cosmetic Act (the act), exempt firms, based on their size, from the requirements of section 403(q) of the act (21 U.S.C. 343(q)), which requires that most food products bear nutrition labeling. Under section 403(q)(5)(D) of the act (21 U.S.C. 343(q)(5)(D)), a firm is exempt if its annual gross sales (of food or any commodity) are less than $500,000, or if it has more than $500,000 annual gross sales but has less than $50,000 in food sales, unless it provides nutrition information or makes a nutrition claim.

In comments on proposals to implement the 1990 amendments, however, some food manufacturers have claimed that this exemption is not adequate. These firms have contended that, unless the limits in the exemption are raised, they will be forced out of business or will be forced to drop unprofitable product lines. These firms have contended that their volume of sales or the size of their product lines do not make it feasible for them to incur the additional costs of nutrition labeling. FDA has considered these comments and believes that there is merit in the contentions they raise. However, FDA does not have available to it adequate information on which to decide what would be a reasonable and appropriate adjustment in the 1990 amendments' standard. For this reason, among other steps, FDA will participate in a series of public forums that have been scheduled by USDA to discuss the small business issue. FDA requests that interested food manufacturers and other interested parties attend these forums, or submit written comments, to provide information and ideas regarding changing the size and type of exemption in section 403(q) of the act (21 U.S.C. 343(q)). FDA intends to use the information that it receives to formulate a possible legislative proposal to change this position.

The questions raised by FSIS with regard to providing an exemption for small business in its April 21, 1992, notice are essentially those on which FDA would like information. FSIS has scheduled 1-day public forums in Kansas City, MO, Atlanta, GA, and San Francisco, CA (see locations and schedules under the "**DATES**" and "**ADDRESSES**" captions above). Participants should be prepared to respond to the issues raised below, as well as other pertinent comments, at the public hearing. Moreover, FDA encourages any interested person to submit written comments on these issues by June 5, 1992. If FDA decides to seek legislative change to provide relief to affected companies, it must act as quickly as possible.

FDA particularly seeks comment on the following issues:

(1) Options for changing the current exemption that should be addressed include:

a. Increase the current gross annual sales exemption; or

b. Provide an additional exemption beyond the current sales exemption that would exempt particular product lines selling less than a maximum number of units by firms with a higher gross annual sales cutoff; or

c. Provide an additional exemption beyond the current sales exemption for all product lines selling less than a specified number of units without regard to the gross annual sales volume; or

d. Change the current exemption to be based on the number of employees only.

For any of these options, or any combination of these options, FDA requests comments on the appropriate dollars, units, or number of employees.

(2) Should an exemption be based on the size of the overall business or on the production/sales of food only?

(3) Should FDA exempt products or businesses, i.e., should an exemption be based on the overall production/sales of a business or implemented on a product-by-product basis?

(4) How should FDA define a business? Should each official establishment be considered a separate business, or should FDA consider company or corporate size for firms with more than one official establishment?

(5) If an exemption applies to a product, how should "product" be defined? For example, is a "unit" a single piece of chewing gum, a package of five pieces, or any size package? Do all potato chips sold by a company constitute one product, or does each flavor variation constitute one product?

(6) What data should an establishment or firm have available to demonstrate that it, or its product, meets the criteria for an exemption?

(7) How should year-to-year variations in sales (total sales and sales of individual products) be handled? In other words, how should FDA define a sales level that exceeds an exemption level? Is it a single year's data, or a 2-year average, etc.?

(8) How should inflation be accounted for, e.g., by automatic updating of the Consumer Price Index or other inflation indicator or by informal rulemaking by the Secretary?

(9) When an exemption level is exceeded, what period of time should be allowed for implementation of nutrition labeling?

(10) Under various additional exemptions which might be proposed in paragraph (1) above, e.g., increasing the exemption for product lines selling less than a particular number of units, what percent of food products would be exempted? Additionally, under various proposed exemptions what percentage of the diet (various measures of nutrient intake) might be exempted from nutrition labeling?

(11) What types of products that might be exempted under various scenarios are consumed by a small number of consumers but would still affect a "significant" percentage of individual consumers' diets? What would be considered a "significant" percentage of an individual's diet?

The public forums will be open to all interested parties. The initial part of the public forums will be conducted in a roundtable format that will include both agencies, followed by a discussion for FDA issues only. (Participants in the USDA discussion will continue to discuss their issues in the roundtable format separately.) Representatives from the following categories are encouraged to participate in the roundtable discussions and the FDA hearing at each of the three locations:

(1) Consumers groups;

(2) State offices representing consumers or small business;

(3) Individual companies (not represented by trade associations);

(4) Trade associations and recognized professional groups;

(5) Small Business Administration; and

(6) Medical or health professionals, such as dietitians.

The number of participants in the roundtable discussions will be limited, although anyone may observe the discussions. Individuals unable to participate in the roundtable discussion held by both agencies who are interested in presenting their views at the forums will be provided the opportunity to do so, as time permits, at the FDA hearing that follows. FDA hopes that a broad spectrum of the private and public sectors will participate in the forums.

All persons wishing to participate in the public forums should submit a written request a Charles R. Edwards, Director, Product Assessment Division, Regulatory Programs, Food Safety and Inspector Service, U.S. Department of Agriculture, Washington, DC 20250. The written request should contain the following: (1) Participant's name, address, and phone number; (2) name of company, corporation, or organization being represented; (3) the location of the forum where participation is requested; and (4) the type of participation requested, either as part of the joint roundtable discussion or as part of the FDA hearing after completion of the roundtable discussions. FDA, in conjunction with FSIS, will prepare forum schedules showing the persons slated to participate. The schedules will be mailed to each participant before the forum and filed with the FSIS Hearing Clerk and FDA's Dockets Management Branch (address above).

Dated: May 4, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-10732 Filed 5-4-92; 3:11 pm]

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Notices

Federal Register
Vol. 57, No. 88
Wednesday, May 6, 1992

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.

COMMISSION ON CIVIL RIGHTS

Agenda and Public Meeting of the Colorado Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Colorado Advisory Committee to the Commission will be held from 1:30 p.m. until 3:30 p.m. on Saturday, June 27, 1992, in The Stratford Room of the Wellshire Inn, 3333 So. Colorado Blvd., Denver, CO 80222. The purpose of this meeting is to provide orientation for new members and finalize plans for future projects.

Persons desiring additional information should contact Committee Chairperson, Gwen Thomas, or William F. Muldrow, Director of the Rocky Mountain Regional Division, (303) 866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) workings days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 24, 1992.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 92–10530 Filed 5–5–92; 8:45 am]

BILLING CODE 6335–01–M

Agenda and Public Meeting of the Missouri Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the Missouri Advisory Committee to the U.S. Commission on Civil Rights will meet on May 29, 1992, from 9 a.m. until 1 p.m. at the Park Inn Hotel, 1772 South Glenstone in Springfield. The purpose of the meeting is to plan program activities for the remainder of the year.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Division (816) 426–5253, (TTY 816—426–5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 24, 1992.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 92–10528 Filed 5–5–92; 8:45 am]

BILLING CODE 6335–01–M

Agenda and Public Meeting of the North Carolina Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the North Carolina Advisory Committee to the Commission will convene at 2 p.m. and adjourn at 5 p.m. on Tuesday, June 2, 1992, at the Omni Hotel, 222 East Third Street at College, Charlotte, North Carolina 28202. The purpose of this meeting is: (1) To discuss the status of the Commission; (2) to hear reports on civil rights progress and/or problems in the State; and (3) to discuss the current project.

Persons desiring additional information, or planning a presentation to the Committee should contact North Carolina Chairperson, Joseph DiBona at 919/684–3924 or Bobby D. Doctor, Regional Director, Southern Regional Office of the U.S. Commission on Civil Rights at (404/730–2476, TDD 404/730–2481). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Southern Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 24, 1992.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 92–10529 Filed 5–5–92; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

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

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with § 353.22 or § 355.22 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review

Not later than May 31, 1992, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in May for the following periods:

	Period
Antidumping Duty Proceedings:	
Argentina: Lignt-Wall Welded Rectangular Carbon Steel Tubing, (A–357–802)	05/01/91–04/30/92
Brazil: Certain Carbon Steel Butt-Weld Pipe Fittings, (A–351–602)	05/01/91–04/30/92

	Period
Brazil: Certain Iron Construction Castings, (A-351-503)	05/01/91-04/30/92
Brazil: Certain Tubeless Steel Disc Wheels, (A-351-606)	05/01/91-04/30/92
Brazil: Frozen Concentrated Orange Juice, (A-351-605)	05/01/91-04/30/92
Dominican Republic: Portland Cement, Other Than White, Nonstaining Portland Cement, (A-247-003)	05/01/91-04/30/92
France: Ball Bearings, Cylindrical Roller Bearings, Spherical Plain Bearings, and Parts Thereof, (A-427-801)	05/01/91-04/30/92
India: Certain Welded Carbon Steel Standard Pipes and Tubes, (A-533-502)	05/01/91-04/30/92
Italy: Ball Bearings, Cylindrical Roller Bearings, and Parts Thereof, (A-475-801)	05/01/91-04/30/92
Japan: Ball Bearings, Cylindrical Roller Bearings, Spherical Plain Bearings, and Parts Thereof, (A-588-804)	05/01/91-04/30/92
Japan: Impression Fabric, (A-588-066)	05/01/91-04/30/92
Japan: Portable Electric Typewriters, (A-588-087)	05/01/91-04/30/92
Japan: Gray Portland Cement and Clinker, (A-588-815)	05/01/91-04/30/92
Romania: Ball Bearings and Parts Thereof, (A-485-801)	10/31/90-04/30/92
Singapore: Ball Bearings and Parts Thereof, (A-559-801)	05/01/91-04/30/92
Sweden: Ball Bearings, Cylindrical Roller Bearings, and Parts Thereof, (A-401-801)	05/01/91-04/30/92
Taiwan: Certain Circular Welded Carbon Steel Pipes and Tubes, (A-583-008)	05/01/91-04/30/92
Taiwan: Malleable Cast-Iron Pipe Fittings, Other Than Grooved, (A-583-507)	05/01/91-04/30/92
Thailand: Ball Bearings and Parts Thereof, (A-549-801)	05/01/91-04/30/92
The Federal Republic of Germany: Ball Bearings, Cylindrical Roller Bearings, Spherical Plain Bearings, and Parts Thereof, (A-428-801)	05/01/91-04/30/92
The People's Republic of China: Certain Iron Constructions Castings, (A-570-502)	05/01/91-04/30/92
The Republic of Korea: Malleable Cast Iron Pipe Fittings, Other Than Grooved, (A-580-507)	05/01/91-04/30/92
The United Kingdom: Ball Bearings, Cylindrical Roller Bearings, and Parts Thereof, (A-412-801)	05/01/91-04/30/92
Turkey: Welded Carbon Steel Standard Pipe and Tube Products, (A-489-501)	05/01/91-04/30/92
Countervailing Duty Proceedings:	05/01/91-04/30/92
Brazil: Certain Heavy Iron Construction Castings, (C-351-504)	01/01/91-12/31/91
Mexico: Ceramic Tile, (C-201-003)	01/01/91-12/31/91
Singapore: Antifriction Bearings, Other than Tapered Roller Bearings, and Parts Thereof, (C-559-802)	01/01/91-12/31/91
Sweden: Viscose Rayon Staple Fiber, (C-401-056)	01/01/91-12/31/91
Thailand: Ball Bearings, and Parts Thereof, (C-549-802)	01/01/91-12/31/91

In accordance with § 353.22(a) of the Commerce regulations, an interested party may request in writing that the Secretary conduct an administrative review of specified individual producers or resellers covered by an order, if the requesting person states why the person desires the Secretary to review those particular producers or resellers. If the interested party intends for the Secretary to review sales of merchandise by a reseller (or a producer if that producer also resells merchandise from other suppliers) which was produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically which reseller(s) and which countries of origin for each reseller the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230. Furhter, in accordance with § 353.31 of the Commerce Regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review", for requests received by May 31, 1992.

If the Department does not receive by May 31, 1992, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: April 28, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92-10567 Filed 5-5-92; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in El Salvador

April 30, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: May 7, 1992.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist. Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

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 United States Government has agreed to increase the current designated consultation level for Categories 300/301.

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 56 FR 60101, published on November 27, 1991). Also see 56 FR 55894, published on October 30, 1991.

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.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 30, 1992.

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 October 24, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton textile products, produced or manufactured in El Salvador and exported during the twelve-month period which began on January 1, 1992 and extends through December 31, 1992.

Effective on May 7, 1992, you are directed to amend the directive dated October 24, 1991 to increase the current limit for Categories 300/301 to 4,586,867 kilograms [1].

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-10511 Filed 5-5-92; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board Meeting

The USAF Scientific Advisory Board's Committee on Technology Options for Global Reach—Global Power: 1995–2020 (Support Panel) will meet on 18–19 June 1992, at Wright-Patterson AFB, OH, 8 a.m. to 5 p.m.

The purpose of these meetings are to receive briefings and gather information for the study.

The meetings will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92-10531 Filed 5-5-92; 8:45 am]

BILLING CODE 3910-01-M

[1] The limit has not been adjusted to account for any imports exported after December 31, 1991.

DEPARTMENT OF ENERGY

Conference on Coal and Organic Petrology

AGENCY: U.S. Department of Energy, Pittsburgh Energy Technology Center.

ACTION: Notice of non-competitive financial assistance (grant) award with the Pennsylvania State University.

SUMMARY: The Department of Energy (DOE), Pittsburgh Energy Technology Center announces that pursuant to 10 CFR 600.7(b)(2)(i) criteria (B), it intends to make a Non-Competitive Financial Assistance (Grant) Award to the Pennsylvania State University for a conference entitled, "Conference on Coal and Organic Petrology." Although the conference would be organized and conducted by the grantee using its own funds or those domated by third parties, DOE support of the conference will enhance the public benefits to be derived, and the DOE knows of no other entity which is conducting or is planning to conduct such an activity.

SUPPLEMENTARY INFORMATION:

Awardee: Pennsylvania State Unviersity.

Grant Number: DE–FG22–92PC92252.

Grant Value: $18,000, with DOE estimated funding of $7,000.

Scope: The objective of the grant project is to co-sponsor the 44th meeting of the International Committee for Coal and Organic Petrology (ICCOP) to be held the week of July 19–25, 1992 at University Park, PA. The purpose of the conference is to establish uniform terminologies and analytical procedures for the microscopic investigation of the components of coal, petroleum source rocks and oil shales and to discuss the application of coal petrology in coal utilization, source rock evaluation and basin analysis. The development of petrological standards contributes to industry's technical ability to achieve the environmental quality goals expressed in both the National Energy Strategy and recent amendments to the Clean Air Act. Keeping abreast of developing petrological standards is critical to maintaining and improving the competitive position of U.S. coal and coal technology in international markets. The primary benefit of this transaction accrues to the public interest in the form of substantial economic advantages associated with the use, in an environmentally acceptable manner, of the abundant supply of domestic coals.

The grant is for an estimated total value of $18,000.00. The DOE share of funding for the conference is estimated at $7,000.00.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–118, Pittsburgh, PA 15236, Attn: Norey B. Laug, Telephone: AC 412/892–4827.

Dated: April 20, 1992.

Dale A. Siciliano,

Chief, Contracts Group I, Acquisition and Assistance Division, Pittsburgh Energy Technology Center.

[FR Doc. 92-10449 Filed 5-5-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP91-136-005]

Centra Pipelines Minnesota, Inc.; Report of Distribution of Refunds Paid

April 29, 1992.

Take notice that Centra Pipelines Minnesota, Inc. (Centra), on April 21, 1992 tendered for filing its Report of Distribution of Refunds in the above proceeding.

Centra states that on March 31, 1992, it refunded $38,036.02 to its transportation customers of which $37,107.69 is principal and $928.33 is interest, pursuant to the stipulation and agreement approved by the Commission on February 20, 1992.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protest should be filed on or before May 6, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protests parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-10496 Filed 5-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-158-000]

South Georgia Natural Gas Co.; Filing

April 29, 1992.

Take notice that on April 27, 1992, South Georgia Natural Gas Company (South Georgia) filed a request for waiver of the annual purchased gas adjustment (PGA) filing requirements of

§§ 154.304 and 154.305 of the Federal Energy Regulatory Commission's (Commission) Regulations until such time as the Commission acts upon Southern Natural Gas Company's (Southern) application in Docket No. CP92–311–000.

In support of this request, South Georgia states that Southern filed an application with the Commission on January 21, 1992, in Docket No. CP92–311–000, for a certificate of public convenience and necessity authorizing Southern to provide new firm sales service to South Georgia's remaining firm jurisdictional sales customers and a corresponding abandonment of the remaining Contract Demand Southern current sells to South Georgia. Southern requested an effective date of March 1, 1992. To date, Southern has not received an order in the subject proceeding. Once Southern receives the authorization, South Georgia states that it expects to file within thirty (30) days a proposal with the Commission for the disposition of the deferred costs assocated with South Georgia's purchased gas cost adjustments and the balance of South Georgia's Account 191.

South Georgia states that copies of the filing will be served upon all of South Georgia's jurisdictional purchasers, interested state commissions and interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (§§ 385.211 and 385.214). All such motions or protests should be filed on or before May 6, 1992. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92–10497 Filed 5–5–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–74–002]

South Georgia Natural Gas Co.; Proposed Changes to FERC Gas Tariff

April 29, 1992.

Take notice that on April 10, 1992, South Georgia Natural Gas Company ("South Georgia") tendered for filing Seventh Revised Sheet No. 4A and Seventh Revised Sheet No. 4B to its FERC Gas Tariff, First Revised Volume No. 1.

South Georgia is making the instant filing in response to the option the Commission granted South Georgia in its Order dated February 28, 1992 to place into effect on March 1, 1992, the revised rates proposed in South Georgia's filing of December 31, 1991, that allow South Georgia to remain revenue neutral with respect to whether it renders firm sales service or provides firm transportation service. South Georgia submits that the proposed rates are intended to prevent a revenue shortfall that would have otherwise resulted when its firm sales customers converted to firm transportation service, effective March 1, 1992. South Georgia states that the proposed rates utilize revised billing determinants but generate the same revenue level used in designing its currently effective rates approved in Docket No. RP89–225–000.

South Georgia states that copies of the filing will be served upon all of South Georgia's jurisdictional customers, interested state commissions and interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 6, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92–10498 Filed 5–5–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP92–137–000, RP92–137–001 and RP92–108–000]

Transcontinental Gas Pipe Line Corp.; Technical Conference

April 29, 1992.

In the Commission's order issued on April 9, 1992, in the above-captioned proceeding, the Commission held that the filing raises issues for which a technical conference is to be convened. The conference to address these issues has been scheduled for Thursday, May 21, 1992, at 10 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92–10499 Filed 5–5–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–48–017]

Transwestern Pipeline Co.; Compliance Filing

April 29, 1992.

Take notice that Transwestern Pipeline Company ("Transwestern") on April 24, 1992 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet:

Effective April 1, 1992

Original Sheet No. 51B

Transwestern states that the above-referenced tariff sheet is being filed to comply with the Commission's Order ("Order") issued April 15, 1992 in Docket No. RP89–48–016. The Order required Transwestern to refile revised tariff sheets within fifteen (15) days to clarify that the Production and Gathering ("P&G") rate only applies to gas which Transwestern must gather and/or process.

Transwestern states that copies of the filing were served on its jurisdictional customers, interested state commissions, and all parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 6, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92–10500 Filed 5–5–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–140–000]

Transwestern Pipeline Co.; Technical Co.

April 29, 1992.

In the Commission's order issued on April 13, 1992, in the above-captioned

proceeding, the Commission held that the filing raises issues for which a technical conference is to be convened. The conference to address the issues has been scheduled for Tuesday, May 19, 1992, at 9 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-10501 Filed 5-5-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Conservation and Renewable Energy

[Docket No. CE-NOA-92-101]

Renewable Energy and Energy Efficiency Technology Joint Ventures, Management Plan

AGENCY: Department of Energy.

ACTION: Notice of availability and opportunity for public comment.

SUMMARY: The Department Energy (DOE) today announces the availability of a draft Management Plan for the Joint Venture Program created by the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989, (Act) (Pub. L. 101-218). The draft plan presents a strategy for assisting the private sector in technology commercialization and in helping to meet foreign competition. Copies of the draft plan have been sent to the members of the DOE Joint Ventures Advisory Committee under the Act. DOE solicits comments from the public concerning the Joint Venture Draft Management Plan.

DATES: Written comments (6 copies) are due on or before July 6, 1992.

ADDRESSES: Written Comments (6 copies) should be sent to the following address: U.S. Department of Energy, CE-90, room 6B-025, Docket No. CE-NOA-92-101, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586-0561.

The Management Plan is available for review and/or copying in the U.S. Department of Energy, Freedom of Information Reading Room, 1E-190, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586-6020.

FOR FURTHER INFORMATION CONTACT:

C. Harvey Major, U.S. Department of Energy, Mail Stop CE-54, room 6B-256, 1000 Independence Avenue, SW, Washington, DC 20585 (202) 586-5517.

Neal J. Strauss, U.S. Department of Energy, Office of General Counsel, Mail Stop GC-41, room 6B-256, 1000 Independence Avenue, SW, Washington, DC 20585 (202) 586-9507.

Issued in Washington, DC on April 30, 1992.

J. Michael Davis,

Assistant Secretary Conservation and Renewable Energy.

[FR Doc. 92-10573 Filed 5-5-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 92-38-NG]

CNG Producing Co.; Application for Blanket Authorization To Import and Export Natural Gas, Including Liquefied Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of Application for blanket authorization to import and export natural gas, including liquefied natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice of receipt on March 23, 1992, of an application filed by CNG Producing Company (CNG) requesting blanket authorization to import and export from Canada, Mexico, and other countries, up to 200 Bcf of natural gas, including liquefied natural gas (LNG), over a two-year term beginning on the date of first import or export. The proposed imports and exports would take place at any point on the United States' international border where existing facilities are located. CNG would provide DOE with quarterly reports detailing any import or export transaction.

The application is filed under section 3 of the Natural Gas Act of DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, June 5, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Yvonne Gabbay, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-4587.

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-0503.

SUPPLEMENTARY INFORMATION: CNG is a Delaware corporation with its principal place of business in New Orleans, Louisiana. CNG is an independent market and producer of natural gas and is a subsidiary of Consolidated Natural Gas Company. CNG currently produces and purchases natural gas from the Southwest and Appalachian regions of the United States and markets that gas primarily in the eastern region of the Unitted States. CNG is primarily interested in the short-term import of Canadian gas to the United States and the export of United States gas to Canada. CNG is also interested in securing authorization to import natural gas from countries other than Canada.

CNG requests authorization to import and export on its own behalf or acting as an agent on the behalf of others, up to 200 Bcf of natural gas and LNG. CNG would import the natural gas and LNG for sales to pipelines, local distribution companies, and commercial and industrial end-users in the United States. CNG would use existing facilities for transportation of the imported and exported gas. CNG does not know the identity of the actual suppliers or transporters and anticipates that it would depend on various producers as sources of supply to be imported. The domestically produced gas to be exported would come from fields in various producing states and would be incremental to the needs of any current domestic purchasers. CNG states that all shipments of imported gas would be based on the specific needs of CNG's customers and would reflect market conditions existing at the time of negotiation of the purchase agreement. CNG further states that the negotiations between CNG and non-United States producers would be premised on meeting competition in the marketplace.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the market served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas export applications, DOE considers the domestic need for the gas to be exported and any other issues determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial

parties to freely negotiate their own trade arrangements. Parties that may oppose the application should comment in their responses on these issues. CNG asserts that its proposal is in the public interest and that there is no current need for the domestic gas that would be exported under the proposed arrangement. Parties opposing CNG's application bear the burden of overcoming this assertion.

NEPA Compliance.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion ot intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protect with respect to this application will not serve to make the protestant a party to the proceeding although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trail-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trail-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a descision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the office record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of CNG's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC., on April 30, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–10582 Filed 5–5–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 92–39–NG]

CNG Trading Co.; Application for Blanket Authorization to Import and Export Natural Gas, Including Liquefied Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to import and export natural gas, including liquefied natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice of receipt on March 23, 1992, of an application filed by CNG Trading Company (CNG) requesting blanket authorization to import and export from Canada, Mexico, and other countries, up to 200 Bcf of natural gas, including liquefied natural gas (LNG), over a two-year term beginning on the date of first import or export. The proposed imports and exports would take place at any point on the United States' international border where existing facilities are located. CNG would provide DOE with quarterly reports detailing any import or export transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, June 5, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Yvonne Gabbay, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4587.

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC (202) 586–0503

SUPPLEMENTARY INFORMATION: CNG is a Delaware corporation with its principal place of business in New Orleans, Louisiana. CNG is an independent marketer and producer of natural gas and is a subsidiary of Consolidated Natural Gas Company. CNG currently produces and purchases natural gas from the Southwest and Appalachian regions of the United States and markets that gas primarily in the eastern region of the United States. CNG is primarily interested in the short-term import of Canadian gas to the United States and the export of United States gas to Canada. CNG is also interested in securing authorization to import natural gas from countries other than Canada.

CNG requests authorization to import and export on its own behalf or acting as an agent the behalf of others, up to 200 Bcf of natural gas and LNG. CNG would import the natural gas and LNG for sales to pipelines, local distribution companies, and commercial and industrial end-users in the United States. CNG would use existing facilities for transportation of the imported and exported gas. CNG does not know the identity of the actual suppliers or transporters and anticipates that it would depend on various producers as sources of supply to be imported. The domestically produced gas to be exported would come from fields in various producing states and would be incremental to the needs of any current

domestic purchasers. CNG states that all shipments of imported gas would be based on the specific needs of CNG's customers and would reflect market conditions existing at the time of negotiation of the purchase agreement. CNG further states that the negotiations between CNG and non-United States producers would be premised on meeting competition in the marketplace.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the market served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas export applications, DOE considers the domestic need for the gas to be exported and any other issues determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose the application should comment in their responses on these issues. CNG asserts that its proposal is in the public interest and that there is no current need for the domestic gas that would be exported under the proposed arrangement. Parties opposing CNG's application bear the burden of overcoming this assertion.

NEPA Compliance.

The National Enviromental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures.

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by ther regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of CNG's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal Holidays.

Issued in Washington, DC, on April 30, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–10581 Filed 5–5–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 92–14–NG]

EMC Gas Transmission Co.; Order Granting Blanket Authorization To Export Natural Gas to Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of order granting blanket authorization to export natural gas to Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy hereby gives notice that it has issued an order authorizing EMC Gas Transmission Company to export up to 15 Bcf of natural gas to Canada over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 30, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–10575 Filed 5–5–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 91–116–NG]

ENCOGEN NORTHWEST, L.P.; Application to Import Natural Gas From Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for long-term authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) hereby gives notice of receipt, on December 23, 1991, of an application filed by Encogen Northwest, L.P. (Encogen) for authorization to import up to 9,579 Mcf per day, plus unspecified additional amounts, of Canadian natural gas from CanWest Gas Supply, Inc., (CanWest). The natural gas would be used in a cogeneration facility Encogen proposes to construct in Bellingham, Washington. The term of the proposed import would begin January 1, 1993, and continue for fifteen years following the commencement of commercial operation of the facility, which is expected in June 1993. the gas would enter the United States near Sumas, Washington where the facilities of Westcoast Energy, Inc.

(Westcoast) interconnect with those of Northwest Pipeline Corporation (Northwest). Encogen intends to utilize existing and expansion facilities of U.S. pipelines for transportation.

DATE: The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., Eastern time, June 5, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION:

C. Frank Duchaine Jr., Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–53, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–8233

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–14, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Encogen is a Delaware limited partnership. Its sole general partner is EDC Northwest Cogeneration, Inc., a wholly-owned subsidiary of Enserch Corporation. Encogen is developing a gas-fired cogeneration facility having a combined net generating capacity of approximately 160 megawatts. The facility will be a "qualifying facility" under the Public Utility Regulatory Policies Act of 1978. Electricity and thermal energy produced by the facility will be sold to Puget Sound Power & Light Company and Georgia-Pacific Corporation, respectively, under long-term contracts.

Under a gas purchase contract between Encogen and CanWest, dated October 16, 1991, CanWest will supply Encogen with approximately 26 percent of the cogeneration facility's fuel requirements for a primary term of fifteen years following the commencement of operation. The remainder of the facility's fuel requirements will be supplied from domestic sources. Purchases under the Encogen-CanWest contract may commence prior to the commencement of the facility's operation, as early as January 1, 1993.

Gas imported under the proposed arrangement would be transported by Westcoast to a point on the international border near Sumas, Washington, where the facilities of Northwest interconnect with those of Northwest. Encogen would take title to the gas at the border from where it would be transported by Northwest to Bellingham and then on the pipeline facilities of Cascade Natural Gas Corporation to the cogeneration plant.

The contract price for the gas purchased during the primary term, up to 103 percent of the daily contract quantity (DCQ), will be initially $1.84 per MMBtu and will escalate annually thereafter by five percent. The price for gas purchased prior to the primary term or above 103 percent of the (DCQ) will be negotiated by CanWest and Encogen. During each annual accounting period, Encogen must purchase 90 percent of the sum of the daily contract quantities during such period or pay a gas inventory charge subject to CanWest obligation to broker or utilize capacity not used by Encogen.

In support of its application, Encogen states that the Encogen-CanWest gas purchase contract was negotiated at arms length to meet a discrete portion of the fuel requirements of the cogeneration plant and, together with similarly priced domestic gas purchase agreements, it will permit Encogen to purchase gas at a price compatible with the revenue received from the sale of electricity and thermal energy from the cogeneration facility. Thus, Encogen states that the gas arrangement with CanWest is, and will remain over the term of the propose import, competitive and needed. Encogen states the natural gas reserves and associated corporate supply warranty of CanWest establish the security of gas supply of the requested importation.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the market served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In its application Encogen asserts the import is not inconsistent with the public interest. Parties opposing Encogen's request for import authorization bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met it s NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice or intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notice of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590.

Protests, motions to intervene, notice of intervention, request for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official

record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Encogen's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on April 30, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–10574 Filed 5–5–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 92–21–NG]

Exxon Corp.; Order Granting Blanket Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of order granting blanket authorization to import natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Exxon Corporation blanket authorization to import up to 73 Bcf of natural gas from Canada over a two-year period beginning on the date of first delivery after its current authorization expires.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 30, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–10579 Filed 5–5–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 91–112–NG]

Gasmark, Inc.; Order Granting Blanket Authorization To Import and Export Natural Gas, Including Liquefied Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of order granting blanket authorization to import and export natural gas, including liquefied natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order authorizing Gasmark, Inc. to import and export up to 200 Bcf of natural gas, including liquefied natural gas, over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 30, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–10576 Filed 5–5–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 92–34–NG]

Long Island Lighting Co.; Application for Blanket Authorization to Import Natural Gas From Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice of receipt of an application filed on March 10, 1992, by Long Island Lighting Company (LILCO) requesting blanket authorization to import up to 25 Bcf of natural gas from Canada over a two-year period commencing with the date of first delivery. LILCO intends to use existing facilities and submit quarterly reports detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, June 5, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Thomas Dukes, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9590.

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–0503.

SUPPLEMENTARY INFORMATION: LILCO, a Long Island electric and natural gas distribution company, is incorporated in the State of New York and maintains its principal office at 175 East Old Country Road, Hicksville, New York. LILCO states the proposed natural gas imports would be used to service its natural gas distribution customers and fuel its electric generation facilities. The terms of each spot or short-term transaction will be determined by competitive factors in the natural gas marketplace and adjusted according to the availability and price of competing fuels, including domestic natural gas.

The decision on LILCO's application for import authority will be made consistent with DOE's natural gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties especially those that may oppose this application, should comment in their response on the issues of competitiveness, need for the gas, and security of supply as set forth in the policy guidelines. The applicant asserts imports made under the proposed arrangement will be competitive and otherwise consistent with DOE import policy. Parties opposing the proposed import arrangement bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written

comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of LILCO's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on April 30, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–10580 Filed 5–5–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 92–01–NG]

Markwest Hydrocarbon Partners, LTD., Order Granting Blanket Authorization to Export Natural Gas to Mexico

AGENCYTT: Office of Fossil Energy Department of Energy,.

ACTION: Notice of order granting blanket authorization to Export Natural Gas to Mexico.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order authorizing MarkWest Hydrocarbon Partners, Ltd., to export up to 91.3 Bcf of natural gas to Mexico over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the office of Fuels Programs Docket Room 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 30, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–10569 Filed 5–5–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 92–03–NG]

Unigas Energy, Inc.; Order Granting Blanket Authorization to Export Natural Gas, Including Liquefied Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of order granting blanket authorization to export natural gas, including liquefied natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order authorizing Unigas Energy, Inc. to export up to 200 Bcf of natural gas, including liquefied natural gas, over a two-year period beginning on the date of first export.

A copy of this order is available for inspection and copying in the Office of Fuels Program Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 30, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–10577 Filed 5–5–92; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Proposed Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for the disbursement of $150,000, plus accrued interest, obtained by the DOE under the terms of a consent order entered into with DeMenno-Kerdoon (Case No. LEF–0042). The OHA has tentatively determined that the funds will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986).

DATE AND ADDRESS: Comments must be filed in duplicate by June 5, 1992 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should display a reference to case number LEF–0042.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586–2390.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute $150,000, plus accrued interest, that has been remitted by DeMenno-Kerdoon to the DOE. The DOE is currently holding the funds in an interest bearing account pending distribution.

The DOE has tentatively determined to distribute these funds in accordance

with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986). Under the Modified Policy, crude oil overcharge monies are divided among the states, federal government, and injured purchasers of refined products. Under the plan we are proposing, refunds to the states would be in proportion to each state's consumption of petroleum products during the period of price controls. Refunds to eligible purchasers would be based on the number of gallons of petroleum products that they purchased and the extent to which they can demonstrate injury.

Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of the publication in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1 p.m. through 5 p.m, Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: April 30, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Dated: April 30, 1992.

Name of Firm: DeMenno-Kerdoon
Dated of Filing: February 20, 1992
Case Number: LEF–0042

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. 10 CFR 205.281. These procedures are used to refund monies to those injured by actual or alleged violations of the DOE price regulations.

In this Decision and Order, we consider a Petition for Implementation of Special Refund Procedures filed by the ERA on February 20, 1992 for funds obtained due to alleged crude oil violations. The funds at issue in that Petition were obtained from DeMenno-Kerdoon (DeMenno). On December 31, 1986, the ERA issued a Proposed Remedial Order (PRO) against DeMenno for alleged violations of the regulations governing crude oil. The PRO alleged that DeMenno failed to properly report or certify 4,012,009 barrels of controlled and uncontrolled crude oil during the period from January 1979 through December 1980. Because it did not properly report and certify those barrels of crude oil, the PRO alleges that, DeMenno received excess entitlements valued at $75,393,683. On September 30, 1988, DeMenno entered into a Consent Order with the DOE in which it agreed to pay not less than $150,000 in order to resolve the DOE's claim. DeMenno further agreed to make Adjusted Net Income Participation Payments between 1991 and 1995 based upon a formula set forth in the Consent Order. However, Demenno subsequently filed for chapter 11 bankruptcy. On July 17, 1990, the DOE accepted DeMenno's Plan of Reorganization and agreed to take a total of $150,000 in settlement of the claim. That $150,000 has been received by the DOE.

This Proposed Decision and Order sets forth the OHA's tentative plan to distribute those funds.[1] Comments are solicited.

The general guidelines which the OHA may use to formulate and implement a plan to distribute refunds are set forth in 10 CFR part 205, subpart V. The subpart V process may be used in situations where the DOE cannot readily identify the persons who may have been injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 8 DOE ¶ 82,597 (1981), and *Office of Enforcement*, 8 DOE 82,597 (1981). We have considered the ERA's request to implement subpart V procedures with respect to the monies received from DeMenno and have determined that such procedures are appropriate.

I. Background

On July 28, 1986, the DOE issued a Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986) (the MSRP). The MSRP, issued as a result of a court-approved Settlement Agreement in *In re: The Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378 (D. Kan. 1986) (the Stripper Well Agreement), provides that crude oil overchrage funds will be divided among the states, the federal government, and injured purchasers of refined petroleum products. Under the MSRP, up to twenty percent of these crude oil overcharge funds will be reserved to satisfy valid claims by injured purchasers of petroleum products. Eighty percent of the funds, and any monies remaining after all valid claims are paid, are to be disbursed equally to the states and federal government for indirect restitution.

Shortly after the issuance of the MSRP, the OHA issued an Order that announced its intention to apply the Modified Policy in all subpart V proceedings involving alleged crude oil violations. Order Implementing the MSRP, 51 FR 29689 (August 20, 1986). In that Order, the OHA solicited comments concerning the appropriate procedures to follow in processing refund applications in crude oil refund proceedings. On April 6, 1987, the OHA issued a Notice analyzing the numerous comments and setting forth generalized procedures to assist claimants that file refund applications for crude oil monies under the subpart V regulations. 52 FR 11737 (April 10, 1987) (the April Notice).

The OHA has applied these procedures in numerous cases since the April Notice, i.e., *New York Petroleum, Inc.*, 18 DOE ¶ 85,435 (1988) (*NYP*); (*Shell Oil Co.*, 17 DOE ¶ 85,204 (1988) (*Shell*); *Ernest A. Allerkamp*, 17 DOE ¶ 85,079 (1988) (*Allerkamp*), and the procedures have been approved by the United States District Court for the District of Kansas as well as the Temporary Emergency Court of Appeals (TECA). In the case *In re: The Department of Energy Stripper Well Exemption Litigation*, various states filed a Motion with the Kansas District Court, claiming that the OHA violated the Stripper Well Agreement by employing presumptions of injury for end-users and by improperly calculating the refund amount to be used in those proceedings. *In re: The Department of Energy Stripper Well Exemption Litigation*, 671 F. Supp. 1318 (D. Kan. 1987), *aff'd*, 857 F.

[1] The Consent Order specifically states that it settled, but was not limited to, the violations alleged in the PRO and that it settled "all pending and potential civil and administrative claims and disputes * * * arising out of the Federal Petroleum Price and Allocation Regulations * * * during the period August 19, 1973 through January 27, 1981." Consent Order at ¶ 101; set also *Id.* at ¶ 203 (b). That language would generally lead the OHA to allocate a portion of the settlement amount to a refined products pool in order to satisfy claims by purchasers of DeMenno's refined petroleum products. However, because the settlement was for significantly less than the crude oil violations alleged in the PRO, the OHA believes that it is most reasonable to put all of the settlement money into the crude oil fund.

2d 1481 (Temp. Emer. Ct. App. 1988). On August 17, 1987, Judge Theis issued an Opinion and Order denying the states' Motion in its entirety. The court concluded that the Stripper Well Agreement "does not bar [the] OHA from permitting claimants to employ reasonable presumptions in affirmatively demonstrating injury entitling them to a refund." *Id.* at 1323. The court also ruled that, as specified in the April Notice, the OHA could calculate refunds based on a portion of the M.D.L. 378 overcharges. *Id.* at 1323–24.

II. The Proposed Refund Procedures

A. Refund Claims. We now propose to apply the procedures discussed in the April Notice to the crude oil subpart V proceeding that is the subject of the present determination. As noted above, an alleged crude oil violation amount of $150,000, plus interest, is covered by this Proposed Decision. We have decided to reserve the full twenty percent of the alleged crude oil violation amount, or $30,000, plus interest, for direct refunds to claimants, in order to insure that sufficient funds will be available for refunds to injured parties.

The process which the OHA will use to evaluate claims based on alleged crude oil violations will be modeled after the process the OHA has used in subpart V proceedings to evaluate claims based upon alleged overcharges involving refined products. *E.g., Mountain Fuel Supply Co.* 14 DOE ¶ 85,475 (1986) (*Mountain Fuel*). As in non-crude oil cases, applicants will be required to document their purchase volumes of covered products and prove that they were injured as a result of the alleged violations. Generally, a covered product is any product that was covered by the Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751–760, and was primarily produced at a crude oil refinery. *E.g., Anchor Continental, Inc.*, 22 DOE ¶ 85,003 (1992). Applicants who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations are presumed to have been injured by any alleged crude oil overcharges. In order to receive a refund, end-users need not submit any further evidence of injury beyond the volume of petroleum products purchased during the period of price controls. *E.g., A. Tarricone, Inc.*, 15 DOE ¶ 85,495 at 88,893–96 (1987). However, the end-user presumption of injury can be rebutted by evidence which establishes that the specific end-user in question was not injured by the crude oil overcharges. *E.g., Berry Holding Co.*, 16 DOE ¶ 85,405 at 88,797 (1987). If an interested party submits evidence that is sufficient to cast serious doubt on the end-user presumption, the applicant will be required to produce further evidence of injury. *E.g., NYP*, 18 DOE at 88,701–03.

Reseller and retailer claimants must submit detailed evidence of injury, and may not rely on the presumptions of injury utilized in refund cases involving refined petroleum products. They can, however, use econometric evidence of the type employed in the OHA Report to the District Court in the Stripper Well Litigation, *reprinted in* 6 Fed. Energy Guidelines ¶ 90,507. Applicants who executed and submitted a valid waiver pursuant to one of the escrows established in the Stripper Well Agreement have waived their rights to apply for crude oil refunds under subpart V. *Mid-American Dairyman, Inc.* v. *Herrington*, 878 F. 2d 1448 (Temp. Emer. Ct. App. 1989); *accord, Boise Cascade Corp.*, 18 DOE ¶ 85,970 (1989).

Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the alleged crude oil violation amounts involved in this determination ($150,000) by the total consumption of petroleum products in the United States during the period of price controls (2,020,997,335,000 gallons). *Mountain Fuel*, 14 DOE at 88,868 n.4. This yields a volumetric refund amount of $0.0000000742 per gallon.

As we stated in previous Decisions, a crude oil refund applicant will be required to submit only one application for crude oil overcharge funds. *E.g., Allerkamp*, 17 DOE at 88,176. Any party that has previously submitted a refund application in the crude oil refund proceedings need not file another application. That previously filed application will be deemed to be filed in all crude oil proceedings as the procedures are finalized. The DOE has established June 30, 1992 as the current deadline for filing an Application for Refund from the crude oil funds. *Quintana Energy Corp.*, 21 DOE ¶ 85,032 (1991). It is the policy of the DOE to pay all crude oil refund claims filed within this deadline at the rate of $.0008 per gallon. However, while we anticipate that applicants that filed their claims within the original June 30, 1988 deadline will receive a supplemental refund payment, we will decide in the future whether claimants that filed later applicants should receive additional refunds. *E.g., Seneca Oil Co.*, 21 DOE ¶ 85,327 (1991). Notice of any additional amounts available in the future will be published in the **Federal Register.**

B. Payments to the States and Federal Government. Under the terms of the MSRP, we propose that eight percent of the alleged crude oil violation amounts subject to this Proposed Decision, or $120,000, plus interest, should be disbursed in equal shares to the states and federal government for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Agreement. When disbursed, these funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Agreement.

It is therefore ordered that:

The refund amounts remitted to the Department of Energy by DeMenno-Kerdoon pursuant to the Consent Order that was entered into on September 30, 1988 will be distributed in accordance with the foregoing Decision.

[FR Doc. 92–10578 Filed 5–5–92; 8:45 am]
BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34025; FRL 4055–7]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on August 4, 1992.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (H7502C), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Office location for commercial courier delivery and telephone number: Room 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305-5761.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pecticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the Federal Register. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the 8 pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before August 4, 1992, to discuss withdrawal of the applications for amendment. This 90-day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion.

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Registration No.	Product Name	Delete Use On
000524-00423	Ramrod + Atrazine DF	Sweet Corn
001386-00206	Rotenone Spray Powder	Fish
004581-00280	TOPSIN-M Technical	All Post-Harvest Uses on Apples, Peaches, Apricots, Cherries, Nectarines, Plums, Prunes
004581-00322	TOPSIN-M 70W	All Post-Harvest Uses on Apples, Peaches, Apricots, Cherries, Nectarines, Plums, Prunes
004581-00352	TOPSIN-M 4.5F	All Post-Harvest Uses on Apples, Peaches, Apricots, Cherries, Nectarines, Plums, Prunes
004581-00372	TOPSIN-M 85WDG	All Post-Harvest Uses on Apples, Peaches, Apricots, Cherries, Nectarines, Plums, Prunes
008340-00020	Hoelon 3 EC Herbicide	Lentils, Peas, Flax, Soybeans
028293-00117	Unicorn Now Flea & Tick Spray	Flies, Mosquitos, Gnats

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Company No.	Company Name and Address
000524	Monsanto Co., 700 14th St., N.W., Suite 1100, Washington, DC 20005.
001386	Universal Cooperatives, Inc., P.O. Box 460, 7801 Metro Parkway, Minneapolis, MN 55440.
004581	Agchem Division/Atochim North America, Three Parkway, Room 619, Philadelphia, PA 19102.
008340	Hoecht Celanese Corp., Rte. 202-206, P.O. Box 2500, Somerville, NJ 08876.
028293	Unicorn Laboratories, 1002 118th Ave., N., St. Petersburg, FL 33716.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute all existing stocks with the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions. After that date, all product remaining which is not in users' hands must be relabeled to reflect the use deletions.

Dated: April 2, 1992.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

[FR Doc. 92-10101 Filed 5-5-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-180868; FRL 4058-6]

Receipt of Application for Emergency Exemption to use Benomyl; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the California Environmental Protection Agency, Department of Pesticide Regulation (hereafter referred to as the "Applicant") for the use of the pesticide benomyl (CAS 17804-35-2) to control Ramularia leaf spot on up to 700 acres of artichokes in California. In accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before May 21, 1992.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP-180868," should be submitted by mail to: Public Response and Human Resource Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. Information submitted in any comment concerning this notice may be claimed confidential by marking

any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Susan Stanton, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–305–6359).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption for the use of the fungicide, benomyl, available as Benlate Fungicide (EPA Reg. No. 352–354) from E. I. du Pont de Nemours Co., to control Ramularia leaf spot, caused by *Ramularia sp.*, on up to 700 acres of artichokes in California. Information in accordance with 40 CFR part 166 was submitted as part of this request.

According to the Applicant, Ramularia leaf spot is a new disease problem of artichokes in California which became a serious pest in 1987 and 1988. Ramularia attacks artichoke leaves, causing scattered necrotic spots to appear. As the disease progresses the leaves and even the entire plant may appear to be "burned". The resulting reduction in the plant's photosynthetic ability causes poor plant growth and bud production. In severely affected fields, yields may be reduced by as much as 50 percent. According to the Applicant, there are no pesticides currently registered for the control of Ramularia leaf spot of artichoke that will adequately control the disease. Without an effective control, the Applicant estimates that growers will lose approximately $1,500 per acre or more than $1 million over the entire 700 critically affected acres during the 1992 growing season.

Up to 4 ground or aerial applications of benomyl will be applied at 7 to 14 day intervals at a maximum rate of 0.5 pounds of active ingredient per acre. Ground application will be made in sufficient water to obtain full coverage of foliage. Aerial applications will be made in a minimum of 20 gallons of water per acre. A maximum of 1,400 pounds of active ingredient may be needed to treat a maximum of 700 acres of artichokes, located in Santa Barbara County. Applications will be completed by December 31, 1992.

Benomyl was referred to Special Review in December of 1977 because of its mutagenic, teratogenic, spermatogenic, and acute aquatic effects. The Special Review process was completed on October 20, 1982, and the decision was made to require use of either cloth or commercially available disposable dust masks by mixer/loaders of benomyl intended for aerial application and to require that registrants of benomyl products conduct field monitoring studies to identify residues that may enter aquatic sites after use on rice.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require that the Agency publish notice of receipt in the **Federal Register** and solicit public comment on an application for a specific exemption proposing use of a pesticide which contains an active ingredient which has been the subject of a Special Review and is intended for a use that could pose a risk similar to the risk posed by any use of a pesticide which is or has been the subject of a Special Review [40 CFR 166.24 (a)(5)].

Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above. The Agency will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the California Environmental Protection Agency.

Dated: April 10, 1992.

Stephanie R. Irene,

Acting Director, Office of Pesticide Programs.

[FR Doc. 92–10102 Filed 5–5–92; 8:45 am]

BILLING CODE 6560–50–F

[OPP–180870; FRL 4061–8]

Receipt of Application for Emergency Exemption to use Benomyl; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the North Dakota Department of Agriculture (hereafter referred to as the "Applicant") for use of the pesticide benomyl (CAS 17804–352) to control Sclerotinia stem rot on up to 10,000 acres of canola in North Dakota. In accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before May 21, 1992.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–180870," should be submitted by mail to: Public Response and Human Resource Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Susan Stanton, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, 703–305–6359.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

(7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption for the use of the fungicide, benomyl, available as Benlate (EPA Reg. No. 352–354) and Benlate DF (EPA Reg. No. 352–447) from E. I. du Pont de Nemours Co., to control Sclerotinia stem rot, caused by *Sclerotinia sclerotiorum*, on up to 10,000 acres of canola in North Dakota. Information in accordance with 40 CFR part 166 was submitted as part of this request.

According to the Applicant, Sclerotinia has a broad host range, including crops such as sunflower and dry edible beans, which are commonly grown in rotation with canola. The fungus produces hard resting structures, sclerotia, that live from 4 to 6 years in the soil. Short rotations of susceptible crops have resulted in a buildup of Sclerotinia in the soil, which can result in a severe stem rot outbreak if weather during the 2 weeks prior to flowering (usually the last 2 weeks of June) is cool and wet. Under these conditions, the sclerotia germinate, producing small mushroom-like fruiting bodies, known as apothecia, that release millions of airborne spores, which infect the canola blossoms. According to the Applicant, there are no pesticides currently registered for the control of Sclerotinia stem rot on canola in the United States, and without an effective control, yield losses of 15 to 20 percent could result if stem rot outbreaks occur this season. The potential dollar loss without benomyl during the 1992 season is estimated to be between $225,000 and $300,000.

A single aerial application of benomyl will be applied at a maximum rate of 0.75 pounds of active ingredient per acre in at least 5 gallons of water per acre. A maximum of 7,500 pounds of active ingredient may be needed to treat a maximum of 10,000 acres. Applications will be completed by July 15, 1992.

Benomyl was referred to Special Review in December of 1977 because of its mutagenic, teratogenic, spermatogenic, and acute aquatic effects. The Special Review process was completed on October 20, 1982, and the decision was made to require use of either cloth or commercially available disposable dust masks by mixer/loaders of benomyl intended for aerial application and to require that registrants of benomyl products conduct field monitoring studies to identify residues that may enter aquatic sites after use on rice.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require that the Agency publish notice of receipt in the **Federal Register** and solicit public comment on an application for a specific exemption proposing use of a pesticide which contains an active ingredient which has been the subject of a Special Review and is intended for a use that could pose a risk similar to the risk posed by any use of a pesticide which is or has been the subject of a Special Review [40 CFR 166.24 (a)(5)].

Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above. The Agency will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the North Dakota Department of Agriculture.

Dated: April 24, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92–10565 Filed 5–5–92; 8:45 am]

BILLING CODE 6560–50–F

[OPP–240098; FRL–4058–5]

State Registrations of Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, from 24 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register**. This document contains notice of three disapproved section 24(c) registrations.

DATES: The last entry for each item is the date the State registration of that product became effective.

FOR FURTHER INFORMATION CONTACT: Edith Minor, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5978.

SUPPLEMENTARY INFORMATION: This notice only lists the section 24(c) applications submitted to the Agency. The Agency has 90 days to approve or disapprove each application listed in this notice. Applications that are not approved are returned to the appropriate State for action. Most of the registrations listed below were received by the EPA in January through February of 1992. Receipts of State registrations will be published periodically. Of the following registrations, six involve a changed-use pattern (CUP). The term "changed use pattern" is defined in 40 CFR 162.3(k) as a significant change from a use pattern approved in connection with the registration of a pesticide product. Examples of significant changes include, but are not limited to, changes from a nonfood to food use, outdoor to indoor use, ground to aerial application, terrestrial to aquatic use, and nondomestic to domestic use.

California

EPA SLN No. CA 91 0013. California Seed Association. Registration is for Bifenthrin to be used on alfalfa to control weevils, aphids, and spider mites. December 20, 1991.

EPA SLN No. CA 91 0016. Registration is for Chlorpyrifos to be used on almond trees to control peach tree borer. January 22, 1992.

EPA SLN No. CA 91 0035. DowElanco. Registration is for Chlorpyrifos to be used in grape vineyards to control argentine ants. February 5, 1992.

EPA SLN No. CA 91 0036. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on grapes to control annual weeds and grasses. February 5, 1992.

EPA SLN No. CA 91 0037. California Department of Food & Agri. Registration is for Propiconazole to be used on greenhouse-grown chrysanthemums to control chrysanthemum white rust. December 24, 1991.

EPA SLN No. CA 92 0002. Abbott Laboratories. Registration is for Promalin to be used on calla lily bulbs as a growth regulator. January 14, 1992.

Hawaii

EPA SLN No. HI 84 0003. Pfizer, Inc., Chemical Division. Registration is for Terramycin to be used on plants to control bacterial blight. October 4, 1991.

EPA SLN No. HI 92 0003. Mobay Corp. Registration is for Bayleton to be used on pineapple to control fresh fruit rot and butt rot. February 6, 1992.

Idaho

EPA SLN No. ID 92 0001. Unocal Agri. Products. Registration is for Monocarbamide Dihydrogensulfate to be used on apples to control blossoms. January 21, 1992.

Illinois

EPA SLN No. IL 92 0002. Gowan Co. Registration is for Phosmet to be used on blueberries to control canker, stem blight, maggot and fruitworms. January 28, 1992.

Indiana

EPA SLN No. IN 92 0001. FMC Corp. Registration is for Clomazone to be used on soybeans to control weeds. February 26, 1992.

Iowa

EPA SLN No. IA 92 0001. FMC Corp. Registration is for Clomazone to be used on soybeans to control weeds. February 24, 1992.

EPA SLN No. IA 92 0002. Mobay Corp. Registration is for Metribuzin to be used on field corn to control weeds. February 24, 1992.

EPA SLN No. IA 92 0003. Mobay Corp. Registration is for Metribuzin to be used on field corn to control weeds. February 24, 1992.

Massachusetts

EPA SLN No. MA 91 0001. Littlepoint Corp. Registration is for Deet to be used on human skin to control insects and mosquitoes. February 4, 1992.

Michigan

EPA SLN No. MI 91 0009. ICI Americas. Registration is for Paraquat Dichloride to be used on peppers, tomatoes, cucumbers, melons, squash, and eggplants to control grass and broadleaf weeds. December 19, 1991.

EPA SLN No. MI 92 0001. Mobay Corp. Registration is for Metribuzin to be used on field corn to control ragweeds and jimson weeds. January 10, 1992.

Mississippi

EPA SLN No. MS 91 0019. Hoechst-Roussel Agri-Vet Co. Registration is for Diclofop-Methyl to be used on golf courses to control goosegrasses. January 10, 1992.

Montana

EPA SLN No. MT 91 0006. PBI/Gordon Corp. Registration is for 2,4-D to be used along waterway areas to control purple loosestrife. January 29, 1992.

EPA SLN No. MT 92 0001. Mobay Corp. Registration is for Metribuzin to be used on corn to control weeds. January 7, 1992.

Nebraska

EPA SLN No. NE 92 0001. USDA/APHIS Science & Technology. Registration is for Sodium Nitrate to be used in fox dens and on rangelands to control red fox and badger skunks. January 22, 1992.

EPA SLN No. NE 92 0002. Ciba-Geigy Corp. Registration is for Primisulfuron-Methyl to be used on field corn to control weeds. January 22, 1992.

Nevada

EPA SLN No. NV 92 0001. Liphatech, Inc. Registration is for Chlorophacinone to be used in levee and ditch banks, around farm buildings, along fences and noncrop areas, and in orchards to control ground squirrels. January 7, 1992.

New Jersey

EPA SLN No. NJ 92 0001. Rhone-Poulenc AG Co. Registration is for Thiodicarb to be used on sweet corn to control corn earworms, armyworms, and corn borers. January 24, 1992.

North Carolina

EPA SLN No. NC 92 0001. American Cyanamid Co. Registration is for Terbufos to be used on corn to control billbugs. February 27, 1992.

EPA SLN No. NC 92 0002. American Cyanamid Co. Registration is for Terbufos to be used on corn to control billbugs. February 27, 1992.

Ohio

EPA SLN No. OH 91 0005. FMC Corp. Registration is for Clomazone to be used on tobacco to control grasses and broadleaves. December 20, 1991.

EPA SLN No. OH 92 0001. FMC Corp. Registration is for Clomozone to be used on soybeans to control weeds and broadleaves. January 22, 1992.

Oklahoma

EPA SLN No. OK 92 0001. USDA/APHIS Science & Technology. Registration is for Compound DRC-1339 to be used in and around government buildings to control feral pigeons. February 4, 1992.

EPA SLN No. OK 92 0002. Ciba-Geigy Corp. Registration is for Primisulfuron Methyl to be used on field corn to control weeds. January 23, 1992.

EPA SLN No. OK 92 0003. Gustafson, Inc. Registration is for Thiophanate Methyl to be used on peanut seeds to control seed rot organisms. January 3, 1992.

Oregon

EPA SLN No. OR 92 0001. Lipha Tech, Inc. Registration is for Chlorophacinone to be used in orchards, ditch banks and around farm buildings to control ground squirrels. January 21, 1992.

South Carolina

EPA SLN No. SC 92 0002. FMC Corp. Registration is for Permethrin to be used in conifer nurseries to control weevils. February 27, 1992.

South Dakota

EPA SLN No. SD 92 0001. USDA/APHIS Science & Technology. Registration is for Sodium Nitrate to be used in fox dens on rangelands to control red fox. January 28, 1992.

Texas

EPA SLN No. TX 92 0001. Sostram Corp. Registration is for Atrazine to be used on CRP range grasses to control weeds. February 18, 1992.

EPA SLN No. TX 92 0002. Sostram Corp. Registration is for Atrazine to be used on CRP range grasses to control weeds. February 18, 1992.

Virginia

EPA SLN No. VA 92 0001. FMC Corp. Registration is for Clomazone to be used on tobacco to control weeds and grasses. January 29, 1992.

EPA SLN No. VA 92 0002. FMC Corp. Registration is for Carbofuran to be used on potatoes to control beetles and aphids. February 21, 1992.

Washington

EPA SLN No. WA 92 0002. Unocal Agri. Products. Registration is for Wilthin to be used on apple blossoms to control growth. February 25, 1992.

EPA SLN No. WA 92 0003. Gowan Co. Registration is for Dimethoate to be used on sweet cherries to control tartfruit flies and mites. February 7, 1992.

EPA SLN No. WA 92 0004. Setre Chemical Co. Registration is for Dimethoate to be used on cherries to control fruitflies. February 7, 1992.

Wisconsin

EPA SLN No. WI 92 0002. Valent U.S.A. Corp. Registration is for Diquat Herbicide to be used in lake reservoirs, ponds, marshes, bayous drainage ditches, canals, streams, and rivers to control aquatic plants. January 3, 1992.

Wyoming

EPA SLN No. WY 92 0001. E. I. Du Pont DeNemours and Co., Inc. Registration is for Hexazinone to be used on alfalfa to control weeds. February 14, 1992.

EPA SLN No. WY 92 0002. Bell Laboratories, Inc. Registration is for Zinc Phosphide to be used on rangeland

and timber to control prairie dogs and squirrels. February 19, 1992.

Disapprovals

The following State registrations of pesticides under section 24(c) of FIFRA were disapproved by the Administrator:

California

EPA SLN No. CA 91 0015. Elkhorn Research & Development Co., Inc. Registration is for Benomyl to be used on artichokes grown for seed to control ramularia leaf spot. Disapproved January 2, 1992.

EPA SLN No. CA 91 0017. Rohm and Haas Co. Registration is for Myclobutanil to be used on strawberry plants to control powdery mildew. Disapproved November 27, 1991

Washington

EPA SLN No. WA 91 0028. Ciba-Geigy Corp. Registration is for Metalaxyl and Mancozeb to be used on radishes grown for seed to control white rust. Disapproved January 29, 1992.

Authority: Sec. 24, as amended, 92 Stat. 835 (7 U.S.C. 136).

Dated: April 16, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92-10103 Filed 5-5-92; 8:45 a.m.]

BILLING CODE 6560-50-F

[PP 1G3997/T619; FRL 4058-9]

Rhone-Poulenc AG Company; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the fungicide fosetyl-A1, aluminum tris (*o*-ethylphosphonate), in or on the raw agricultural commodity cotton at 0.20 parts per million (ppm).

DATES: This temporary tolerance expires January 1, 1994.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Product Manager (PM) 22, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 22, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, 703-305-5540.

SUPPLEMENTARY INFORMATION: Rhone-Poulenc AG Company, P.O. Box 12014, Research Triangle Park, NC 27709, has requested in pesticide petition (PP) 1G3997, the establishment of a temporary tolerance for residues of the fungicide fosetyl-A1, aluminum tris (*o*-ethylphosphonate), in or on the raw agricultural commodity cotton at 0.20 parts per million (ppm). This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permit 264-EUP-88, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Rhone-Poulenc AG Company, must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires January 1, 1994. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirement of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: April 24, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92-10563 Filed 5-5-92; 8:45 am]

BILLING CODE 6560-50-F

[PP 1G3980/T618; FRL 4058-8]

Sandoz Crop Protection Corporation; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the herbicide, 2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethyl-thien-3-yl)-acetamide, in or on certain raw agricultural commodities.

DATES: These temporary tolerances expire March 1, 1994.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Product Manager (PM) 22, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 251, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, 703-305-5540.

SUPPLEMENTARY INFORMATION: Sandoz Crop Protection Corporation, 1300 East Touhy Avenue, Des Plaines, IL 60018, has requested in pesticide petition (PP) 1G3980, the establishment of temporary tolerances for residues of the herbicide 2-chloro-*N*-[(1-methyl-2-methoxy)ethyl]-*N*-(2,4-dimethyl-thien-3-yl)-acetamide, parent compound only, in or on the raw agricultural commodities soybean grain, soybean forage and soybean hay at 0.01 part per million (ppm). These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 55947-EUP-13, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use

permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Sandoz Crop Protection Corporation must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire March 1, 1994. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirement of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: April 24, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92–10564 Filed 5–5–92; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL DEPOSIT INSURANCE CORPORATION

Coastal Barrier Improvement Act Property Availability: Tracts 17 & 18, Inverness Subdivision, Grand County, Colorado

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Tracts 17 & 18, Inverness Subdivision, near Willow Creek Reservoir in Grand County, Colorado, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written Notices of Serious Interest to purchase or effect other transfer of the property may be mailed or faxed to the Federal Deposit Insurance Corporation until August 4, 1992.

ADDRESSES: All written Notices of Serious Interest must be submitted to Marcia L. Rodgers, Legal Division, Federal Deposit Insurance Corporation, 707 17th Street, suite 3000, Denver, Colorado 80202, (303) 296–4703, ext. 3766, Fax (303) 292–3959.

SUPPLEMENTARY INFORMATION: The property is more fully described as two 35-acre parcels of undeveloped land southwest of Willow Creek Reservoir and west of Colorado State Highway 123, lcoated within Section 15 of Township 2 North, Range 77 West. The property is bordered on the west, north and south by Bureau of Land Management ("BLM") land. The property is included in an area identified by the BLM as "big game crucial winter habitat," an area to which big game migrate from higher elevations to forage during winter months. The property's terrain is transitional; the western parcel is steep, giving way to gently sloping terrain in the eastern parcel. The surrounding BLM lands are primarily gently sloping.

Written notice of serious interest to purchase the property must be received on or before August 4, 1992 by Marcia Rodgers at the above address and in substantially the following form:

Notice of Serious Interest

Re: Tracts 17 & 18, Inverness Subdivision, Grand County, Colorado.

This Notice of Serious Interest is tendered in accordance with section 10 of the Coastal Barrier Improvement Act and publication in the **Federal Register** of a Notice of Availability on May 6, 1992 with respect to that property in Grand County, Colorado known as Tracts 17 & 18, Inverness Subdivision.

The (*Name and Address of the Agency or Other Qualified Organization*) is eligible to submit this notice under criteria set forth in Public Law 101–591, section 10(b)(2).

The (*Name of the Agency or Other Qualified Organization*) intends to use this property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural or natural resource conservation purposes.

The proposed terms of purchase or transfer are as follows:

[INSERT TERMS OF PURCHASE]

Dated: April 30, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92–10502 Filed 5–5–92; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–932–DR]

Republic of the Marshall Islands; Major Disaster Declaration Amendment

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Republic of the Marshall Islands (FEMA–932–DR), dated February 7, 1992, and related determinations.

EFFECTIVE DATE: April 27, 1992.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3614.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Republic of the Marshall Islands, dated February 7, 1992, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 7, 1992.

Ailinglaplap Atoll for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Grant C. Peterson,

Associate Director, State and Local Programs and Support.

[FR Doc. 92–10537 Filed 5–5–92; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Port of New Orleans/Coastal Cargo, et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal

Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200060–019.

Title: Port of New Orleans/Coastal Cargo Company Terminal Agreement.

Parties:

Board of Commissioners of the Port of New Orleans ("Port")

Coastal Cargo Company ("Coastal")

Synopsis: The modification reflects the exercise of a contract option by Coastal to delete 20 sections of terminal space being leased from the Port and reduces its rent proportionately. The change will be implemented on June 16, 1992.

Agreement No.: 224–200417–002.

Title: Georgia Ports Authority/Hoegh Lines Terminal Agreement.

Parties:

The Georgia Ports Authority

Hoegh Lines

Synopsis: Agreement No. 224–200417–002 renews the term of the Agreement for three years and adds new requirements for discounts.

Agreement No.: 202–009648A–056.

Title: Inter-American Freight Conference.

Parties:

A. Bottacchi S.A. de Navegacion C.F.I. eI.

American Transport Lines, Inc.

A/S Ivarans Rederi d/b/a Ivaran Lines

Companhia Maritima Nacional

Companhia de Navegacao Lloyd Brasileiro

Companhia de Navegacao Maritima Netumar

Empresa Lineas Maritimas Argentinas

Empresa de Navagacao Alianca S.A.

Frota Amazonica S.A.

Hamburg-Sudamerikanische Dampfschifffahrts-Gesellschaft Eggert & Amsinck (Columbus Line)

Transroll/Sea-Land Joint Service

Synopsis: The proposed amendment would reduce the prior notice period required for a member line to request a Principals' meeting from 21 to 15 calendar days.

Dated: April 30, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92–10471 Filed 5–5–92; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Program Announcement Number 219]

Development and Implementation of Environmental Health Courses for Health Professionals

Introduction

The Agency for Toxic Substance and Disease Registry (ATSDR) announces the availablility of funds in fiscal year 1992 for a cooperative agreement with the National Association of County Health Officials (NACHO). The proposed program includes the development of site-specific training courses and participation in other activities necessary to educate health professionals in (1) the surveillance and prevention of human exposure to hazardous substances prioritized by the Environmental Protection Agency (EPA) and ATSDR, and (2) the diagnosis and treatment of persons exposed to these hazardous substances.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the qualtiy of life. This announcement is related to the priority area of Environmental Health. (For ordering a copy of Healthy People 2000, see the section **WHERE TO OBTAIN ADDITIONAL INFORMATION**).

Authority

This program is authorized under Sections 104(i) (14) and (15) of the Comprehensive Enironmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) [42 U.S.C. 9604 (i) (14) and (15)].

Eligible Applicant

Assistance will be provided only to NACHO, the sole national health organization that serves all 2936 county health departments. This county health organization has been identified for the training of local health officials in environmental health because of the following reasons: (1) There may be multiple EPA National Priorities List (NPL) sites in an area that are best addressed collectively at a county level, such as in Bucks County, Pennsylvania, where there are 6 NPL sites, each in a different city, town, or township; (2) in NPL sites in rural areas, such as the Midstate Disposal Superfund Site in Marathon County, Wisconsin, there may be no municipal jurisdiction; and (3) there are many states, including Florida and Georgia, that have no municipal health departments. (Michigan, which has 86 NPL sites, has only one municipal health department which is located in Detroit.)

NACHO has developed a unique understanding of the needs and operations of county health departments through its National Profile of Local Health Departments and surveys of county health departments on local environmental health issues, priorities, and training needs. As an organization, NACHO has direct, familiar, and certain access to its membership of county public health officials, participating municipalities, and their affiliated networks, and therefore has an unparalleled capacity to carry out the purpose of this cooperative agreement in an appropriate, timely, and efficient manner. No other applications will be solicited.

Availablility of Funds

It is expected that approximately $200,000 will be available in Fiscal Year 1992 to fund this award. The award is expected to begin on or about May 15, 1992, for a 12-month budget period, with a 3-year project period. Continuation awards within the project period are made on the basis of satisfactory progress and availability of funds. The funding estimate outlined above may vary and is subject to change.

Purpose

The purpose of this cooperative agreement is to develop and implement site-specific environmental health education activities for county health officials to improve their knowledge of prevention, surveillance, screening, methods of diagnosis, and treatment of injury or diseases related to exposure to hazardous substance found at or near EPA Superfund sites. (Superfund sites are defined as sites proposed or listed on the EPA's National Priorities List (NPL) or any sites where there have been Superfund monies expended.) Priority is to be given to the needs of counties with multiple Superfund sites or sites of particular health concern. Emphasis is to be placed on those

substances prioritized by ATSDR and EPA. (These ranked lists appear in the following Federal Register issues: 53 FR 41280, Oct. 20, 1998; 54 FR 43615, Oct. 26, 1989; 55 FR 42067, Oct. 17, 1990; 56 FR 52166, Oct. 17, 1991.)

Program Requirements

In conducting activities to achieve the purpose of the program, NACHO shall be responsible for conducting activities under A., below, and ATSDR will be responsible for conducting activities under B., below:

A. NACHO-Based Activities

1. Develop, implement, and evaluate site-specific training activities related to preventing and managing environmental health problems in communities with multiple Superfund sites or with sites of particular health concern. These courses may appropriately take the form of "train-the-trainer" workshops to enable county health officials to instruct other county health officials in these areas. These activities should be designed to improve the knowledge and skills of local health officials concerning such topics as:

a. Specific health conditions at hazardous waste sites,

b. Reports of health studies concerning site-specific chronic exposure,

c. Site-specific information and site-specific risk communication,

d. Community health professional communication and outreach,

e. Minority community communication and outreach, and

f. Problem-solving skills and conflict resolution/negotiation techniques.

2. Investigate the dissemination of information on environmental health issues between Federal, state, and county agencies. Select, implement, and evaluate appropriate methods to disseminate education and resource materials to county health departments and officials.

3. Develop and evaluate a guidebook for use at the local health department level on "Understanding the Health Effects of Hazardous Waste Sites," including the role of local elected officials in safeguarding the health of the community.

4. Develop and evaluate "Community Impact Statements." Using the critical incident technique, develop actual "success story" community scenarios to (1) demonstrate the roles of the various entities and agencies involved and to (2) clearly document successful environmental health management. "Success stories" should include actual examples of what factors predispose local health officials to work effectively with minority populations, other populations at risk, private health professionals, local elected officials, and state and Federal agencies.

5. Develop and evaluate a model strategy for addressing hazardous substance health issues at the local level, including the effective use of local, state, and Federal environmental health information resources.

6. Assist ATSDR in the development, implementation, and evaluation of site-specific health education activities recommended by ATSDR's Health Activities Recommendation Panel (HARP) for public health officials and private health professionals in communities with NPL and non-NPL hazardous waste sites.

7. Assist ATSDR in development, implementation, and evaluation of HARP-recommended site-specific health education activities for community outreach.

8. Develop an evaluation plan to ascertain the long-term impact of the NACHO short courses, in collaboration with ATSDR.

9. When site-specific activities are conducted, maintain an accounting system that keeps an accurate, complete, and current accounting of all financial transactions (personnel time and expenditures) on a site-specific basis. All supporting documentation must be retained, for possible use in cost-recovery litigation, for a minimum of 10 years after submission of final Financial Status Report.

B. ATSDR Activities

1. Collaborate in the design, implementation, and evaluation of environmental health courses and associated instructional activities.

2. Provide required information and instructional resources about NPL sites for course development and presentation.

3. Collaborate in identifying effective approaches to the development and delivery of a unified environmental health program for county health officials, elected officials, and other health professionals.

4. Assist in the identification of effective approaches for the development and dissemination of environmental course activities and materials.

5. Participate in local county-based workshops, conferences, and meetings to exchange current information, opinions, and findings concerning the recognition, diagnosis, treatment, surveillance, and prevention of illness or injury associated with exposure to hazardous substances in the environment.

6. Collaborate in the evaluation plan to determine the impact of the cooperative agreement educational activities on the knowledge, attitudes, and behaviors of the targeted health professionals.

7. Provide site-specific assistance and direction on cost recovery.

8. Provide information on ATSDR activities—such as surveillance, health studies, pilot studies, and registries—at Superfund sites.

Other Requirements

Projects that involve the collection of information from 10 or more individuals and funded by cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Evaluation Criteria

The application will be reviewed and evaluated by an ATSDR-convened objective review panel based on the adequacy of the proposal relative to the following criteria:

1. Proposed Project and Appropriateness of Project Design—60%

a. Applicant's understanding of the project's purpose.

b. Applicant's understanding of the need or problem to be addressed.

c. Identification of target group and its needs.

d. Quality of project objectives in terms of specificity, measurability, and feasibility.

e. Specificity and feasibility of the proposed schedule for implementing project activities.

f. Appropriateness and thoroughness of the methods used to evaluate the project.

2. Proposed Project Management—40%

a. Ability of the applicant to provide appropriate program staff and support staff to the project.

b. Ability of the applicant to provide staff time, facilities, space, equipment, financial, and other resources required to perform the applicant's responsibilities in the project.

c. Extent to which the applicant has provided an administration plan, outlined strategic and operational plans for the 3-year project period, and designated a qualified administrator to manage the project.

d. Appropriateness of the estimated cost of the project. The proposed budget is clearly justified, and consistent with intended use of funds. A budget narrative is included.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance Number is 93.161, Health Programs for Toxic Substances and Disease Registry.

Executive Order 12372 Review

The application submitted under this announcement is not subject to the Intergovernmental Review of Federal Programs as governed by Executive Order 12372.

Application Submission and Deadline

NACHO must submit an original and two copies of application form PHS 5161–1 to Henry Cassell, III, Grants Management Officer, CDC Procurement and Grants Office, 255 East Paces Ferry Road, NE., room 300, Atlanta, Georgia 30305, on or before May 8, 1992. (By formal agreement, the CDC Procurement and Grants Office will act on behalf of and for ATSDR on this matter.)

Where To Obtain Additional Information

If you are interested in obtaining additional information regarding this program, please refer to Announcement 219 and contact:

Business Management: Van Malone, Grants Management Specialist, by writing to him at the Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, E–14, Atlanta, Georgia 30305 or by calling him at (404) 842–6630.

Programmatic Assistance: Christine Rosheim, D.D.S., M.P.H., Health Education Specialist, Division of Health Education, ATSDR, 1600 Clifton Road, NE., E–33, Atlanta, Georgia 30333 or by calling (404) 639–6205.

Please refer to announcement number 219 when requesting information and submitting an announcement.

A copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the Introduction may be obtained through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone (202) 783–3238).

Dated: April 30, 1992.

William L. Roper,

Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 92–10509 Filed 5–5–92; 8:45 am]

BILLING CODE 4160–70–M

Centers for Disease Control

[Program Announcement Number 240]

Applied Methods in Injury Surveillance: Cooperative Agreements for Head and Spinal Cord Injury Surveillance and Violence-Related Injuries Availability For Funds For Fiscal Year 1992

Introduction

The Centers for Disease Control (CDC), the Nation's prevention agency, announces the availability of funds in Fiscal Year 1992 for new cooperative agreements for Applied Methods in Injury Surveillance addressing traumatic head and spinal cord injuries and violence-related injuries.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority areas of Unintentional Injuries and Violent and Abusive Behavior. (For a copy of Healthy People 2000, see the Section **WHERE TO OBTAIN ADDITIONAL INFORMATION.**)

Authority

This program is authorized under sections 301, 317, and 394 of the Public Health Service Act, (42 U.S.C. 241, 247b and 280b), as amended. Program regulations are set forth in title 42, Code of Federal Regulations, part 52.

Eligible Applicants

Eligible applicants are the official public health agencies of States, the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of Marshall Islands, and the Republic of Palau. Additionally, official public health agencies of county or city governments with jurisdictional populations greater than 1,000,000 are eligible. Those public health agencies funded under Program Announcement 928 (Applied Methods in Injury Surveillance) are eligible to apply.

Availability of Funds

Approximately $950,000 will be available in Fiscal Year 1992 to fund approximately 4–6 awards. It is expected that the average award will be $150,000, ranging from $100,000 to $175,000.

First-year awards are anticipated to become effective on or about September 30, 1992, and will be made for 12-month budget periods within a project period of up to 3 years.

Continuation awards within the project period will be made on the basis of satisfactory progress in meeting the project objectives and the availability of funds.

In addition, approximately $100,000 will be available for those states applying for head and spinal cord injury surveillance to pilot test head injury surveillance reporting guidelines. It is anticipated that funds will be distributed between two areas of interest. See Programmatic Interests.

Purpose

The purpose of these cooperative agreements is to develop and evaluate new methods or to evaluate existing methods and techniques used in injury surveillance by public health agencies. These methods and techniques should be applicable to statewide injury surveillance systems and should be replicable in other public health jurisdictions.

Programmatic Interests

These cooperative agreements emphasize the development and evaluation of population-based surveillance techniques and methodologies for priority injuries. Eligible applicants may apply for funding in only ONE priority area (1 or 2):

1. Traumatic Head and Spinal Cord Injuries

a. Determine whether E-coded hospital discharge data can provide high-quality, consistent, and complete data useful for head and spinal cord injury surveillance. Recipients of these awards are expected to demonstrate the utility and costs of using E-coded hospital discharge data systems for injury surveillance—addressing head *and* spinal cord injuries.

b. States receiving funds for head and spinal cord injury surveillance may receive $30,000 to $40,000 in additional monies during the first project year to pilot test newly developed head injury surveillance case definitions and minimal data sets (as they become available).

2. Violence-Related Injuries

Develop and evaluate model surveillance systems to address nonfatal injuries resulting from intentional, violent acts (i.e., injuries resulting from assaults or suicidal behavior with an emphasis on injuries associated with the use of potentially lethal weapons). These systems should provide

population-based data based on hospital emergency departments. These systems could be based on a representative sample of hospital emergency departments and/or a representative sample of visits to hospital emergency departments within the jurisdications where emergency care services are provided.

The potential benefits of linking hospital emergency department data on violence with data from police departments to enhance the quality and quantity of useful information should be explored and evaluated.

The ability to replicate the surveillance methods or techniques in other health jurisdictions will be specifically considered.

Program Requirements

In conducting activities to achieve the purposes of this program, the recipient shall be responsible for activities under A., below, and CDC will be responsible for activities under B., below:

A. Receipient Activities

1. Develop and or evaluate a surveillance system for one of the priority areas (see Programmatic Interests).

2. Demonstrate the usefulness and document the cost of operating and the surveillance system and assess quality of the data collected. Usefulness of the surveillance system should be demonstrated by the systems ability to:

a. Provide accurate estimates of the magnitude of the morbidity of the injury condition under surveillance;

b. Detect trends in injury occurrence;

c. Identify risk factors for injury occurrence; and

d. Demonstrate that the data are readily available to make decisions for injury prevention activities (i.e., the development and evaluation of injury prevention/intervention strategies).

Cost of operating the surveillance system must be demonstrated. Estimates of the amount of personnel and other resources needed to develop and/or operate the surveillance system will be required.

The recipient must demonstrate the ability to formulate a surveillance system that is simple, flexible, acceptable, senstitive valuable and timely. (See Klaucke DN et al. Guidelines for evaluating surveillance systems. MMWR 1988;37:1–18).

3. Provide reports derived from the surveillance data to CDC on a routine basis.

4. Yearly, submit a workplan which includes measurable objectives with appropriate time lines and a yearly workplan of activities.

B. CDC Activities

1. Collaborate in the design and implementation of surveillance activities;

2. Collaborate in the analysis of surveillance data;

3. Provide head injury surveillance case definitions and minimal data sets as they become available.

4. Support receipt project staff by conducting training programs, conferences, and workshops to enhance their skills and knowledge; and

5. Provide a reference point for sharing surveillance data at the regional and/or national levels.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

1. Applicant's Understanding of the Problem (10%)

The extent to which the applicant has a clear understanding of the requirements, objectives, and purpose of the cooperative agreement. The degree to which the application reflects and understanding of injury surveillance for the chosen area of focus.

2. Approach and Capability (40%)

The degree to which the application includes: a. A plan to develop and evaluate or to evaluate an existing injury surveillance system or system component focused on stated programmatic interests. Specific, measurable, time-linked objectives should be given.

b. The merit and significance of the methods of conducting the surveillance activities, the ability to replicate surveillance activities in other jurisdictions, and the potential usefulness of the proposed surveillance system.

c. The adequacy of the project design including the extent to which the project's internal evaluation plan can be used to effectively measure progress toward the stated objectives.

d. Mechanisms for linking the surveillance findings to public health decision-making and to other injury prevention and control efforts.

3. Organizational Experience (20%)

The extent to which the applicant has: skills and experience in conducting epidemiologic and surveillance research; and evidence of familiaritay with relevant injury research and surveillance literature.

4. Program Personnel (10%)

The adequacy of the description of the capability to assemble competent and trained staff to accomplish project activities, including a Director who has specific authority and responsibility to carry out the project.

5. Collaborative Abilities (20%)

The extent to which the application describes effective, well-defined working relationships within the performing organization and with outside entities that will ensure implementation of the proposed activities, including commitments of support and a clear statement of the role of each entitiy.

6. Budget (Not Scored)

The budget will be evaluated for the extent to which it is reasonable, clear'y justified, and consistent with the intended use of funds for the proposed project.

Head Injury Surveillance Guidelines Pilot Testing

Plans to pilot test the head injury surveillance materials will be evaluated:

1. Applicant's Understanding of the Problem (25%)

The extent to which the applicant has a clear understanding of the complexities of defining and conducting surveillance for traumatic head injury.

2. Approach (75%)

The adequacy of the plan for determining the adequacy of the head injury materials, including:

a. the method of determining the sensitivity and predictive value positive of a surveillance system using the proposed case definitions.

b. the method of determining whether the minimum data set is readily collectible.

Other Requirements

Projects that involve the collection of information from 10 to more individuals and funded by cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Executive Order 12372 Review

The intergovernmental review requirements of Executive Order 12372, as implemented by DHHS regulations in 45 CFR part 100, are applicable to this program. Executive Order 12372 sets up a system for state and local government review of proposed federal assistance applications. Applicants (other than federally-recognized Indian tribal

governments) should contact their state Single Point of Contact (SPOCs) as early as possible to alert them to the prospective applications and receive any necessary instructions on the state process. For proposed projects serving more than one state, the applicant is advised to contact the SPOC of each affected state. A current list of SPOCs is included in the application kit. The due date for state process recommendations is 60 days after the application deadline for new and competing continuation awards. The granting agency does not guarantee to "accommodate or explain" for state process recommendations it receives after that date.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.136.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 225 East Ferry Road, NE., room 300, Mail Stop E–14, Atanta, GA 30305 on or before June 12, 1992.

1. Deadlines

Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date; or

b. Sent on or before the deadline date and received in time for submission to the independent review group. Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

2. Late Applications

Applications that do not meet the criteria in 1.a. or 1.b. above are considered late. Late applications will not be considered in the current competitions and will be returned to the applicant.

A one-page, single-spaced, typed abstract must be submitted with the application. The heading should include the title of the grant program, project title, organization, name and address, project director and telephone number. The abstract should include the programmatic area to be addressed by the applicant and a brief summary of the methods of conducting surveillance.

Where to Obtain Additional Information

A complete program description, information on application procedures, an application package and business management technical assistance may be obtained from Adrienne McCloud, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mail Stop E–14, Atlanta, Georgia 30305, (404) 842–6634 or FTS 9+1 (404) 842–6634.

Programmatic or technical assistance may be obtained from Joseph E. Sniezek, M.D., M.P.H., Program Surveillance Section, Program Development and Implementation Branch, Division of Injury Control, Centers for Disease Control, 1600 Clifton Road, NE., Mail Stop F–36, Atlanta, Georgia 30333, (404) 488–4662 or FTS 9+1 (404) 488–4662.

Please refer to Announcement Number 240 when requesting information and submitting any application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC, 20402–9325 (Telephone (202) 783–3238).

Dated: April 30, 1992.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 92–10510 Filed 5–5–92; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 92N–0105]

American Therapeutics, Inc.; Withdrawal of Approval of Abbreviated New Drug Application

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of an abbreviated new drug application (ANDA) for Donazol Capsules, 200 milligrams (MG), held by American Therapeutics, Inc. (ATI), 73 Carlough Rd., Bohemia, NY 11716. FDA is withdrawing this application because: (1) The application contains untrue statements of material fact, (2) the drug covered by the application lacks substantial evidence of effectiveness, and (3) the drug is not shown to be safe. ATI has waived its opportunity for a hearing on this product.

EFFECTIVE DATE: May 6, 1992.

FOR FURTHER INFORMATION CONTACT: Jean Olson, Center for Drug Evaluation and Research (HFD–366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20857, 301–295–8041.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of March 5, 1992 (57 FR 7933), FDA offered an opportunity for a hearing on a proposal to withdraw approval of ANDA 71–569 for Danazol Capsules, 200 mg, held by ATI. The basis for the proposal was that the application contains untrue statements of material fact, the drug covered by the application lacks substantial evidence of effectiveness, and the drug is not shown to be safe. The proposal stemmed from discovery of discrepancies between records retained by ATI and records submitted in the ANDA. These discrepancies indicate that the ANDA contains untrue statements of material fact. The discrepancies also raise serious questions about the reliability and accuracy of the data submitted to support approval of the ANDA, including the bioequivalence data.

ATI did not request a hearing. Failure to file a notice of participation and request for a hearing constitutes a waiver of the opportunity for a hearing (21 CFR 314.200 (a)(2)).

Therefore, the Director of the Center for Drug Evaluation and Research, under section 505(e) of the Federal Food, Drug and Cosmetic Act (the act) (21 U.S.C. 355(e)), and under authority delegated to him (21 CFR 5.82), finds that the application listed above contains untrue statements of material fact (21 US.C. 335(e) (5)); that on the basis of new information before him with respect to the drug, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling (21 U.S. C. 335 (e)(3)); and that new evidence of clinical experience, not contained in such application or not available to the Secretary until after such application was approved, shows that such drug is not shown to be safe for use under the conditions of use upon the basis of which the application was approved (21 U.S.C. 335 (e)(2).

Pursuant to the foregoing findings, approval of ANDA 71–569 for Danazol Capsules, 200 mg, and all its amendments and supplements, is hereby

withdrawn, effective May 6, 1992. Shipment in interstate commerce of the product listed above will then be unlawful.

Section 505(j)(6)(C) of the act requires that FDA remove from its approved product list (FDA's publication "Approved Drug Products with Therapeutic Equivalence Evaluations") (the lits) any durg whose approval was withdrawn for grounds described in the first sentence of section 505(e) of the act. Such grounds apply to the withdrawal of approval of the product listed above. Notice is hereby given that the drug covered by ANDA 71–569 for Danazol Capsules, 200 mg, will be removed from the list.

Dated: April 25, 1992.

Carl C. Peck,

Director, Center for Drug Evaluation and Research.

[FR Doc. 92–10470 Filed 5–5–92; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 92N–0194]

Royce Laboratories, Inc.; Withdrawal of Approval of Two Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of two abbreviated new drug applications (ANDA's) held by Royce Laboratories, Inc. (Royce), 16600 NW., 54th Ave., Miami, FL 33014. Royce has agreed in writing to permit FDA to withdraw approval of the applications, and has waived its opportunity for a hearing. This action stems from the discovery of discrepancies concerning the data submitted to obtain approval of the applications.

EFFECTIVE DATE: May 6, 1992.

FOR FURTHER INFORMATION CONTACT: Diane M. Sullivan, Center for Drug Evaluation and Research (HFD–366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8041.

SUPPLEMENTARY INFORMATION: Recently, FDA became aware of discrepancies concerning the data used to support approval of the following ANDA's held by Royce:

ANDA 71–796; Minoxidil Tablets, 10 milligrams (mg); and

ANDA 71–799: Minoxidil Tablets, 2.5 mg.

After careful review of inspectional findings and letters from the firm, the agency determined that there was sufficient justification to initiate proceedings to withdraw approval of these products. Royce was notified in writing of these determinations and, in accordance with 21 CFR 314.150(d), was offered an opportunity to permit FDA to withdraw the applications. Subsequently, in a letter dated April 1, 1992, Royce requested withdrawal of the ANDA's.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (e)), and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82), approval of the ANDA's listed above, and all amendments and supplements thereto, is withdrawn effective May 6, 1992. Distribution of these products in interstate commerce without an approved application is illegal and subject to regulatory action.

Dated: April 27, 1992.

Gerald F. Meyer,

Deputy Director, Center for Drug Evaluation and Research.

[FR Doc. 92–10469 Filed 5–5–92; 8:45 am]

BILLING CODE 4160–01–M

Food and Drug Administration Statement of Organization, Functions, and Delegations of Authority

Part H, chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (56 FR 29484, June 27, 1991) is amended to reflect organizational and functional changes in the Food and Drug Administration (FDA). Within the Office of Management, Office of Management and Systems, FDA proposes that the Office of Facilities and Administrative Management (OFAM) be established to oversee and direct the Agency's increasing facilities initiative, provide for a clearer delineation of responsibilities, and afford the Agency better service. The new Office will consist of the Division of Facilities and Engineering Management and the Division of Administrative Management. Under section HF–B, Organization:

1. Delete subparagraph (h–2) *Division of Management Services (HFA75)* in its entirety and insert the following new subparagraph under the *Office of Management and Systems (HFA6), Office of Management (HFA7)* reading as follows:

Office of Facilities and Administrative Management (HFA75). Provides leadership and direction regarding all aspects of facilities management nationwide.

Provides leadership and direction regarding Agency support services needs.

Advises top level Agency management on facilities needs and other services that support the Agency's mission.

Serves as the Agency focal point for all facilities and support services issues within FDA and between FDA and the Office of the Assistant Secretary for Health, the Department, the General Services Administration, the Government Printing Office, Congressional Committees, and other Government agencies.

Serves as Agency aughority on the facilities consolidation initiative.

Dated March 30, 1992.

David Kessler,

Commissioner of Food and Drugs.

[FR Doc. 92–10483 Filed 5–5–92; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–020–4760–02]

Burley District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting for Burley District Advisory Council.

SUMMARY: Notice is hereby given that the Burley District Advisory Council will meet on June 11, 1992. The meeting will convene at 9 a.m. in the Conference Room of the Bureau of Land Management Office at 200 South Oakley Highway, Burley, Idaho.

Agenda items are: (1) Reorganization of Advisory Council, (2) Water filings on public lands, (3) Proposed Cassia County Land Use Plan, (4) Status of District's Animal Damage Control Program, (5) Economic values of rangelands in relation to condition, (6) Tour of Black Pine gold mine.

The meeting is open to the general public. The comment period for persons or organizations wishing to make oral statements to the Council will begin at 10:30 a.m. Anyone wishing to make an oral statement should notify the District Manager, Bureau of Land Management, route 3, Box 1, Burley, Idaho 83318, prior to the start of the meeting. Depending upon the number of persons wishing to make statements, a per time limit may be established by the District Manager. Written statements may also be filed

Minutes of the Council meeting will be maintained in the District Office and will be available for public inspection during regular business hours.

DATES: June 11, 1992.

ADDRESSES: Bureau of Land Management, Burley District Office, route 3, Box 1, Burley, Idaho 83318.

FOR FURTHER INFORMATION CONTACT: Gerald L. Quinn, Burley District Manager, (208) 678–5514.

Dated: April 27, 1992.

Gerald L. Quinn,

District Manager.

[FR Doc. 92–10526 Filed 5–5–92; 8:45 am]

BILLING CODE 4310–GG–M

[WY–920–41–5700; WYW108549]

Proposed Reinstatement of Terminated Oil and Gas Lease

April 28, 1992.

Pursuant to the provisions of 30 U.S.C. 188(d), and 43 CFR 3108.2–3 (a) and (b)(1), a petition for reinstatement of oil and gas lease WYW108549 for lands in Campbell County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW108549 effective January 1, 1992, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Supervisory Land Law Examiner.

[FR Doc. 92–10527 Filed 5–5–92; 8:45 am]

BILLING CODE 4310–22–M

[CA–940–4212–24; CACA 9036]

Opening of Lands; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action opens 554.30 acres of acquired lands to operation of the public land laws, including the mining laws and the mineral leasing laws.

EFFECTIVE DATE: June 5, 1992.

FOR FURTHER INFORMATION CONTACT: Judy Bowers, BLM California State Office, 2800 Cottage Way, Sacramento, California 95825, 916–978–4820.

SUPPLEMENTARY INFORMATION: Pursuant to section 307(c) of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2766; 43 U.S.C. 1737), on July 26, 1984, the United States accepted title to the following lands donated by the Yolo County Flood and Water Conservation District:

Mount Diablo Meridian

Serial No. CACA 9036.

T. 14 N., R. 6 W.,
Sec. 3, lot 3;
Sec. 5, lot 4, SW¼NW¼;
Sec. 6, lots 1 through 4 inclusive, S½NE¼, SE¼NW¼.
T. 15 N., R. 6 W.,
Sec. 31, lot 4;
Sec. 34, S½SW¼, NE¼SW¼.

The areas described aggregate 554.30 acres in Lake County.

1. At 10 a.m. on June 5, 1992, the lands described above, will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on June 5, 1992, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

2. At 10 a.m. on June 5, 1992, the land described above, will be opened to location and entry under the United States mining laws and to the operation of the mineral leasing laws, subject to valid existing rights, the provision of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: April 23, 1992.

Al Wright,

Acting State Director.

[FR Doc. 92–10473 Filed 5–5–92; 8:45 am]

BILLING CODE 4310–40–M

[AZ–050–02–4214–10; AZA–23873]

Arizona; Termination of Segregative Effect of Proposed Withdrawal for La Posa Long-Term Visitor Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of termination of segregative effect of proposed withdrawal.

SUMMARY: On Monday, June 4, 1990, the Bureau of Land Management published a notice in the **Federal Register**, volume 55, no. 107, page 22859. This **Federal Register** notice was a proposal to withdraw approximately 11,400 acres of public land in La Paz County to protect the values of the La Posa Long-Term Visitor Area, an established special recreation area. The notice closed the land for up to 2 years from entry, appropriation, or disposal under the land laws, including the mining laws, but not from the mineral leasing laws. The proposed withdrawal was not completed within the 2-year segregation period. Consequently, in accordance with title 43, Code of Federal Regulations, subpart 2310, a notice is hereby given that the 2-year segregative effect of the proposed withdrawal will terminate. The termination will not affect the processing of the proposed withdrawal.

EFFECTIVE DATE: The segregative effect of the proposed withdrawal terminates June 3, 1992.

FOR FURTHER INFORMATION CONTACT: Resource Area Manager Michael A. Taylor, Bureau of Land Management, Yuma Resources Area, 3150 Winsor Avenue, Yuma, Arizona 85365, (602) 726–6300.

Dated: April 23, 1992.

Mervin G. Boyd,

Acting District Manager.

[FR Doc. 92–10525 Filed 5–5–92; 8:45 am]

BILLING CODE 4310–32–M

Bureau of Reclamation

Water Service Contract, Wayne N. Aspinall Unit, Black Canyon of the Gunnison National Monument, Gunnison and Montrose Counties, CO

AGENCIES: Bureau of Reclamation (Interior), National Park Service (Interior), Bureau of Land Management (Interior), Fish and Wildlife Service (Interior), Colorado Water Conservation Board (State of Colorado, Department of Natural Resources).

ACTION: Notice of intent; Notice of scoping.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Bureau of Reclamation, the National Park Service, the Bureau of Land Management, the Fish and Wildlife Service, and the Colorado Water Conservation Board announce their intent to prepare an environmental impact statement on a proposed water service contract to furnish water from the Wayne N. Aspinall Unit (Unit) of the Colorado River Storage Project to the Black Canyon of the Gunnison National Monument (Monument). The purpose of the contract is to provide water for the long-term protection of recreation, scenic and scientific values, and natural resources of the Monument, for protection of the Unit's purposes and Colorado's water supplies, and to assist in the recovery of downstream endangered fish species. Scoping meetings will be held in three locations to determine the scope of the issues to be addressed and to identify the significant issues related to the proposed action. The meetings will serve to develop alternatives to accomplish the purpose and need for the action. Written comments will be accepted following the scoping meetings.

DATES AND LOCATIONS: The meetings will be held:

- May 19, 1992, at 2 p.m. and 7:30 p.m., Gunnison County Fairgrounds, Multipurpose Room, 275 South Spruce, Gunnison, Colorado;
- May 20, 1992, at 2 p.m. and 7:30 p.m., The Pavilion, 1800 Pavilion Drive, Montrose, Colorado; and
- May 21, 1992, at 7:30 p.m., Columbine Senior Service Building, 247 Meeker, Delta, Colorado.

FOR FURTHER INFORMATION CONTACT: Steve McCall, Bureau of Reclamation, Grand Junction Projects Office, 2764 Compass Drive, PO Box 60340, Grand Junction, CO 81506, telephone: (303) 248–0638.

SUPPLEMENTARY INFORMATION: The Black Canyon of the Gunnison National Monument is located downstream from the Wayne N. Aspinall Unit (Blue Mesa, Morrow Point, and Crystal Reservoirs). The Monument was established by Presidential Proclamation in 1933, prior to construction of the Aspinall Unit. With creation of the Monument, Congress established a reserved water right to maintain the integrity of the area. This reserve right has never been quantified. With construction of the Aspinall Unit in the 1960's and 1970's, releases of water from the Aspinall Unit (except those diverted through the intervening Gunnison Tunnel) flow through and affect the nature and functions of the Gunnison River within the Monument. The proposed water service contract would not establish the reserved water right, but it would establish a process to determine and guarantee the quantity of water which can annually be delivered to the Monument from the Aspinall Unit, and it would set forth guidelines regarding the manner in which the releases are made. Information materials can be obtained from the contact identified in this notice.

Dated: April 17, 1992.

Joe D. Hall,

Deputy Commissioner.

[FR Doc. 92–10506 Filed 5–5–92; 8:45 am]

BILLING CODE 4310–09–M

Fish and Wildlife Service

Receipt of Application for Permit

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*) and the regulations governing marine mammals and endangered species (50 CFR 17 and 18).

Applicants: Mr. James Bodkin, File no. 766818, U.S. Fish & Wildlife Service, Alaska Fish and Wildlife Research Center, 1011 East Tudor Road, Anchorage, AK.

Type of Permit: Scientific Research.

Name and Number of Animals: Sea otter, (*Enhydra lutris lutris*) 200, (*Enhydra lutris nereis*) 50.

Summary of Activity to be Authorized: The applicant proposes to take (capture, recapture instrumented otters, immobilize, draw blood, tag and surgically implant 100 with TDR/transmitter package) sea otters to obtain dive depth data identified with specific dietary and habitat utilization. Sea otters will be captured and recaptured using tangle nets, diver held traps, and dip nets.

Source of Marine Mammals for Research: Fifty sea otters will be taken along Monterey Peninsula, California. Two hundred will be taken in Alaska (Kodiak Island, Kenai Peninsula, Prince William Sound & Southeast Alaska).

Period of Activity: July 1992 through September 1995.

Concurrent with the publication of this notice, the Office of Management Authority is forwarding copies of the application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments and/or requests for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Documents and other information submitted with this application are available for review by any party who submits a written request for a copy of such documents to, or by appointment during normal business hours (7:45–4:15) in, the following office within 30 days of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281)

Dated: April 30, 1992.

Susan Jacobson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 92–10472 Filed 5–5–92; 8:45 am]

BILLING CODE 4310–55–M

Geological Survey

Earth Observing System Land Processes Distributed Active Archive Center Science Advisory Panel; Public Meeting

Pursuant to Public Law 92–463, effective January 5, 1973, notice is hereby given that an open meeting of the Earth Observing System (EOS) Land Processes Distributed Active Archive Center (DAAC) Science Advisory Panel will be held May 20–22, 1992, at the U.S. Geological Survey Earth Resources

Observation Systems (EROS) Data Center near Sioux Falls, South Dakota. The meeting will convene at 8:30 a.m. on Wednesday, May 20, 1992, and will adjourn at noon on Friday, May 22, 1992.

(1) Purpose

The purpose of the Land Processes DAAC Science Advisory Panel is to provide advice and consultation on a broad range of scientific and technical topics and to represent the interests and requirements of the scientific research community in the process of developing and operating the data processing, archiving, distribution and product generation systems and capabilities for which the Land Processes DAAC will be responsible. The purpose of this meeting is to review, discuss, and provide recommendations on current and planned Land Processes DAAC programs and development activities.

(2) Membership

The Panel is comprised of scientists from academic and government institutions. The Land Processes DAAC Project Scientists, Dr. Bryan Bailey, and Mr. Michael Abrams, remote sensing scientist at the Jet Propulsion Laboratory, currently serve as Panel Co-Chairmen.

(3) Agenda

Topics on the meeting agenda include Land Processes DAAC status reports on FY 1992 activities; Panel review of and recommendations on FY 1993 proposed activities; and discussions leading to recommendations on Land Processes DAAC science support programs, criteria for archiving remotely sensed data acquired by aircraft sensors, DAAC participation in NASA field experiments, identification of common test sites for pre-EOS science investigations, and other topics.

For more detailed information about the meeting, please call Dr. Bryan Bailey, Land Processes DAAC Project Scientist, EROS Data Center, Sioux Falls, SD, 57198 at (605) 594–6001.

Dallas L. Peck,

Director.

[FR Doc. 92–10474 Filed 5–5–92; 8:45 am]

BILLING CODE 4310–31–M

Minerals Management Service

[FES 92–5]

The Minerals Management Service has prepared a final Environmental Impact Statement (EIS) relating to the Proposed Comprehensive Outer Continental Shelf Natural Gas and Oil Resource Management Program for 1992–1997 pursuant to section 102(2(C) of the National Environmetal Policy Act of 1969.

Information on the availability of the final EIS can be obtained from: Regional Director, Alaska Region, Minerals Management Service, 949 East 36th Avenue, Anchorage, Alaska 99508–4302, telephone (907) 271–6010; Regional director, Atlantic Region, Minerals Management Service, suite 1109, 381 Elden Street, Herndon, Virginia 22070–4817; telephone (703) 787–1113; Regional Director, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, telephone (504) 736–0557; Regional Director, Pacific Region, Minerals Management Service, 770 Paseo Camarillo, Camarillo, California 93010, telephone (805) 389–7502; and Chief, Branch of Environmental Projects Coordination, Minerals Management Service, 381 Elden Street, MS–4320, Herndon, Virginia 22070–4817, telephone (703) 787–1674.

Copies of the final EIS will be available for review in public libraries located throughout the coastal states. Information regarding the locations of libraries where copies of the final EIS will be available may be obtained from the office listed above.

Dated: May 1, 1992.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

Approved:

Jonathan P. Deason,

Director, Office of Environmental Affairs.

[FR Doc. 92–10534 Filed 5–5–92; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–334]

Certain Condensers, Parts Thereof and Products Containing Same, Including Air Conditioners for Automobiles; Commission Decision to Extend Deadline for Determination of Whether to Review an Initial Determination

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Commission has extended until June 15, 1992, the deadline by which it must determine whether to review an initial determination (ID) granting a motion for summary determination.

FOR FURTHER INFORMATION CONTACT: Cynthia P. Johnson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3098.

SUPPLEMENTARY INFORMATION: On April 14, 1992, the presiding administrative law judge (ALJ) issued an ID granting a motion for summary determination, thereby terminating the investigation on the basis of no violation of section 337 of the Tariff Act of 1930. Under Commission interim rule 210.53(h), the ID would have become the determination of the Commission on May 14, 1992, unless review was ordered or the review deadline extended.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission interim rule 210.53(h), (19 CFR 210.53(h)).

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: April 28, 1992.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92–10557 Filed 5–5–92; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–335]

Certain Dynamic Sequential Gradient Compression Devices and Component Parts Thereof; Order Designating Investigation "More Complicated" for the Purpose of Adjudicating a Motion for Temporary Relief

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge (ALJ) in the above-captioned investigation has issued an order designating the investigation "more complicated" for the purpose of adjudicating a motion for temporary relief.

FOR FURTHER INFORMATION CONTACT: Marc. A. Bernstein, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW.,

Washington, DC 20436, telephone 202–205–3087.

SUPPLEMENTARY INFORMATION: The authority for the ALJ's order is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337) and section 210.24 of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.24).

On April 28, 1992, the ALJ issued an order (Order No. 4) declaring the investigation "more complicated" for the purposes of adjudicating complainant Kendall Company's motion for temporary relief. The order indicates that the investigation has been deemed "more complicated" to provide the ALJ with sufficient time to adjudicate the motion in light of the complexity of the issues pertaining to the motion and the ALJ's obligations in other investigations.

The order extends to May 15, 1992, the date on which the ALJ will issue his initial determination on the motion for temporary relief. Pursuant to 19 CFR 210.24(e)(11), the order constitutes a final determination of the Commission.

Copies of the order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810.

By order of the Commission.

Issued: April 29, 1992.

Kenneth R. Mason,

Secretary.

[FR Doc. 92–10553 Filed 5–5–92; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–530 (Final)]

High-Tenacity Rayon Filament Yarn From Germany; Commission Determination to Conduct a Portion of the Hearing in Camera

AGENCY: U.S. International Trade Commission.

ACTION: Closure of a portion of a Commission hearing to the public.

SUMMARY: Upon request of respondents Akzo Faser AG and Akzo Fibers Inc. ("Akzo") in the above-captioned final investigation, the Commission has unanimously determined to conduct a portion of its hearing scheduled for May 1, 1992, *in camera*. See Commission rules 201.13 and 201.35(b)(3) (19 CFR 201.13 and 201.35(b)(3)). The remainder of the hearing will be open to the public.

FOR FURTHER INFORMATION CONTACT: Rhonda M. Hughes, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3083. Hearing-impaired persons are advised that information on this matter may be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission believes that Akzo has demonstrated good cause justifying the closure of the hearing so that it may present information primarily obtained from third parties and covered by the Commission's Administrative Protective Order (APO). This information concerns the quality and price of the domestic like product as compared to the subject imported product. The Commission has determined that a full discussion of the domestic industry and of the indicators that it examines in assessing material injury by reason of the subject imports could only take place if at least part of the hearing were held *in camera*. In making this decision, the Commission nevertheless affirms its belief that wherever possible its business should be conducted in public.

The hearing will begin with the public presentation by petitioner, followed by questioning of petitioner by the Commission. Respondents will then make public arguments and be questioned as appropriate by the Commission. Following respondents' public presentation and questioning, an *in camera* session concerning the above-described business proprietary information (BPI) will begin. For this discussion the room will be cleared of all persons except: (1) Those who have been granted access to BPI under the APO and are included on the Commission's APO service list in this investigation, (2) persons who will be presenting *in camera* testimony on behalf of the parties, and (3) personnel of the Commission, including the court reporter. Any representatives of the petitioner eligible to attend the session may respond and be questioned by the Commission as appropriate.

After respondents' *in camera* presentation, petitioner's representatives will be given the opportunity to present an *in camera* rebuttal to respondents' presentation. A short recess may be necessary to enable preparation of the rebuttal.

Following the *in camera* session, the Commission would reopen the hearing to the public for concluding statements or for additional public questioning by the Commission. The time for the parties' presentations in the *in camera* sessions will be taken from their respective overall allotments for the hearing. All persons planning to attend the *in camera* portion of the hearing should be prepared to present proper identification.

Authority: The General Counsel has certified, pursuant to Commission Rule 201.39 (19 CFR 201.39) that, in her opinion, a portion of the Commission's hearing in *High-tenacity Rayon Filament Yarn from Germany*, Inv. No. 731–TA–530 (Final), may be closed to the public to prevent the disclosure of BPI as described in Commission Rule 201.36(b)(4) (19 CFR 210.36(b)(4)).

Issued: April 30, 1992.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92–10552 Filed 5–5–92; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–337]

Certain Integrated Circuit Telecommunication Chips and Products Containing Same, Including Dialing Apparatus; Preliminary Conference

Notice is hereby given that the preliminary conference in this matter is presently scheduled to commence 1 p.m., on Thursday, May 14, 1992 in Hearing Room A (room 100) at the International Trade Commission Building at 500 E Street, SW., Washington, DC. The date is subject to change through order of the administrative law judge. Non-parties wishing to attend should contact Mr. Reiser at 202–205–2694 as to whether there have been any changes made in this schedule by the judge.

The Secretary shall publish this notice in the **Federal Register.**

Issued: April 29, 1992.

Paul J. Luckern,

Administrative Law Judge.

[FR Doc. 92–10556 Filed 5–5–92; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–525 (Final)]

Nepheline Syenite From Canada

Determination

On the basis of the record [1] developed in the subject investigation, the

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Canada of nepheline syenite,[2] provided for in subheading 2529.30.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective December 27, 1991, following a preliminary determination by the Department of Commerce that imports of nepheline syenite from Canada were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 15, 1992 (57 FR 1756). The hearing was held in Washington, DC, on March 19, 1992, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on April 24, 1992. The views of the Commission are contained in USITC Publication 2502 (April 1992), entitled "Nepheline Syenite from Canada: Determination of the Commission in Investigation No. 731–TA–525 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: April 27, 1992.

By order of the Commission.

Ruby J. Dionne,

Acting Secretary.

[FR Doc. 92–10558 Filed 5–5–92; 8:45 am]

BILLING CODE 7020–02–M

[2] The product covered by this investigation is nepheline syenite, which is a coarse crystalline rock consisting principally of feldspathic minerals (i.e., sodium-potassium feldspars and nepheline), with little or no free quartz, and whose typical mean value passing through ASTM E–11 mesh sieve No. 40 and retained on ASTM E–11 mesh sieve No. 200 (when solely said two sieves are used) is no less than 70 percent by weight.

[Investigation No. 337–TA–336]

Certain Single In-Line Memory Modules and Products Containing Same; Commission Determination Not to Review Three Initial Determinations Terminating Six Respondents on the Basis of Three Settlement Agreements

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review three initial determinations (IDs) of the presiding administrative law judge (ALJ) in the above-captioned investigation terminating respondents Matsushita Electric Industrial Co., Ltd., Matsushita Electric Corporation of America, Oki Electric Co., Ltd., Oki America, Inc., Fujitsu Limited, and Fujitsu Microelectronics, Inc., on the basis of settlement agreements.

FOR FURTHER INFORMATION CONTACT: Cynthia P. Johnson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3098

SUPPLEMENTARY INFORMATION: On March 19, 1992, complainant Wang Laboratories, Inc. and respondents Fujitsu Limited and Fujitsu Microelectronics, Inc., filed a joint motion to terminate the investigation with respect to those respondents on the basis of a settlement agreement. On March 25, 1992, complainant Wang Laboratories, Inc. and respondents Matsushita Electric Industrial Co., Ltd. and Matsushita Electric Corporation of America, filed a joint motion to terminate the investigation with respect to those respondents on the basis of a settlement agreement. On March 26, 1992, complainant Wang Laboratories, Inc. and respondents Oki Electric Industry Co., Ltd. and Oki America, Inc. filed a joint motion to terminate the investigation with respect to those respondents on the basis of a settlement agreement. All three joint motions were supported by the Commission investigative attorneys. On March 30, 1992, the presiding ALJ issued an ID (Order No. 12) terminating the investigation as to Fujitsu Limited and Fujitsu Microelectronics, Inc. On March 31, 1992, the presiding ALJ issued an ID (Order No. 13) terminating the investigation as to Matsushita Electric Indsutrial Co., Ltd. and Matsushita Electric Corporation of America. On April 1, 1992, the presiding ALJ issued an ID (Order No. 14) terminating the investigation as to Oki Electronic Industry Co., Ltd. and Oki America, Inc. No petitions for review, or agency or public comments were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule 210.53(h), 19 CFR 210.53(h).

Copies of the nonconfidential versions of the IDs and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: April 29, 1992.

Kenneth R. Mason,

Secretary.

[FR Doc. 92–10554 Filed 5–5–92; 8:45 am]

BILLING CODE 7020–02–M

[Investigation 337–TA–336]

Certain Single In-Line Memory Modules and Products Containing Same; Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above captioned investigation terminating the following respondent on the basis of a consent order agreement: Intel Corporation.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon parties on April 29, 1992.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretarty, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing

impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such documents must be filed with the Secretary to the Commission, 500 E Street, SW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portions thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone (202) 205–1802.

Issued: April 29, 1992.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92–10555 Filed 5–5–92; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each indivdual proceeding.

To obtain copies of these environmental assessments contact Ms. Johnnie Davis or Ms. Victoria Dettmar, Interstate Commerce Commission, Section of Energy and Environment, room 3219, Washington, DC 20423, (202) 927–5750 or (202) 927–6211.

Comments on the following assessment are due 30 days after the date of availability:

AB–55 (Sub-No. 402X), CSX Transportation Inc., Abandonment between Woodlawn and Walmar in Jefferson, Washington, Clinton and St. Clair Counties, Illinois. EA available 4/27/92.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–10514 Filed 5–5–92; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Cannons Engineering Corp. et al; Lodging of a Consent Decree

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on April 29, 1992, a proposed consent decree in *United States* v. *Cannons Engineering Corporation, et al.*, Civil Action No. 88–1786–WF, was lodged with the United States District Court for the District of Massachusetts. The decree resolves claims of the United States against six defendants and thirteen third party defendants in the above-referenced action under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") for contamination at four Superfund sites. The six settling defendants are Acme Services, Inc., Advance Coatings Company, Cyn Oil Corp., Kingston-Warren Corp., Olin Hunt Specialty Products, Inc., and Roy Brothers, Inc. The thirteen settling third party defendants are Air Products and Chemicals, Brown & Sharpe Manufacturing Co., Fontaine Brothers, Getty Refining and Marketing Co., Great Lakes Dredge and Dock Co., Kellems, Inc., Master Chemical Co., Safety-Kleen, Taunton Superior Courthouse, Texaco, Inc., Thayer Academy, Town of Chatham, and Trifari, Krussman, Fishel, Inc. (The settling defendants and third party defendants are referred to herein collectively as the "Settling Parties."). The four sites are the Cannons Engineering Superfund Site in Bridgewater, Massachusetts, the Plymouth Superfund Site in Plymouth, Massachusetts, the Gilson Road Superfund Site in Nashua, New Hampshire, and the Tinkham's Garage Superfund Site in Londonderry, New Hampshire (collectively, the "Sites").

In the proposed consent decree the Settling Parties agree to pay the United States $5,649,000.00 in settlement of the United States' claims for past and future response costs incurred and to be incurred by the Environmental Protection Agency at the Sites. The proposed decree embodies a *de minimis* settlement under the terms of 42 U.S.C. 9622(g).

The proposed decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004, (202) 347–2072. A copy of the decree may be obtained in person or by mail from the Document Center. In requesting copies of the decree, please enclose a check for $16.75 (25 cents per page reproduction cost) payable to Consent Decree Library.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Cannons Engineering Corporation, et al.*, (DOJ Reference No. 90–11–3–105).

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92–10548 Filed 5–5–92; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a consent decree in *United States of America* v. *Burnie Powers, Jr., and William H. Latimer, III*, No. 86–1159 (W.D. Tenn.), was lodged with the United States District Court for the Western District of Tennessee on April 24, 1992.

The proposed consent decree concerns alleged violations of the Clean Water Act, 33 U.S.C. 1311, as a result of the discharge of fill material onto portions of property located in Obion County, Tennessee, which are allged to constitute "waters of the United States." The consent decree requires Burnie Powers, Jr. and William H. Latimer, III to establish a buffer zone that will allow a substantial portion of the filled wetlands to revegetate naturally and to pay a penalty of $3,000 to the United States Treasury.

The Department of Justice will receive until May 24, 1992, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Attention: Gary S. Guzy, 10th & Pennsylvania Avenue, NW., room 7210—Main Building, Washington, DC. 20530 and should refer to *United States* v. *Burnie Powers, Jr. and William Latimer, III*, DJ Reference No. 90–5–1–1–2279.

The consent decree may be examined at the Clerk's Office, United States District Court, 206 Federal Building, 109 S. Highland Avenue, Jackson, Tenn. 38301.

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92–10480 Filed 5–5–92; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

National Cooperative Research; ABACoS, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), ABACoS, Inc., on April 6, 1992, has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture, and (2) the nature and objectives of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the venture, and its general areas of planned activities, are given below.

ABACoS, Inc. is a joint venture corporation, consisting of the following parties: General Electric Company, Pittsfield, MA; Masco Corporation, Taylor, MI; The Ryland Group, Inc., Columbia, MD; USG Corporation, Libertyville, IL; and Burt Hill Kosar Rittelmann Associates, Inc., Butler, PA.

ABACoS, Inc. will engage in advanced, long-term research and development activities in the following general areas: Home and building construction; construction materials, products, systems and services; and construction and building practices, methods, techniques, and technologies. The corporation will be a technology integrator for home and building construction and it will translate technology into the vocabulary and practices of the home and builidng industry.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92–10476 Filed 5–5–92; 8:45 am]

BILLING CODE 4410–01–M

Pursuant to the National Cooperative Research; Advanced Reactor Corp.

Notice is hereby given that, on March 24, 1992, pursuant to secion 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.* ("the Act"), Advanced Reactor Corportion ("ARC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to a research joint venture to be conducted by ARC, and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provision limiting the recovery of antitrust plaintiffs to actual damages under specific circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the venture, and its general areas of planned activities, are given below.

ARC is a District of Columbia not-for-profit membership corporation. The following parties are currently Class I members of ARC, which contribute financially to ARC and participate in voting and decision making:

American Electric Power Service Corp., Columbus, OH 43215
Carolina Power & Light Co., Raleigh, NC 27602
Commonwealth Edison Co., Downers Grove, IL 60515
Consolidated Edison Co., New York, NY 10003
Duke Power Co., Charlotte, NC 28242
Florida Power & Light Co., Juno Beach, FL 33408
General Public Utilities (GPU) Nuclear Corp., Parsippany, NJ 07054
New York Power Authority, White Plains, NY 10601
Pennsylvania Power & Light Co., Allentown, PA 18101
Philadelphia Electric Co., Philadelphia, PA 19101
Public Service Electric & Gas, Hancocks Bridge, NJ 08038
Southern Nuclear Co., Birmingham, AL 35243
Tennessee Valley Authority, Chattanooga, TN 37402
Texas Utilities (TU) Electric Co., Dallas, TX 75201
Union Electric Co., St. Louis MO 63103
Wisconsin Electric Power Co., Milwaukee, WI 53203

Other entities may become Class II members of ARC. Class II members do not contribute financially to ARC and may not vote or participate in decision making.

In addition to ARC's members, the Electric Power Research Institute ("EPRI") and the United States Department of Energy ("DOE") will participate with ARC in the venture, pursuant to the agreement set forth below. Their addresses are:

Electric Power Research Institute, Palo Alto, CA 94304
United States Department of Energy, Washington, DC 20585

ARC will support the research and development of standardized designs for a new generation of nuclear power plants, Advanced Light Water Reactors, through a process called First of a Kind Engineering ("FOAKE"). The FOAKE process will provide engineering data that will, in part, bridge the gap between the level of design detail required to achieve design certification before the United States Nuclear Regulatory Commission pursuant to 10 CFR 52 and the much higher level of design detail necessary to begin sit-specific design and actual plant construction.

ARC elected its Project Management Board ("PMB"), which is responsible for the direction and implementation of the FOAKE program, on January 9, 1992. ARC will conduct the FOAKE program, in cooperation with the DOE, pursuant to two agreements: (1) The ARC/DOE Cooperative Agreement, executed by the DOE on February 14, 1991 and by ARC on February 26, 1992, and (2) the ARC/EPRI Memorandum of Understanding, executed by EPRI on February 14, 1992 and by ARC on February 26, 1992. Both agreements became effective when executed by ARC on February 26, 1992.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92–10477 Filed 5–5–92; 8:45 am]

BILLING CODE 4410–01–M

National Cooperative Research; CAD Framework Initiative, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), CAD Framework Initiative, Inc. ("CFI") on March 27, 1992, has filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing certain changes in the membership of CFI. The additional written notification was filed for the purpose of extending the protections of section 4 of the Act, limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On December 30, 1988, CFI filed its original notification pursuant to section 6(a) of the Act. That filing was amended on February 7, 1989. The Department published a notice concerning the amended filing in the **Federal Register** pursuant to section 6(b) of the Act on March 13, 1989 (54 FR 10456). A correction to this notice was published on April 20, 1989 (54 FR 16013). On May 17, 1989, CFI filed an additional written notification. The Department published a notice in response to this additional

notification on June 22, 1989 (54 FR 26265). A correction to the June 22, 1989 notice was published on August 4, 1989 (54 FR 32141); a further correction was published on August 23, 1989 (54 FR 35091). On August 16, 1989, CFI filed an additional written notification. The Department published a notice in response to this additional notification on September 21, 1989 (54 FR 38912). CFI filed a further additional notification on November 15, 1989. The Department published a notice in response to the further additional notification on January 10, 1990 (55 FR 925). On February 15, 1990, CFI filed an additional written notification. The Department published a notice in response to the further additional notification on April 23, 1990 (55 FR 15295). CFI filed an additional notification on May 15, 1990. The Department published a notice in response to the additional notification on June 29, 1990 (55 FR 16792). CFI filed an additional notification on August 16, 1990. The Department published a notice in response to the additional notification on September 18, 1990 (55 FR 38417). CFI filed an additional notification on October 22, 1990. The Department published a notice in response to the additional notification on December 10, 1990 (55 FR 50786). On January 25, 1991, CFI filed an additional written notification. The Department published a notice in response to the additional notification on March 25, 1991 (56 FR 12387). CFI filed an additional notification on April 22, 1991. The Department published a notice in response to the additional notification on May 23, 1991 (56 FR 23722). On August 12, 1991, CFI filed an additional written notification. The Department published a notice in response to the additional notification on September 25, 1991 (56 FR 48580). A correction to this notice was published on November 5, 1991 (56 FR 56528). On December 18, 1991, CFI filed an additional written notification. The Department published a notice in response to the additional notification on April 15, 1992 (57 FR 13120–13121).

The purpose of this additional notification is to disclose certain changes in the membership of CFI. The changes consist of the following: (1) The addition of the following Corporate Members: Advanced Micro Devices located in Sunnyvale, California, EEsof, Inc. located in Westlake Village, California, Ericsson Telecom AB located in Stockholm, Sweden, and OKI Electric Industry Co., Ltd. located in Tokyo, Japan; (2) the addition of the following Associate Members: Applied Physics Laboratory located in Laurel, Maryland, Steve Evanczuk located in Morristown, New Jersey, and Ushio Kobayashi located in Urbana, Illinois; (3) Hughes Aircraft Company/GM-Delco located in E1 Segundo, California has changed their membership from Corporate to Associate; (4) the following Corporate Members have not renewed their membership in CFI: Alcatel NV, Bell Northern Research Ltd., Compass Design Automation/VLSI, Computervision, Hitachi, Ltd., Matsushita Electric Industries Co., Ltd., NCR Microelectronics Corporation, Objectivity, Inc., Philips Research Laboratories, Siemens AG, Sony Corporation, Team One Systems, Valid Logic Systems, Inc., Zycad Corp.; (5) the following Associate Members have not renewed their membership in CFI: Canadian Microelectronics Corporation, Chips and Technology, CPQD-Telebras, Institute for Information industry, STC Technology, Ltd., Teradyne EDA, Westinghouse Electric Corp., Xerox Corporation , Xidak, Inc., William Adams, Philip S. Au, Bob Cottle, Peter Cundall, John Eurich, Denis Gagnon, Peter Gustafsson, Yu-i Hsieh, Uwe Jasnoch, Eiji Kawamoto, Eskil Kjelkerud, Albert Klosterman, Jimm Meloy, Doug Neuse, Frits Nolet, B. Reddy Penumalli, John Prieur, Timothy Sampson, Dieter Seitzer, and Greg Wasche.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92–10479 Filed 5–5–92; 8:45 am]

BILLING CODE 4410–01–M

National Cooperative Research Act; Petroleum Environmental Research Forum

Notice is hereby given that, on April 3, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.* ('the Act'), the Petroleum Environmental Research Forum ("PERF") filed written notifications simultaneously with the Attorney General and with the Federal Trade Commission disclosing changes in the membership of PERF. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the notification stated that Pennzoil Company, Houston, Texas 77252–2967 has terminated its membership in PERF and Southern California Gas Company, Los Angeles, California 90017 has become a member.

No other changes have been made in either the membership or planned activities of PERF.

On February 10, 1986, PERF filed its original notification pursuant to section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the **Federal Register** pursuant to section 6(a) of the Act on March 14, 1986 (51 FR 8903). On May 6, 1986, May 27, 1986, June 23, 1986, February 3, 1989, March 21, 1989, October 31, 1989, April 19, 1990, June 25, 1990, May 13, 1991, and August 29, 1991, PERF filed additional written notifications. The Department published notices in the **Federal Register** in response to these additional notifications on June 9, 1986 (51 FR 20897), June 19, 1986 (51 FR 22365), July 17, 1986 (51 FR 25957), March 1, 1989 (54 FR 8607), April 20, 1989 (54 FR 16014), December 8, 1989 (54 FR 50661), May 30, 1990 (55 FR 21951), July 19, 1990 (55 FR 29432), June 20, 1991 (56 FR 28416), and September 25, 1991 (56 FR 48581), respectively.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92–10478 Filed 5–5–92; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Importer of Controlled Substances; Registration

By Notice dated December 30, 1991, and published in the **Federal Register** on January 14, 1992, (57 FR 1495), Lab, Inc., 700 Grand Avenue, Ridgefield, New Jersey 07657, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine (1100)	II
Methamphetamine (1105)	II
Codeine (9050)	II
Oxycodone (9143)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Morphine (9300)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

No comments or objections have been received. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with title 21 Code of Federal Regulations 1311.42, the above firm is granted registration as an importer of the basic class of controlled substances listed above.

Dated: April 28, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92–10517 Filed 5–5–92; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Advisory Committee on the Use of Air in the Belt Entry to Ventilate the Production (Face) Area at Underground Coal Mines and Related Provisions; Meetings

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of advisory committee meetings.

SUMMARY: This notice provides the dates, times, places and agenda summaries for the third and fourth meetings of the Mine Safety and Health Administration's Advisory Committee on the Use of Air in the Belt Entry to Ventilate the Production (Face) Area at Underground Coal Mines and Related Provisions.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, Ballston Tower #3, 4015 Wilson Boulevard, room 631, Arlington, Virginia 22203; phone (703) 235–1910.

SUPPLEMENTARY INFORMATION: Under sections 101(a) and 102(c) of the Federal Mine Safety and Health Act of 1977, public meetings of the advisory committee will be held as follows:

(1) May 21–22, 1992, from 8 a.m. until 4 p.m. at the David L. Lawrence Convention Center (North 9 Room) located at 1001 Penn Avenue, Pittsburgh, Pennsylvania 15222; and (2) June 1–2, 1992, from 8 a.m. until 4 p.m. at the University of Kentucky, Mining Resources Building (Room 102) located at the corner of Rose and Clifton Streets, Lexington, Kentucky 40506.

The Secretary of Labor appointed this advisory committee to make recommendations on conditions under which belt entry air could be safely used in the face areas of underground coal mines.

The purpose of the meetings is to obtain information relative to: (1) The conditions under which belt haulage entries could be safely used as intake air courses to ventilate working places; (2) minimum velocities in conveyor belt haulageways; and (3) ventilation of escapeways.

The agenda for the third meeting will include discussions on fire safety and related matters and the agenda for the fourth meeting will include discussions on health and training issues and related matters.

The public is invited to attend. The chairperson will provide a half-hour during each day of the meetings to allow interested persons to make comments. Official records of the meetings will be available for public inspection at the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, room 631, Arlington, Virginia 22203.

Dated: April 28, 1992.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 92–10484 Filed 5–5–92; 8:45 am]

BILLING CODE 4510–43–M

LEGAL SERVICES CORPORATION

Availability of Funds and Requests for Grant Proposals for a Program to Represent Appellants Before the United States Court of Veterans Appeals

AGENCY: Legal Services Corporation.

ACTION: Announcement of fuding.

SUMMARY: The Legal Services Corporation (LSC or Corporation) announces that up to $950,000 is available during the remainder of federal fiscal year 1992 and the entire fiscal year of 1993 (through September 30, 1993) to provide pro bono representation in connection with appeals to the United States Court of Veterans Appeals (Court). The purpose of this grant is to reduce the pro se caseload, which is currently approximately 66% of the Court's docket. The Corporation seeks to obtain a grantee or grantees to deliver economical, effective and competent legal services and other assistance, without charge, to persons who are unable to afford the costs of representation in connection with decisions to which section 7252(a) of title 38, United States Code, may apply.

Pursuant to the authorizing legislation, the Corporation is issuing two Requests for Proposals (RFPs). The first RFP contemplates an "umbrella" program dealing with case screening, outreach and education. The second RFP is an "expansion grant" that allows an entity already providing representation to claimants seeking benefits from the Department of Veternas Affairs to obtain funds to help defray the expenses of expanding an already existing and ongoing program to provide representation before the Court.

The selected applicant(s) for each RFP will be awarded a one-time, non-recurring grant(s) that will begin no earlier than August 1, 1992, and will end on September 30, 1993.

APPLICATION: Applications, including all guidelines for proposals, and criteria to be used in evaluating proposals, will be available after May 8, 1992. All inquiries concerning applications should be addressed to Christopher Sundseth, Project Liaison, at (202) 863–1839.

DEADLINE: Proposals must be received at the Office of Field Services no later than 5 p.m., June 26, 1992.

ADDRESS: Office of Field Services, Legal Services Corporation, 400 Virginia Avenue SW., Washington, DC 20024–2751. Effective June 1, 1992, the new address of the Office of Field Services will be: 750 First Street, NE., 11th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Christopher Sundseth, (202) 863–1839. After June 1, 1992, the number will be (202) 336–8800.

Dated: May 1, 1992.

Ellen J. Smead,

Director, Office of Field Services.

[FR Doc. 92–10516 Filed 5–5–92; 8:45 am]

BILLING CODE 7050–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 92–27]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of agency report forms under OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Paperwork Reduction Project.

DATES: Comments are requested by June 5, 1992. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Mr. D. A. Gerstner, NASA Agency Clearance Officer, Code JTD, NASA Headquarters, Washington, DC 20546; Office of Management and Budget, Paperwork Reduction Project (2700–0056), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Shirley C. Peigare, NASA Reports Officer, (202) 453–9897.

Reports

Title: NASA FAR Supplement, Part 18-12, Contract Delivery or Performance.
OMB Number: 2700–0056.
Type of Request: Extension.
Frequency of Report: On occassion.
Type of Respondent: State or local governments, Businesses or other for-profit, non-profit institutions, small businesses or organizations.
Number of Respondents: 737.
Responses per Respondent: 0.1.
Annual Responses: 74.
Hours per Response: 1.
Annual Burden Hours: 74.
Abstract-Need/Uses: Contractor to provide notice of anticipated delay in performance of contract.

Dated: April 30, 1992.

D. A. Gerstner,

Chief, IRM Policy and Acquisition Management Office.

[FR Doc. 92–10549 Filed 5–5–92; 8:45 am]

BILLING CODE 7510–01–M

NUCLEAR REGULATORY COMMISSION

Docket No. 50–344

Portland General Electric Co., et al., Trojan Nuclear Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption to Facility Operating License No. NPF–1 issued to Portland General Electric Company, et al. (the licensee), for operation of Trojan Nuclear Plant located in Columbia County, Oregon.

Environmental Assessment

Identification of Proposed Action

The proposed action would allow a permanent, partial exemption to paragraph III.D.2. (b)(ii) of appendix J, title 10 of the Code of Federal Regulations, part 50, relating to testing of the containment air locks. The licensee proposes to perform the air lock pressure test at not less than 10 psig (rather than P_a of 60 psig), as is done for periods when containment integrity is required; provided, no maintenance or modification that could affect sealing capability was performed on the air lock during the period.

The proposed action is in accordance with the licensee's application for exemption dated April 1, 1992.

The Need for the Proposed Action

The proposed exemption is required in order to provide the licensee operational flexibility for testing the containment air locks. Moreover, the staff has granted exemptions to numerous plants and intends to revise appendix J to alleviate the need for further exemptions.

Environmental Impact of the Proposed Action

The Commission has completed its evaluation of the proposed exemption, and concludes that the proposed changes does not involve a modification to plant equipment or to methods of operation, but does provide for operational flexibility in the testing of containment air locks. The proposed action affects a plant component's surveillance requirements only. Therefore, the proposed exemption does not increase the probability or consequences of accidents; no changes are being made in the types of any effluents that may be released offsite; and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed exemption involves a plant component's surveillance requirements only. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Sine the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested exemption. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statement related to operation of the Trojan Nuclear Plant, dated August 1973.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the licensee's application for amendment dated April 1, 1992, which is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room at the Branford Price Millar Library, Portland State University, 934 SW. Harrison Street, P.O. Box 1151, Portland, Oregon 97207.

Dated at Rockville, Maryland, this 30th day of April, 1992.

For the Nuclear Regulatory Commission.

Theodore R. Quay,

Director, Project Directorate V, Division of Reactor Project III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92–10541 Filed 5–5–92; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Thursday, June 04, 1992
Thursday, June 25, 1992
Thursday, July 23, 1992

The meetings will start at 10:45 a.m. and will be held in room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairmen to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, room 1340, 1900 E Street, NW., Washington, DC 20415 (202) 606–1500.

Dated: April 29, 1992.

Anthony F. Ingrassia,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 92–10487 Filed 5–5–92; 8:45 am]

BILLING CODE 6325–01–M

Director's Advisory Committee on Law Enforcement and Protective Occupations; Open Meetings

AGENCY: Office of Personnel Management.

ACTION: Notice of open meetings.

SUMMARY: According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the seventh meeting of the Director's Advisory Committee on Law Enforcement and Protective Occupations will be held at the time and place shown below:

DATES: May 20, 1992, 2 pm.

PLACE: Capital Hilton (Federal Room), 1001 16th Street, NW., Washington, DC.

AGENDA: The focus of the May 20th meeting will be the continuation of the discussion of pay and classification issues related to firefighter work.

FOR FURTHER INFORMATION CONTACT: Phyllis G. Foley, Director, Law Enforcement and Protective Occupations Task Force, Office of Compensation Policy, Personnel Systems and Oversight Group, Office of Personnel Management, room 7H30, 1900 E Street, NW., Washington, DC 20415.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. If time permits, an opportunity will be provided for members of the public in attendance at the meeting to provide their views. Persons wishing to address the Advisory Committee orally at the meeting should submit a written request no later than the close of business on May 8, 1992. The request must include the name and address of the person wishing to appear, the capacity in which the appearance will be made, a short summary of the intended presentation, and the amount of time desired.

Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 92–10490 Filed 5–5–92; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–30638; File No. SR–BSE–92–3]

Self-Regulatory Organizations; Proposed Rule Change by Boston Stock Exchange Relating to Amendment of its Minor Rule Violation Plan

April 27, 1992.

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 March 30, 1992, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On April 13, 1992, the BSE submitted to the Commission Amendment No. 1 to the proposed rule change.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Minor Rule Violation Plan, which provides for the imposition of summary fines for violation of certain specified Exchange rules and policies, by revising the List to add the following violations:[2]

1. Violation of the Exchange identification requirement
2. Failure to lockup facility
3. Possession of firearms or other weapons

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.

[1] See letter from Karen A. Aluise, Staff Attorney, BSE, to Mary Revell, Branch Chief, Commission, dated April 13, 1992. Amendment No. 1 corrected the BSE's current List of Exchange Rule and Policy Violations and Fines Applicable Thereto Pursuant to Section 4 of Chapter XVIII ("List") by deleting the failure to clear a specialist's post from the List and adding the unauthorized disclosure of give-ups to the List.

[2] The BSE also has requested approval, under Rule 19d–1(c)(2), 17 CFR 240.19–1(c)(2), to amend its Rule 19d–1 minor rule violation enforcement and reporting plan to include these policy violations. *See* letter from Karen Aluise, Staff Attorney, BSE, to Mary Revell, Branch Chief, Commission, dated March 27, 1992.

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

The Exchange's Minor Rule Violation Plan ("Plan") provides that the Exchange may impose a fine, not to exceed $2,500, on any member, member organization, allied member, approved person, or registered or non-registered employee of a member or member organization for a minor violation of certain specified Exchange rules.[3]

The purpose of the Plan is to provide for a response to a rule violation when a sanction is appropriate but when initiation of a full disciplinary proceeding is not suitable because such proceeding would be more costly and onerous than would be warranted given the minor nature of the violation. The Plan provides for an appropriate response to minor violations of certain Exchange rules while preserving the due process rights of the party accused through specified, required procedures.

In the Exchange's initial filing, which set forth the provisions and procedures of the Plan, the Exchange indicated that it periodically would amend the list of rules subject to the Plan as the Exchange deemed appropriate. The Exchange now seeks to add the following policies to the List:

1. Violation of the Exchange identification requirement
2. Failure to lockup facility
3. Possession of firearms or other weapons

The proposed rule change will advance the objectives of section 6(b)(6) of the Act in that its members and persons associated with its members will be appropriately disciplined for violation of rules where the Exchange has determined that such violation is minor in nature. In accordance with sections 6(b)(7) and 6(d)(1), the Plan provides for a fair disciplinary procedure for the imposition of sanctions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

[3] The BSE's Plan for enforcing and reporting minor disciplinary rule violations was approved by the Commission in Securities Exchange Act Release No. 26737 (April 17, 1989), 54 FR 16438-I (April 24, 1989) (File No. SR-BSE-88-2).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the 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, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR-BSE-92-3 and should be submitted by May 27, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-10542 Filed 5-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30642; File No. SR-ICC-92-2]

Self-Regulatory Organizations; The Intermarket Clearing Corporation; Filing and Immediate Effectiveness of Proposed Rule Change to Reorganize the Definition Section of ICC's Rules

April 28, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 6, 1992, The Intermarket Clearing Corporation ("ICC") 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, for the most part, by ICC. The Commission is publishing this notice to solicit comments on the proposal from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to reorganize the Definition section of ICC's Rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and statutory basis for the proposed 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. ICC 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

The purpose of the proposed rule change is to reorganize the Definition section of ICC's Rules thereby making it easier to locate terms contained in that section. On January 23, 1992, The Options Clearing Corporation ("OCC") filed with the Commission a proposed rule change to reorganize and alphabetize the Definition sections of its Rules and By-Laws. OCC's proposed change (File No. SR-OCC-92-4) became effective on filing with the Commission.[2]

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 30327 (January 31, 1992), 57 FR 4785.

Accordingly, ICC is proposing to reorganize its Definition section consistent with the recent reorganization of OCC's Definition sections. ICC believes that the proposed reorganization will make the Definition section a more serviceable reference source and will maintain consistency between the rules of ICC and OCC. The proposed change is purely organizational; no substantive changes were made to the text of the definitions.

The proposed change is consistent with the requirements of section 17A of the Act. Specifically, ICC believes that the proposed rule change will fulfill its obligation to its participants to provide clear and serviceable rules.

(B) Self-Regulatory Organization's Statement on Burden on Competition.

ICC does not believe that the proposed rule change will impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

ICC has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of rule 19b–4 thereunder because it is concerned solely with the administration of the self-regulatory organization. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Those wishing to make a written submission should file six copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, subsequent amendments, written statements with respect to the proposed change that are filed with the Commission, and written communications relating to the proposal between the Commission and any persons, other than those that may be withheld from the public in accordance with 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of ICC. All submissions should refer to File No. SR–ICC–92–2 and should be submitted by May 27, 1992.

For the Commission by the Division of Market Regulation, purusant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–10544 Filed 5–5–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–30651; File No. SR–PTC–92–02]

Self-Regulatory Organizations; Participants Trust Company; Filing and Order Granting Approval on an Accelerated Basis of a Proposed Rule Change to Provide for a Staggered Board of Directors

April 29, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on March 9, 1992, Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–PTC–92–02) as described in Items I and II below, which Items have been prepared by the self-regulatory organization ("SRO"). The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. SRO's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend section 3.2 (Term of Office) of Article 3 (Directors) of PTC's By-laws. That provision currently provides that PTC's Board of Directors ("Board") shall consist of 12 directors, all of whom shall be elected annually at PTC's annual meetings.[2] Under the proposal, the 12 directors will be divided into three classes of four directors (*i.e.*, Classes I, II, and III), and thereafter directors will be elected to staggered three-year terms at PTC's annual meetings. At the first annual meeting in which the proposal is in operation, the stockholders will elect: four Class I directors to a one-year term terminating in 1993, four Class II directors to a two-year term (1992–1993), and four Class III directors to a three-year term (1992–1995).[3] The proposal states that if prospectively PTC increases or decreases the number of directors, PTC would apportion the directors among the three classes in a manner to make the classes as nearly equal as possible.

The proposal also makes a technical change to Section 11 (Vacancies) of Article 3 of PTC's By-laws. That provision currently provides that the Board, during its term of office, may fill Board vacancies, not exceeding one-third of the entire Board, by an affirmative vote of two-thirds of the directors then in office and that the directors so elected will hold office for the balance of the unexpired one-year term. The proposal, in order to address the proposed classified three-year terms, amends Section 11 to note that any director so elected to fill a vacancy will hold office until the next election of the class of directors to which he has been elected.

II. SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the SRO 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 next of these statements may be examined at the places specified in Item IV below. The SRO has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule filing is to amend PTC's by-laws to provide for a staggered board of three-year terms, commencing with the

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[3] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] PTC's annual meetings are ordinarily held on the fourth Wednesday of April in New York City in conformity with its By-Laws. See PTC's By-Laws, Art. 2, § 2.2.

PTC's annual meeting was held on Wednesday, April 22, 1992, in New York City. Telephone conversation between Leopold S. Rassnick, General Counsel, PTC, and Thomas C. Etter, Jr., Attorney, Division of Market Regulation, Commission (March 14, 1992).

[3] Under the proposal, candidates for director-members of each of the three classes will be nominated by PTC's Nominating Committee, a three-member committee appointed by the Board pursuant to Article 3, section 2 of PTC's By-Laws. Other candidates also may be nominated, and the election will be connected as provided in Article 2 of PTC's By-Laws. *Id.*

election of directors at the 1992 annual stockholders meeting. While one-year terms for the 12 PTC directors were deemed appropriate during the early years of PTC's operations, PTC now believes that it is important to provide for a greater degree of continuity in the terms of its directors. In addition, PTC has polled seven other depositories and clearing corporations and found that the directors of the majority of these SROs currently have staggered terms.[4]

PTC believes that the proposed rule change will enhance the representation of PTC's participants by providing greater continuity in the terms of directors and that the proposal is consistent with section 17A(b)(3)(C) of the Act [5] which requires, among other things, that the rules of a clearing agency assure fair representation of its stockholders and participants in the selection of its directors, and the rules and regulations thereunder applicable to PTC.

B. SRO's Statement on Burden on Competition

PTC does not believe that the proposed rule change will have an impact on competition.

C. SRO's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

PTC has not solicited, the does not intend to solicit, comments on this proposed rule change. PTC has not received any unsolicited written comments from Participants or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

PTC request that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing in view of the short time span before PTC's next annual meeting, which was scheduled for April 22, 1992.

The Commission believes that the proposed rule change is consistent with the Act, particularly with section 17A of the Act.[6] The proposed classified board and staggered election of directors should add a measure of stability and continuity to PTC's corporate management, an objective that is consistent with efforts to increase marketplace efficiency under sections 17A(b)(3)(A) and (F) of the Act.[7]

In addition, the proposal achieves an appropriate balance between the two concerns of (1) fair representation by stockholders and participants in the selection of PTC's directors and the administration of its affairs under section 17A(b)(3)(C) of the Act [8] and (2) efforts to promote PTC's operating efficiency under sections 17A(b)(3)(A) and (F) of the Act.[9] The Commission finds good cause for approving the proposed rule change on an accelerated basis. Accelerated approval will permit PTC to begin phasing in its staggered three-year board terms at its annual meeting on April 22, 1992. Moreover, this proposal is not a latter of first impression for the Commission. As noted above, [10] several Commission-registered clearing agencies already are operating with classified boards and staggered election of their boards.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PTC. All submissions should refer to File No. SR-PTC-92-02 and should be submitted by May 27, 1992.

V. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the requirements of the Act, in particular with section 17A of the Act, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[11] that the above-mentioned proposed rule change (File No. SR-PTC-92-02) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-10545 Filed 5-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30650; File No. SR-PTC-92-04]

Self-Regulatory Organizations; Participants Trust Co.; Filing and Immediate Effectiveness of Proposed Rule Change Relating to Revision of Penalty Fee Schedule

April 28, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on March 31, 1992, Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-PTC-92-04) as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization ("SRO"). PTC requests that the proposed rule change, a revised schedule of its penalty fees, be effective from its date of filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. SRO's Statement of the Terms of Substance of the Proposed Rule Change

The text of the proposed rule change is attached as Exhibit A.

II. SRO's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the SRO 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 SRO has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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[4] The seven entities polled by PTC were: Midwest Clearing Corporation ("MCC"), Midwest Securities Trust Company ("MSTC"), National Securities Clearing Corporation ("NSCC"), Government Securities Clearing Corporation ("GSCC"), Depository Trust Company, Philadelphia Depository Trust Company, and Securities Clearing Corporation of Philadelphia. Of the seven, PTC states that four, MCC, MSTC, NSCC, and GSCC, use staggered terms for their directors.

[5] 15 U.S.C. 78q-1(b)(3)(C) (1988).

[6] 15 U.S.C. 78q-1 (1988).

[7] U.S.C. 78q-1(b)(3)(A) and (F) (1988). See also section 174A(a)(1) of the Act, 15 U.S.C. § 1988.

[8] 15 U.S.C. 78q-1(b)(3)(C) (1988).

[9] *Supra*, note 8.

[10] *Supra*, note 4.

[11] 15 U.S.C. 78s(b)(2) (1989).

[12] 17 CFR 200.30-3(a)(12) (1991).

[1] 15 U.S.C. 78s(b)(1) (1988).

A. SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

The purpose of the proposed rule change is to modify PTC's penalty fee schedule. PTC charges a penalty fee to Participants who settle their debit balances after scheduled funds settlement, which is normally 4:15 p.m. (eastern time). Currently, the penalty fee is imposed each time there is a late payment. Under the proposal, however, the fee would be charged only if a Participant is late two or more times within a thirty day period or three or more times within a ninety day period. The amount of the penalty fee, which is based on the Participant's debit balance, will be unchanged, except that the fee related to debit balances greater than $9,000 will be capped at $5,000.

The proposed rule change also makes technical changes to the penalty fee schedule. Specifically, since PTC may have funds available to fund a debit balance prior to borrowing, the text of the proposed rule makes reference to the "process of funding" (which may include use of PTC funds), rather than the current reference to borrowing from PTC's lenders. In addition, the proposed schedule includes the charge to Participants of the standard Collateral Loan Facility ("CLF") fee for PTC's allocation of collateral to secure the payment of the debit balance. Finally, the term "Overnight Loan," as used in the proposal, is changed to the term "Settlement Advance" to clarify that interest is charged if PTC borrows or uses its own funds. PTC believes that the proposal is consistent with the requirements of section 17A(b)(3)(D) of the Act,[2] which requires that the rules of a clearing agency provide for the equitable allocation of dues, fees and other charges among its participants.

B. SRO's Statement on Burden on Competition

PTC believes that the proposed rule change will impose no burden on competition.

C. SRO's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

PTC has not solicited, and does not intend to solicit, comments on this proposed rule change. PTC has not received any unsolicited written comments from Participants or other interested parties.

[2] 15 U.S.C. 78q–1(b)(3)(D) (1988).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective, pursuant to section 19(b)(3)(A)(ii) of the Act [3] and subparagraph (e) of Securities Exchange Act Rule 19b–4 [4] because the proposed rule change effects a change in fees charged by PTC to its participants. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PTC. All submissions should refer to File No. SR–PTC–92–04 and should be submitted by May 27, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

Exhibit A

Italics indicate additions.
[Brackets] indicate deletions.

Schedule [Schedule of] Penalty Fee[s]

End-of-day funds receipt is closely monitored to facilitate timely payment of Credit Balances and to ensure that PTC is able to complete its processing requirements consistent with published Fedwire deadlines.
To [promote] *encourage* timely *funds* settlement, PTC assesses penalty fees. [in accordance with the following schedule:]

Late wire [Charges] *Fees*

Participants that settle their Debit Balance [Payments received] after scheduled funds settlement (normally 4:15 p.m. eastern time) but [prior to the time PTC is required to initiate a borrowing request from an end-of-day lender] *before the initiation of the process to fund an outstanding Debit Balance two or more times in a thirty day period or three or more times in a ninety day period, will incur a penalty fee according to the following schedule:*

Debit (amount) balance	Penalty fee
$ 50,000 or less	$ 50
$ 50,001 to $150,000	$100
$150,001 to $9,000,000	$250
Greater than $9,000,000	An amount equal to an annual rate of 100 basis points (1.0%) up to a maximum of $5,000.

At scheduled funds settlement, PTC will allocate collateral to a CLF to secure the outstanding Debit Balance; standard CLF fees will be incurred.

Set-up Fees

Participants whose Debit Balance [P]payment *is* received after the initiation of the process to fund the outstanding Debit Balance *(normally 4:45 p.m. eastern time)* will be assessed [a penalty equal to] the greater of $500 or an amount equal to an annual rate of 250 basis points (2.5%) on the outstanding Debit Balance. [This] *The* process *to fund an outstanding Debit Balance* may be initiated as early as scheduled funds settlement, but no later than 30 minutes thereafter, depending upon Fedwire deadlines.

Settlement Advances [Overnight Loan]

If PTC borrows or uses its own funds to *cover any portion of a Participant's unpaid Debit Balance in order to* effect settlement, [notwithstanding the failure of a Participant to pay an outstanding Debit Balance] in addition to the set-up fee[s], interest will be charged. [Funds receipt is closely monitored to facilitate timely payment of Credit Balances and to ensure that PTC is able to complete its processing requirements consistent with published Fedwire deadlines.]

[FR Doc. 92–10546 Filed 5–5–92; 8:45 am]
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[3] 15 U.S.C. 78s(b)(3)(A)(ii) (1988).

[4] 17 CFR 240.19b–4(e) (1991)

[5] 17 CFR 200.30–3(a)(12) (1991).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Incorporated

April 30, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section

12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Burlington Industries Equity, Inc.
Common Stock, $.01 Par Value (File No. 7–8407)
Enhanced Financial Service Group, Inc.
Common Stock, $.10 Par Value (File No. 7–8408)
First Data Corp.
Common Stock, $.10 Par Value (File No. 7–8409)
Empresas ICA Sociedad Controladro S.A. de C.V.
American depositary Shares, No Par Value (File No. 7–8410)
Valassis Communications, Inc.
Common Stock, $.01 Par Value (File No. 7–8411)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 21, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–10492 Filed 5–5–92; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for hearing; Midwest Stock Exchange, Incorporated

April 30, 1992.

The above name national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Prime Bancshares, Inc.
Common Stock, $.01 Par Value (File No. 7–8412)
Tipperary Corporation
Common Stock, $.02 Par Value (File No. 7–8413)
Blackstone Investment Quality Term Trust, Inc.
Common Stock, $.01 Par Value (File No. 7–8414)
Voyageur Minnesota Municipal Income Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–8415)
Wells-Gardner Electronics Corporation
Common Stock. $1.00 Par Value (File No. 7–8416)

These securities are listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 21, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–10493 Filed 5–5–92; 8:45 am]

BILLING CODE 8010–01–M

Self-regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

April 30, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

ADT Limited
Warrants (File No. 7–8391)
Prime Bancshares, Inc.
Common Stock, $.01 Par Value (File No. 7–8392)
Tipperary Corporation
Common Stock, $.02 Par Value (File No. 7–8393)
Minnesota Municipal Term Trust, Inc. II
Common Stock, $.01 Par Value (File No. 7–8394)
Donnelly Corporation
Class A Common Stock, $.10 Par Value (File No. 7–8395)
Venture Stores, Inc.
Cumulative Convertible Preferred Stock, File No. 7–8396)
Verit Industries, Inc.
Common Stock, No Par Value (File No. 7–8397)
Transcontinental Realty Investor
Common Stock, $.01 Par Value (File No. 7–8398)
American Oil and Gas Corporation
Common Stock, $0.004 Par Value (File No. 7–8399)
United States Banknote Corporation
Common Stock, $0.01 Par Value (File No. 7–8400)
Stone Container Corporation
$1.75 Ser. E Cum. Conv. Exch. Pfd. Stock, $0.01 Par Value (File No. 7–8401)
International Murex Technologies, Inc.
Common Stock, No Par Value (File No. 7–8402)
Citicorp
Depositary Shares Pfd. Stock (File No. 7–8403)
Solectron Corporation
Common Stock, No Par Value (File No. 7–8404)
Dames & Moore, Inc.
Common Stock, $0.01 Par Value (File No. 7–8405)
Blackstone Investment Quality Term Trust, Inc.
Common Stock, $.01 Par Value (File No. 7–8406)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 21, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary,

[FR Doc. 92–10494 Filed 5–5–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–18678; 812–7854]

Mathers and Company, Inc., et al.; Notice of Application

April 28, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption from Section 15(a) of the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Mathers and Company, Inc. (the "Adviser") and Mathers Fund, Inc. (the "Fund").

RELEVANT 1940 ACT SECTIONS: Exemption requested pursuant to section 6(c) from the provisions of section 15(a) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an exemption from Section 15(a) of the 1940 Act so that certain repurchases by the Adviser of its common stock will not result in the termination of the investment advisory agreement between the Adviser and the Fund so as to require approval by Fund shareholders under section 15(a).

FILING DATES: The application was filed on January 21, 1992, and an amended and restated application was filed on April 9, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 22, 1992, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, 100 Corporate North, suite 201, Bannockburn, Illinois 60015.

FOR FURTHER INFORMATION CONTACT: H.R. Hallock, Jr., Special Counsel, at (202) 272–3030, or Barry D. Miller, Senior Special Counsel, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Adviser is an investment adviser registered under the Investment Advisers Act of 1940. It provides investment advisory services primarily to institutional clients, including the Fund, a no-load, open-end management investment company registered under the 1940 Act. At December 31, 1991, the aggregate market value of the assets under management by the Adviser was approximately $1.2 billion, of which about $516 million constituted net assets of the Fund.

2. All of the currently outstanding 83,788 shares of the Adviser are owned by officers and directors of the Adviser as follows: Henry G. Van der Eb, Jr., President and Chief Executive Officer and a director, owns 50,443 shares or 60%; Richard T. Glenn, Executive Vice President and a director, owns 22,446 shares or 27%; and Robert J. Reynolds, Senior Vice President and Secretary and a director, owns 10,899 shares or 13%. On July 31, 1991, Mr. Glenn entered into an agreement with the Adviser (the "Agreement") pursuant to which the Adviser has agreed to repurchase all of Mr. Glenn's shares, at a price determined in accordance with a formula set forth in the Agreement, in a series of five transactions to be completed by August 31, 1993. The first such transaction was completed on August 30, 1991, when the Adviser purchased 5,611 shares from Mr. Glenn for $54,482.81, reducing his percentage ownership of the Adviser from 31.3% to his current 27% interest. Upon completion of the repurchase of all of Mr. Glenn's shares, Mr. Van der Eb's ownership interest will have increased to 82.2% and Mr. Reynolds' to 17.8%.

3. Messrs. Van der Eb and Glenn have each been employed by and actively involved in the investment advisory operations of the Adviser for more than twenty years, during which time they have held a number of positions with varying duties and responsibilities. Over the years, Mr. Van der Eb (age 46) has evolved as the dominant controlling influence in the Adviser's management while Mr. Glenn (age 59) has gradually decreased his involvement in the day-to-day affairs. As President and Chief Executive Officer and the majority shareholder of the Adviser, Mr. Van der Eb has exercised managerial control of the Adviser's affairs for at least the past five years, and perhaps longer.

4. Pursuant to the Agreement, Mr. Glenn's employment by the Adviser will terminate on August 31, 1993. The purpose of the stock repurchase is to allow ownership control of the Adviser to remain in the existing management to provide for continuity and the orderly succession of management in the Adviser's business.

Applicants' Legal Analysis

1. Under section 2(a)(9) of the 1940 Act, a person owning more than 25% of the voting securities of a company is presumed to control that company. Thus, the ongoing repurchases of Mr. Glenn's shares could be deemed to constitute a change in control of the Adviser, thereby causing an "assignment," as that term is defined by section 2(a)(4) of the 1940 Act, of the Fund's investment advisory agreement. Such an assignment in turn would result in the automatic termination of the advisory agreement under section 15(a)(4) of the 1940 Act. If the Fund's investment advisory agreement is deemed to have been terminated as a result of the repurchase of Mr. Glenn's shares, a new investment advisory agreement must be approved by the Fund's directors and shareholders pursuant to section 15(a).

2. Applicants seek an order under section 6(c) of the 1940 Act exempting them from section 15(a) to the extent necessary so that the repurchase of Mr. Glenn's shares by the Adviser pursuant to the terms of the Agreement will not result in a termination of the advisory agreement requiring re-aprpoval of that agreement by Fund shareholders under section 15(a). Section 6(c) of the 1940 Act provides, as here relevant, that the SEC, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of the 1940 Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

3. Applicants submit that the Adviser's repurchase of Mr. Glenn's shares is not the type of change of control that should trigger the shareholder approval requirements of section 15(a). The stock repurchases have been designed to provide for continuity and the orderly succession of management in the Adviser's business and do not reflect a transfer of

ownership or management to a new party. No person will have acquired, directly or indirectly, a "controlling block" of the Adviser's common stock or the ability to exercise a controlling influence over the management or policies of the Adviser in connection with the transaction under the Agreement. Rather, the transactions will merely result in the increased voting interests of the other existing shareholders of the Adviser, both of whom are executive officers of the Adviser and already serve on the Adviser's board of directors. Moreover, since Mr. Van de Eb already held more than 50% of the Adviser's common stock before the first transaction under the Agreement, thus giving him the ability to exercise absolute voting control over the Adviser, a further increase in his ownership interests will have no effect with respect to his actual voting control.

4. Rule 2a–6 under the 1940 Act provides, in part, that a transaction that does not result in a change of actual control or management of the investment adviser to an investment company is deemed not to be an assignment for purposes of section 15(a) of the 1940 Act. Applicants are unable to rely upon Rule 2a–6 with respect to the transactions contemplated by the Agreement, however, even though Applicants believe the facts described above fit within the policy underlying the rule. No change in the actual control of the Adviser will occur. Nonetheless, because Mr. Glenn has been active in the management of the Adviser, there might be a change of management of the investment adviser in connection with the Agreement, rendering Rule 2a–6 unavailable to cover the contemplated transactions.

5. No changes are contemplated in the existing management or investment personnel other than Mr. Glenn's retirement. Mr. Van de Eb will continue to control the management of the Adviser as he now does, and he will be the only shareholder owning more than 25% of the Adviser's common stock. No changes are contemplated to be made in the longstanding investment advisory agreement between the Adviser and the Fund or any of the operations of the Adviser of the Fund.

6. Applicants want to obviate the need for a special meeting of shareholders of the Fund to allow the Fund to avoid the burden and expense of soliciting proxies merely for the purpose of approving an investment advisory agreement that Applicants state would be identical to the one already approved by the Fund directors and shareholders in accordance with section 15(a) of the 1940 Act. Given the large number of Fund shareholders, the cost to the Fund of proxy solicitation for a shareholders meeting could exceed $100,000 and might require multiple mailings at additional cost to obtain the return of sufficient proxies to establish a quorum. Requiring Fund shareholder approval in this instance would not further the protection of investors in any meaningful way beyond that provided by the annual approval of the advisory agreement by the Fund's directors, including a majority of the directors who are not "interested persons" of the Fund. Applicants believe that, based on the foregoing facts, exemptive relief under section 6(c) of the 1940 Act would be consistent with the purposes of the 1940 Act and in the best interests of Fund shareholders.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–10491 Filed 5–5–92; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice No. 1623]

Southern Pacific Transportation Co., San Francisco, CA; Application for Bridge Permit

Notice is hereby given that the Department of State has received an application for a permit authorizing construction of a railroad bridge across the Rio Grande River from El Paso, Texas to Ciudad Juarez, Chihuahua, Mexico.

The Department's jurisdiction with respect to this application is based upon Executive Order 11423, dated August 16, 1968, and the International Bridge Act of 1972 (Pub. L. 92–434, 86 Stat. 731, 33 U.S.C. 535 approved September 26, 1972).

As required by E.O. 11423, the Department of State is circulating this application to concerned agencies for comment.

Interested persons may submit their views regarding the application in writing by June 5, 1992, to Mr. Irwin Rubenstein, Coordinator, U.S. Mexico Border Affairs, ARA/MEX, Room 4258, U.S. Department of State, Washington, DC 20520.

The application and related documents made part of the record to be considered by the Department of State in connection with this application are available for inspection in the Office of Mexican Affairs during normal business hours.

Any questions relating to this notice may be addressed to the Coordinator, U.S.–Mexico Border Affairs, at the above address or by telephone, no. (202) 647–9894.

Dated: April 30, 1992.

Irwin Rubenstein,

Coordinator, U.S.–Mexico Border Affairs, Office of Mexican Affairs.

[FR Doc. 92–10538 Filed 5–5–92; 8:45 am]

BILLING CODE 4710–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

International Conference on Airplane Ground Deicing

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of conference.

SUMMARY: The FAA is issuing this notice to advise the public of an International Conference on Airplane Ground Deicing.

DATES: The conference will be held on May 28 and 29, 1992, beginning at 8:30 a.m. each day. Requests to make presentations at the working group sessions must be received by May 15, 1992.

ADDRESS: The conference will be held at the Hyatt Regency Reston, Reston Town Center, 1800 Presidents Street, Reston, Virginia.

FOR FURTHER INFORMATION CONTACT: Miss Jean Casciano, Conference Coordinator, Federal Aviation Administration, Office of Rulemaking (ARM–25), 800 Independence Avenue SW., Washington, DC 20591,; telephone (202) 267–9683; fax (202) 267–5075.

SUPPLEMENTARY INFORMATION:

Background

The Federal Aviation Administration (FAA) has initiated a sharply focused 6-month effort to improve the safety of winter flight operations. Safety improvements will be developed and implemented before next winter.

A better understanding of airplane ground deicing/anti-icing issues is critical to this effort. To focus attention on these vital issues, the FAA is sponsoring an intensive two-day conference to bring together the international airplane ground deicing/anti-icing community to share the status of its activities and to suggest actions that will ensure continued safe

operation of airplanes in adverse icing conditions.

This conference will cover aircraft design considerations; ground deicing and anti-icing systems; air traffic control and sequencing; deicing personnel, procedures, and training; and ice detection and recognition and crew training. There will be separate working groups for each of these topics.

The FAA envisions several modifications to winter operations that will be based in part on the information received at the conference. For example, after considering the differences in wing design, aircraft anti-icing equipment, deicing fluids, weather conditions, and other unique factors, the FAA is planning to establish a time limit beyond which pilots will be prohibited from taking off without being deiced again.

To do this effectively, airports that experience winter weather conditions must develop a more comprehensive winter operations contingency plan. This plan must provide for effective deicing and air traffic procedures that consider the differences in allowable holdover times for individual aircraft types. Aircraft waiting in queues for takeoff for time periods longer than their safe holdover time must be deiced again prior to attempting takeoff. It must be recognized that during icing conditions, these procedures may cause significant delays and be no small inconvenience to passengers; however, in the interest of safety these new procedures are necessary.

These and other issues related to ground icing conditions will be discussed at the conference.

Requests to Make Presentations

Persons wishing to make a formal presentation at any of the working group sessions are requested to notify the FAA by May 15, 1992. The request should be made to the person identified under the caption "FOR FURTHER INFORMATION CONTACT." Because of time limitations, the working group chairs will review those requests and choose a representative number to address their working group. All individuals requesting to make a presentation will be notified of the approval or disapproval of their request.

Conference Procedures

Persons who plan to attend the conference should be aware of the following:

1. The registration desk will be open from 6 to 8 p.m. on May 27 and beginning at 7 a.m. on May 28 and 7:30 a.m. on May 29.

2. Sessions will be open to all persons who register. Attendees are requested to notify the FAA in advance if they plan to attend although lack of advance notification will not bar anyone from any session.

3. Only those recognized by the chair of any session will be permitted to speak.

Agenda

Thursday, May 28

8:30 a.m.—Plenary Session Including reports by the Society of Automotive Engineers, international representatives, and the FAA Technical Center.

1:30 p.m.—Concurrent Working Group Sessions

Working Group 1. Aircraft Design Considerations: Focusing on the effects of gound ice formation on airplane wings, control surfaces, engine inlets, and instrumention.

Working Group 2. Ground Deicing and Anti-icing Systems: Focusing on the design, locations, and environmental aspects of ground deicing and anti-icing systems, and the effects on airport design.

Working Group 3. Air Traffic Control and Sequencing: Focusing on the procedures and communications that exist between airline deicing operations, airport operations, and FAA air traffic control.

Working Group 4. Deicing Personnel, Procedures, and Training: Focusing on application procedures, training, and communication responsibilities of deicing personnel.

Working Group 5. Ice Detection and Recognition and Crew Training: Focusing on a review of the various means for detecting the formation of ice on airplane parts, and the resulting crew training.

Friday, May 28

8:30 a.m.—Continuation of Working Group Sessions

1:30 p.m.—Closing Session

Including reports from the working groups

Issued in Washington, DC, on April 29, 1992.

David R. Harrington,

Manager, Air Transportation Division, Flight Standards Service.

[FR Doc. 92-10521 Filed 5-5-92; 8:45 am]

BILLING CODE 4910-13-M

Intent to Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Key Field Airport, Meridian, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Key Field Airport, Meridian, Mississippi, under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 2, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: FAA/Airports District Office, 120 North Hangar Drive, Suite B, Jackson, Mississippi 39208-2306.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Tom Williams, Airport Manager, Key Field Airport, city of Meridian, at the following address: Post Office Box 4351, Meridian, Mississippi 39304-4351.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the city of Meridian under §158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Elton E. Jay, Principal Engineer, FAA Airports District Office, 120 North Hangar Drive, suite B, Jackson, Mississippi 39208-2306, telephone number 601-965-4628. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Key Field Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On April 27, 1992, the FAA determined that the application to impose and use the revenue from a PFC submitted by the city of Meridian was substantially complete within the requirements of §158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 20, 1992.

The following is a brief overview of the application.

Level of the proposed PFC— $3.00
Proposed charge effective date—June 1, 1992
Proposed charge expiration date—January 17, 1998
Total estimated PFC revenue—$437,611

Brief description of proposed project(s)—Overlay and light Runway 4/22, light taxiway, acquire ARFF vehicle and proximitysuits, construct taxiway,

install automated security gates, overlay T-hangar taxiway and improve drainage, seal general aviation apron joints, update airport master plan, acquire pavement sweeper, rehabilitate storm sewers, terminal building renovation, and access road relocation.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Airport Manager's Office, Key Field Airport, Meridian, Mississippi.

Issued in Atlanta, Georgia, on April 29, 1992.

Marisue Haigler,

Assistant Manager, Airports Division, Southern Region.

[FR Doc. 92-10522 Filed 5-5-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: April 30, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC.

INTERNAL REVENUE SERVICE

OMB Number: 1545-0387.
Form Number: IRS Form 4419.
Type of Review: Extension.
Title: Application for Filing Information Returns Magnetically/Electronically.

Description: 26 U.S.C. 6041 and 6042 require that all persons engaged in a trade or business and making payments of taxable income must file reports of this income with IRS. Payers are required to file certain returns on magnetic media after reaching a certain volume of returns. Payers file certain returns on magnetic media must complete Form 4419 to receive authorization to file.

Respondents: Businesses or other for-profit, Farms, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small business or organization.

Estimated Number of Responses: 5,000.
Estimated Burden Hours Per Respondent: 26 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Bureau: 2,167 hours.
Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 92-10485 Filed 5-5-92; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

Dated: April 30, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220

U.S. Customs Service

OMB Number: 1515-0005.
Form Number: CF 7512.
Type of Review: Reinstatement.
Title: Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit.

Description: 19 U.S.C. 1552-1554 authorizes the movement of imported merchandise from the merchandise from the port of importation to another Customs port prior to release of merchandise from Customs custody. The revised CF 7512 will be used for transportation entries, exportation entries, transfer permits and cargo transmitting the U.S./ Canada.

Respondents: Businesses or other for-profit.
Estimated Number of Responses: 10,000.
Estimated Burden Hours Per Response: 6 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 86,000 hours.

OMB Number: 1515-0009.
Form Number: CF 3495.
Type of Review: Reinstatement.
Title: Application for Exportation of Articles Under Special Bond.

Description: CF 3495 is used by importers for articles which may be temporarily into the United States and are free of duty under bond and which are exported within one year from date of exportation.

Respondents: Businesses or other for-profit.
Estimated Number of Responses: 500.
Estimated Burden Hours Per Responses: 8 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 2,000 hours.
Clearance Officer: Ralph Myer (202) 566-9182, U.S. Customs Service, Paperwork Management Branch, room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92-10486 Filed 5-5-92; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 88
Wednesday, May 6, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

TIME AND DATE: 2:00 p.m., Wednesday, May 13, 1992.

PLACE: SD–116, Dirksen Senate Office Building, Washington, DC 20510.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

1. Report on financial status of the Foundation fund.
   A. Review of investment policy and current portfolio
1. Report on results of Scholarship Review Panel
   A. Discussion and consideration of scholarship candidates
   B. Selection of Goldwater Scholars

CONTRACT PERSON FOR MORE INFORMATION: Gerald J. Smith, Executive Secretary, Telephone: (202) 755–2312.

Gerald J. Smith,

Executive Secretary.

[FR Doc. 92–10668 Filed 5–4–92; 11:21 am]

BILLING CODE 4738–91–M

FOREIGN CLAIMS SETTLEMENT COMMISSION

F.C.S.C. Meeting Notice No. 8–92

Notice of Meetings; Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date and Time; Subject Matter

Tues., May 19, 1992, at 10:30 a.m.—Consideration of Proposed Decisions on claims against Iran.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 601 D Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 601 D Street, NW., Room 10000, Washington, DC 20579. Telephone: (202) 208–7727.

Dated at Washington, DC on May 4, 1992.

Judith H. Lock,

Administrative Officer.

[FR Doc. 92–10731 Filed 5–4–92; 2:28 pm]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE, UNITED STATES PAROLE COMMISSION

Record of Vote of Meeting Closure (Public Law 94–409) (5 U.S.C. Sec. 552b)

I, Jasper Clay, Jr., Vice Chairman of the United States Parole Commission, presided at a meeting of said Commission which started at nine-thirty a.m. on Tuesday, April 28, 1992 at the Commission's Central Office, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. The meeting ended at or about eleven-thirty a.m. The purpose of the meeting was to decide fifteen appeals from National Commissioners' decisions pursuant to 28 C.F.R. Section 2.27. Four Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Jasper Clay, Jr., Vincent Fechtel, Jr., Victor M.F. Reyes, and John R. Simpson.

In Witness Whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: April 28, 1992.

Jasper Clay, Jr.,

Vice Chairman, U.S. Parole Commission.

[FR Doc. 92–10734 Filed 5–4–92; 2:47 pm]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE, UNITED STATES PAROLE COMMISSION

Public Announcement; Pursuant To The Government In the Sunshine Act (Public Law 94–409) [5 U.S.C. Section 552b]

DATE AND TIME: Thursday, April 30, 1992, 9:30 a.m., Eastern Daylight Time.

PLACE: 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed—Meeting.

MATTER CONSIDERED: Appeal to the Commission involving one case decided by the National Commissioners pursuant to a reference under 28 C.F.R. 2.27. This case originally heard by an examiner panel wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release. This was a matter which required immediate consideration by the Commission and earlier notification of this matter was not possible. The vote by the Commission to hold this closed meeting has been made available to the public.

AGENCY CONTACT: Jeffrey Kostbar, Case Analyst, National Appeals Board, United States Parole Commission, (301) 492–5968.

Dated: April 30, 1992.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 92–10735 Filed 5–4–92; 2:47 pm]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE, UNITED STATES PAROLE COMMISSION

Record of Vote of Meeting Closure (Public Law 94–409) (5 U.S.C. Sec. 552b)

I, Carol Pavilack Getty, Chairman of the United States Parole Commission, presided at a meeting of said Commission which started at 9:30 a.m. on Thursday, April 30, 1992 at the Commission's Central Office, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. The meeting ended at or about 10 a.m. The purpose of the meeting was to decide one appeal from a National Commissioner's decision pursuant to 28 C.F.R. Section 2.27. This was a matter which required immediate consideration by the Commission. Four Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Upon motion duly made, seconded, and carried, the following Commissioners voted that Commission business required immediate consideration of the matters discussed and that the meeting be closed: Carol Pavilack Getty, Jasper Clay, Jr., Vincent Fechtel, Jr., Victor M.F. Reyes.

In Witness Whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: April 30, 1992.

Carol Pavilack Getty,

Chairman, U.S. Parole Commission.

[FR Doc. 92–10736 Filed 5–4–92; 2:47 pm]

BILLING CODE 4410–01–M

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

DATE AND TIME:

June 1, 1992, 8:30 a.m. to 5:30 p.m.

June 2, 1992, 9:00 a.m. to 1:00 p.m.

PLACE: OCLC, 6565 Frantz Road, Dublin, Ohio.

STATUS: Open.

MATTERS TO BE DISCUSSED:

NCLIS Members will attend OCLC Users Council Meeting and tour OCLC, June 1, 8:30–1:00
Chairman's Remarks
Executive Director's Report
NCLIS Committee Reports
Presentation, Paul Peters, Director, Coalition for Networked Information
FY 1993 NCLIS planning, including projects, meeting schedule and budget

FOR FURTHER INFORMATION CONTACT: Barbara Whiteleather, NCLIS, Suite 310, 1111 18th Street, NW., Washington, DC 20036, (202) 254–3100.

Dated: April 29, 1992.

Peter R. Young,

NCLIS Executive Director.

[FR Doc. 92–10669 Filed 5–4–92; 11:48 am]

BILLING CODE 7527–01–M

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

DATE: Weeks of May 4, 11, 18, and 25, 1992.

PLACE: Commissioners' Conference room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of May 4

Friday, May 8

9:55 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of May 11—Tentative

Monday, May 11

8:30 a.m.
Discussion of Internal Management Issues (CLOSED—Ex. 2)
10:00 a.m.
Briefing on Proposed Transfer of PSNH Ownership of Seabrook to Northeast Utilities (Public Meeting)

Wednesday, May 13

12:00 noon
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of May 18—Tentative

Wednesday, May 20

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of May 25—Tentative

Wednesday, May 27

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note.— Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

TO VERIFY THE STATUS OF MEETING CALL (RECORDING): (301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504–1661.

Dated: May 1, 1992.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 92–10701 Filed 5–4–92; 1:57 pm]

BILLING CODE 7590–01–M

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 57 FR 14750 April 22, 1992.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m. on May 7, 1992.

CHANGE IN THE MEETING: The meeting is rescheduled at 10:00 a.m. on May 28, 1992.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Mary Ann Miller (202) 634–4015.

Dated: April 30, 1992.

Earl R. Ohman, Jr.,

General Counsel.

[FR Doc. 92–10670 Filed 5–4–92; 11:49 am]

BILLING CODE 7600–01–M

Corrections

Federal Register
Vol. 57, No. 88
Wednesday, May 6, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 312

[Docket No. 89N-0510]

RIN 0905-AD19

Investigational New Drug, Antibiotic, and Biological Product Applications; Clinical Hold and Termination

Correction

In rule document 92-8623 beginning on page 13244 in the issue of Wednesday, April 15, 1992, make the following correction:

On page 13246, in the third column, in the second full paragraph, in the ninth line, "benefit/risk" should read "risk/benefit".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 601

[Docket No. 91N-0278]

New Drug Antibiotic, and Biological Drug Product Regulations; Accelerated Approval

Correction

In proposed rule document 92-8622 beginning on page 13234 in the issue of Wednesday, April 15, 1992, make the following correction:

On page 13241, in the first column, in the Authority citation for part 601, in the first line, insert "505," after "503,".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91F-0424]

Sherex Chemical Co., Inc.; Filing of Food Additive Petition; Amendment

Correction

In notice document 92-8670 beginning on page 13104 in the issue of Wednesday, April 15, 1992, make the following corrections:

On page 13105, in the first column, in the first line, "2-C_{17}" should read "2-(C_{17}"; and in the second line, "(C_{18} and C_{18}" should read "(C_{18} and C_{18}".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

RIN 3150-AE13

Limited Revision of Fee Schedules

Correction

In rule document 92-8947 beginning on page 13625 in the issue of Friday, April 17, 1992, make the following corrections:

1. On page 13625, in the third column, in the third paragraph, in the third line, "the" should read "The".

2. On page 13628, in the second column, under **III. Final Action * * ***, in the first paragraph, in the first line, "addresses" was misspelled.

3. On page 13634, in the second column, in the first full paragraph, in the ninth line, "57%" should read "75%".

BILLING CODE 1505-01-D

federal register

Wednesday
May 6, 1992

Part II

Department of Agriculture

Food Safety and Inspection Service

9 CFR Part 381

Irradiation of Poultry Products; Proposed Rule

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 381

[Docket 90-011P]

RIN: 0583-AB27

Irradiation of Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the poultry products inspection regulations to permit the use of ionizing radiation sources, as prescribed by the Food and Drug Administration's (FDA) regulations, to treat (1) fresh or frozen, uncooked whole poultry carcasses or parts known as "ready to cook poultry," which includes such poultry products as fresh or frozen, uncooked ground, hand-boned, and skinless poultry and (2) mechanically separated poultry product, which is a finely comminuted ingredient produced by the mechanical deboning of poultry carcasses or parts of carcasses. Ionizing radiation would be applied for the purpose of controlling and reducing foodborne pathogens, such as *Salmonella, Campylobacter*, and *Listeria monocytogenes*, that may be present in raw poultry, in order to reduce the potential for foodborne illness.

DATES: Comments must be received on or before July 6, 1992.

ADDRESSES: Written comments to: Policy Office, Attn. Linda Carey, FSIS Hearing Clerk, room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments as provided under the Poultry Products Inspection Act to: Mr. Donald Derr, (202) 205-0675. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Mr. Donald Derr, Deputy Director for Scientific Support, Science and Technology, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, Area Code (202) 205-0675.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator has determined in accordance with Executive Order 12291 that this proposed rule is not a "major rule." It would not result in an annual effect on the economy of $100 million or more. There would be no major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not have a significant adverse effect on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. States and local jurisdictions are preempted under the Polutry Products Inspection Act (PPIA) from imposing and marking, labeling, packaging, or ingredient requirements on federally inspected poultry products that are in addition to, or different than those imposed under the PPIA. States and local jurisdications may, however, exercise concurrent jurisdiction over poultry products that are outside official establishments for the purpose of preventing the distribution of poultry products that are misbranded or adulterated under the PPIA, or, in the case of imported articles, which are not at such an establishment, after their entry into the United States. Under the PPIA, States that maintain poultry inspection programs must impose requirements on State inspected products and establishments that are at least equal to those required under the PPIA. These States may, however, impose more stringent requirements on such State inspected products and establishments.

This rule is not intended to have retroactive effect. There are no applicable administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule. However, the administrative procedures specified in 9 CFR 381.35 must be exhausted prior to any judicial challenge of the application of the provisions of this rule, if the challenge involves any decision of an inspector relating to inspection services provided under the PPIA. The administrative procedures specified in 9 CFR part 381, subpart W, must be exhausted prior to any judicial challenge of the application of the provisions of this rule with respect to labeling decisions.

Effect on Small Entities

The Administrator has made an initial determination that this proposed rule will not have a significant economic impact upon a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). Facilities wishing to irradiate poultry would incur costs associated with implementing an adequate quality control system. Any other costs should be attributable to the normal costs of starting production of a new product.

Summary of Cost and Benefits

The potential benefits of irradiating poultry are reductions in health costs associated with foodborne illness. Irradiation can be expected to eliminate pathogenic bacteria such as *Salmonella, Campylobacter*, and *Listeria monocytogenes* that may be present in raw polutry. Therefore, benefits can be viewed as being proportional to the amount of poultry irradiated, i.e., if half of raw poultry were irradiated, the benefits would be equal to half of the current health costs attributable to improper handling/cooking of raw poultry. However, benefits could accrue at a higher rate if poultry irradiation were focused on product consumed by higher risk populations who are more susceptible to foodborne illness.

The Centers for Disease Control estimates that approximately 2 million *Salmonella* related illnesses in humans occur annually and that the number of *Campylobacter* related illnesses is larger. Epidemiological studies show that despite educational efforts, improper handling and cooking of contaminated poultry continues to be identified as a cause for specific cases of illness. Thus, irradiation of poultry to eliminate bacteria in raw product has the potential to reduce the incidence of foodborne illness. The exact level of reduction will not be known until epidemiological studies can be conducted including a category for individuals routinely consuming irradiated poultry and specific data on vulnerable populations.

Economic Research Service (ERS) research estimates potential benefit/cost ratios of 2.2 to 2.8 for irradiating chicken. In developing these ratios, the ERS research considered the medical and productivity costs associated with foodborne illness. The cost estimates did not include costs of chronic medical conditions that may result from acute foodborne illness. The costs also did not include losses such as pain and suffering. If such cost were included, the total benefits would be greater.

The ERS study estimated the cost of irradiating chicken at $.015 per pound for a medium or large chicken processing plant. Costs did not include transportation, promotion or disposal of low-level radioactive waste.

A subsequent ERS study has estimated that the cost of irradiating chicken would range from 0.86 to 1.3 cents per pound depending on the

overall volume of product.[1] These latter estimates were developed for an integrated, inplant facility and did not include transportation costs and other costs associated with moving product to an irradiation facility.

Based on available research and studies, FSIS has concluded that poultry irradiation will have a benefit/cost ratio greater than one, i.e., for every dollar expended on irradiation, there will be more than a dollar of medical and productivity costs avoided. In other words, FSIS believes that the irradiation of poultry provides positive net public health benefits. ERS currently estimates that, if ten percent of U.S. chicken production were irradiated, net public health benefits would range from 35 to 50 million dollars annually (based on 1991 estimates).

Besides public health and productivity benefits, there are other potential benefits for the irradiation of poultry. For example, there is a potential for increasing the exportation of poultry products. There are countries that are interested in importing irradiated poultry products from the United States.

Paperwork

Before an establishment may irradiate poultry, the operator would apply to and obtain approval from FSIS for a Grant of Inspection. Facilities whose only poultry processing activities consist of irradiation of pre-packaged raw poultry would be required to submit and obtain approval of a quality control system in lieu of more detailed drawings and specifications required by applicants for inspection who handle exposed poultry products. Facilities which conduct both irradiation processing and other poultry processing would also submit, in addition to information required under 9 CFR 381.19, a description of their quality control system. FSIS would receive, evaluate, and either approve or disapprove requests for such quality control systems. The quality control system would be placed on file in the establishment and be available to any duly authorized representative of the Secretary. The information collection requirements contained in this rule have been submitted to the Office of Management and Budget for approval.

Comments

Interested persons are invited to submit written comments concerning this proposal. Written comments should be sent to the Policy Office at the above address and should refer to Docket Number 90–011P. Any person desiring an opportunity for an oral presentation of views as provided under the Poultry Products Inspection Act, should make such request to Mr. Donald Deer at (202) 205–0675 so that arrangements can be made for such views to be presented. All comments submitted in response to the proposal will be available for public inspection in the Policy Office, between 9:00 a.m. to 12:30 p.m. and 1:30 p.m. to 4 p.m., Monday through Friday.

Background

Need for Irradiation of Poultry

Over the last few years, the public has become more aware of the threat of foodborne illnesses caused by pathogens, disease-causing microorganisms. Pathogens of concern include *Listeria monocytogenes, Campylobacter jejuni,* and *Salmonella.* These bacteria cannot be detected by sight, smell or taste.

Listeria monocytogenes is widely distributed in the environment, has the ability to survive for long periods of time under adverse conditions, and is capable of growing at refrigerator temperatures. During the late 1980's, *Listeria monocytogenes* was documented as a cause of human listeriosis, which is foodborne illness. The extent of the illnesses ranged from very mild to fata. For pregnant women, newborns and infants, and adults with a compromised immune system, *Listeria monocytogenes* can be life-threatening. As a result, this bacterium has become recognized as an important foodborne pathogen.

Campylobacter jejuni naturally lives as a harmless inhabitant in the intestinal tract of many warm blooded animals including poultry. *Campylobacter* has been widely reported throughout the world as a cause of human gastroenteritis known as campylobacteriosis. In many countries, the rate of isolation of *Campylobacter jejuni* from patients with diarrhea is higher than the isolation rate for *Salmonella.* Epidemiologists believe that consumption of undercooked or uncooked poultry may cause some sporadic cases of campylobacteriosis.

Salmonellae are intestinal bacteria frequently found in warm-blooded food animals such as livestock and poultry. Many animals which are not clinically ill are nevertheless carriers of these organisms. With current slaughter and processing practices, the bacteria carried by the live animals may be present in raw meat and poultry products.

In a 1982 to 1984 statistically based FSIS national survey of young chickens, *Salmonella* was recovered from 35.2 percent of the broiler carcasses.[2] Recent European research has shown that incidences of *Salmonella* contamination cannot be reduced much below 10 percent of the broiler carcasses with even the most stringent prevention practices.[3]

As discussed previously, *Salmonella, Campylobacter,* and *Listeria monocytogenes* are present in raw poultry and their presence leads to public health costs, reductions in worker productivity, and other intangible costs. Children, the elderly, and immuno-compromised individuals are particularly vulnerable. Therefore, in an attempt to lower levels of contamination from *Listeria monocytogenes, Campylobacter, Salmonella,* and other disease-causing microorganisms, FSIS is proposing to amend the poultry products inspection regulations to permit the use of ionizing radiation sources, as prescribed by FDA regulation (21 CFR 179.26), to treat (1) fresh or frozen, uncooked whole poultry carcasses or parts known as "ready to cook poultry" with in the meaning of 9 CFR 381.1(b)(44), which includes such poultry products as fresh or frozen, uncooked ground, hand-boned, and skinless poultry and (2) mechanically separated poultry product, which is a finely comminuted ingredient produced by the mechanical deboning of poultry carcasses or parts of carcasses and ground poultry.

Food Additive Uses for Irradiation

A source of ionizing radiation (gamma radiation, electron radiation, and X-radiation) is expressly defined as a good additive in section 201(s) of the Federal Food, Drug and Cosmetic Act (FFDCA) (21 U.S.C. 321(s)), and, therefore, would be regulated as a food additive by the FDA. Prior to May 2, 1990, FDA regulations (21 CFR part 179) permitted irradiation only for the following purposes: (a) control of *Trichinella spiralis* in pork carcasses or fresh, non-heat-processed cuts of pork carcasses,

[1] This figure is based on a study titled "An Economic Analysis of Electron Accelerators and Cobalt-60 for Irradiating Food," Economic Research Service, USDA, 1989. A copy of this study is available, for a fee, from ERS–NASS, P.O. Box 1608, Rockville, MD 20850 or by calling 1–800–999–6779.

[2] "*Salmonella* in Broiler and Overflow Chill Tank Water 1982–1984." A copy of this document is available from the Office of the FSIS Hearing Clerk, room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

[3] "Adequate Protection of the Public Against Food-Transmitted Diseases of Microbial Aetiology." 1989. D.A.A. Mossel. International Journal of Food Microbiology. Volume 9, pages 271–294. A copy of this document is available from the Office of the FSIS Hearing Clerk, room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

(b) growth and maturation inhibition of fresh foods, (c) disinfestation of arthropod pest in food, (d) microbial disinfestation of dry or dehydrated enzyme preparations, and (3) microbial disinfestation of dry or dehydrated aromatic vegetable substances and blends of these substances.

Irradiated Poultry

On October 24, 1986, FSIS petitioned FDA to permit irradiation pasteurization of retail packaged, frozen or fresh, uncooked (1) whole carcasses or disjointed portions of such carcasses that are "ready-to-cook poultry" within the meaning of 9 CFR 381.1(b) (44), or (2) poultry products in which the poultry product portion consists solely of mechanically separated poultry product (a finely comminuted ingredient produced by the mechanical deboning of poultry carcasses and parts of carcasses). On February 20, 1987, FDA announced in the **Federal Register** (52 FR 5343) that it had received a petition from FSIS proposing that 21 CFR 179.26 be amended to provide for the use of sources of ionizing radiation to control foodborne pathogens by reducing the level of microorganisms, such as *Salmonella* and *Campylobacter*, in poultry products. On March 3, 1987, FDA annouced in the **Federal Register** (52 FR 6391) that it had received a petition from Radiation Technology, Inc., (RTI), proposing that the food additive regulations be amended to provide for the safe use of a source of gamma radiation to irradiate poultry for the purpose of extending the shelf-life and reducing the risk of foodborne illness due to *Salmonella* contamination. On May 2, 1990, in response to petitions from RTI and FSIS, FDA amended its food additive regulations to permit the use of ionizing radiation sources for treatment of fresh or frozen, uncooked poultry and mechanically separated poultry product to control foodborne pathogens (55 FR 18538).

During its technical review of the merits of the petitioner's requests, FDA evaluated (1) toxicity studies on irradiated chicken, (2) reports on the efficacy of the process and on the microbiological safety of the product, and (3) studies of the nutritional adequacy of the irradiated product. After a thorough review of available information and data, FDA concluded that irradiation of poultry up to an absorbed dose of 3 kiloGray (kGy)[4] does not present a toxicological hazard and controls the levels of microorganisms in poultry, particularly of such foodborne pathogens as *Salmonella* and *Campylobacter*, and that consumption of irradiated poultry will not have an adverse impact on the nutritional value of a person's diet. A brief discussion of the studies reviewed and FDA's conclusions is presented below.

FDA Evaluation of Toxicity Studies

FDA reviewed several animal feeding studies which were submitted as part of the RTI petition to determine the safety of irradiated poultry when fed to mice, rats and beagles. The studies consisted of an 80-week carcinogenicity study in mice; a multigeneration study in rats; a 2-year chronic rate study; and a 1-year beagle study. Because of deficiencies in the data submitted with the 80-week carcinogencity study, FDA determined that the study could not be relied upon as a primary basis for evaluating the safety of irradiated poultry. FDA then reviewed the remaining studies listed above. Upon evaluation, FDA scientists concluded "* * * the studies appeared to be of high quality and that there was no evidence of adverse effects attributable to consumption of diets containing chicken irradiated at 3 or 6 kGy." (55 FR 18539)

In an effort to provide further assurance as to the safety of irradiated poultry, FDA also evaluated other available studies on the subject contained in its files. These studies, conducted by Raltech Scientific Services, included a chronic feeding study in mice; a chronic feeding study in dogs; teratology studies in four species; a dominant lethal test in mice; a sex-linked recessive test in *Drosophila melanogaster;* and an Ames mutagenicity test. Upon evaluation, FDA concluded that it "* * * found no evidence in any of the Raltech studies of adverse effects that could be attributed to irradiation of chicken at doses of up to 59 kGy." (55 FR 18540)

FDA scientists also evaluated several genetic toxicity studies conducted by the Federal Research Centre for Nutrition. The studies included a reverse mutation test in *Salmonella typhimurium;* a sister chromatid exchange and hypoxanthine-guanine phosphoribosyl transferase mutation assay in hamster ovary cells; and a micronucleus test and a bone marrow sister chromatid exchange in spermatogonia, all in rodents. FDA scientists did note methodological deficiencies in the other studies which limited their usefulness, but "* * * found no evidence in any of these studies that indicated that irradiated chicken was mutagenic." (55 FR 18541)

FDA carefully reviewed all of the submitted studies from the petitioners and other studies on file on the toxicological effects of irradiated chicken and concluded that "* * * based on all the evidence before it, that the irradiation of poultry at the petitioned level of up to 3 kGy does not present a toxicological hazard." (55 FR 18541)

Microbiological Effectiveness

FDA reviewed several reports and published papers describing the effectiveness of low-dose irradiation in reducing the number of microorganisms on poultry and other foods. A number of the reports reviewed by FDA pointed out that the radiation dose necessary to reduce the initial population of *Salmonella* by 90 percent, the D-value or decimal reduction dose in kGy, ranges from less than 0.5 kGy to approximately 1 kGy depending upon such factors as the microbial strain and/or the temperature at which irradiation is performed. A 2 decimal reduction would result in 99 percent destruction and a 3 decimal reduction would be 99.9 percent. The absorbed dose range (from the minimum does to the maximum dose) of this proposed rule would control *Salmonella* to the 3 decimal reduction level, a 99.9 percent reduction of *Salmonella.*[5]

Other microorganisms of public health significance, specifically *Campylobacter*, are even more radiation-sensitive than *Salmonella.* After review of the referenced publications as well as other published data, FDA found that "* * * irradiation at doses of up to 3 kGy is effective in lowering the burden of microorganisms in poultry." (55 FR 18542) While irradiation at 3 kGy reduces the number of many pathogen and spoilage bacteria, it does not sterilize food nor eliminate *Clostridium botulinum*, a relatively radiation-resistant spore-forming microorganism. FDA reviewed several studies on *C. botulinum* growth and toxin production on poultry skins. At 3 kGy enough non-spore-forming bacteria survive so that normal signs of spoilage would become evident before *C. botulinum*, if present, could render the

[4] 1 kiloGray (kGy) = 100 kilorad (krad).

[5] Heath, J.L., Owens, S.L., and Tesch, S., "Effects of High-Energy Electron Irradiation of Chicken Meat on *Salmonella* and Aerobic Plate Count," 1990 Poultry Science, Vol. 69., Pgs. 150–156, 1990. Thayer, Donald W., Boyd, G., Muller, W.S., Lipson, C.A., Hayne, W.C., and Baer, S.H., "Radiation Resistance of *Salmonella*," Journal of Industrial Microbiology, Vol. 5. Pgs. 383–390, 1990. Copies of these documents are available from the Office of the FSIS Hearing Clerk, room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

product toxic. FDA concluded that "* * * irradiation of poultry at 3 kGy does not result in any additional health hazard from *C. botulinum.*" (55 FR 18541)

Recent publications suggest that gamma radiation would be effective in reducing *Listeria monocytogenes* on chicken at low doses. The sensitivity of *Listeria monocytogenes* to ionizing radiation is similar to *Salmonella.* Therefore, irradiation of chicken carcasses at doses sufficient to reduce *Salmonella* levels would also be effective in reducing *Listeria monocytogenes* levels.[6]

FDA Evaluation of Nutritional Considerations

In addition to determining the safety of irradiating poultry and the efficacy of the process, FDA reviewed data to determine whether irradiation of poultry would have an adverse effect on the nutritional value of food. After reviewing the studies and reports, FDA concluded that the data show that "irradiation at the doses used does not have a deleterious effect on the levels or the bioavailability of the nutrients in chicken." (55 FR 18542) FDA then concluded that "* * * irradiation of poultry at doses of up to 3 kGy will not have an adverse impact on the nutritional value of a person's diet." (55 FR 18542)

Application and Dose Range of Irradiation

Ionizing radiation would be applied for the purpose of controlling and reducing foodborne pathogens such as *Salmonella, Campylobacter,* and *Listeria monocytogenes* that may be present on the poultry product in order to reduce the potential for foodborne illness. FSIS is proposing an absorbed dose range with a minimum absorbed dose of 1.5 kGy and a maximum absorbed dose of 3.0 kGy. Such a range provides for the smallest practical range that can be administered, and the most effective treatment. The minimum absorbed dose is proposed as a means of assuring an effective reduction of the foodborne pathogens listed above. FDA did not identify a minimum absorbed dose in its final rule published on May 2, 1990, in the **Federal Register** (55 FR pages 18538 through 18544), stating "(t)he minimum dose needed to control pathogenic organisms on poultry can vary with the particular microorganism * * *." (55 FR 18541) Further, FDA said FSIS had the regulatory authority to establish a specific minimum dose.

Products Affected by the Proposed Rule

FDA, in its May 2, 1990, regulation, limited the use of ionizing radiation for the treatment of poultry to (1) whole carcasses or disjointed carcasses that are "ready-to-cook poultry" within the meaning of 9 CFR 381.1(b)(44), or (2) mechanically separated poultry product (a finely comminuted ingredient produced by the mechanical deboning of poultry carcasses or parts of carcasses).

After the Agency petitioned FDA for the irradiation of (1) whole carcasses or disjointed carcasses that are "ready-to-cook poultry" within the meaning of 9 CFR 381.1(b)(44), or (2) mechanically separated poultry product (a finely comminuted ingredient produced by the mechanical deboning of poultry carcasses or parts of carcasses), there was concern that these product category descriptions might not include such poultry products as fresh or frozen uncooked ground, boneless, and skinless poultry. FSIS sent FDA a letter seeking clarification of this matter. A November 8, 1991, letter from FDA stated that "[w]e would certainly consider fresh or frozen, uncooked hand-boned, skinless, and ground poultry to be among the products that may be irradiated under 21 CFR 179.26."

Therefore, on the basis of FDA's approval of our petition and FDA's November 8, 1991, letter, FSIS proposes that poultry to be irradiated must be (1) fresh or frozen, uncooked whole poultry carcasses or parts known as "ready to cook poultry," which includes such poultry products as fresh or frozen, uncooked ground, hand-boned, and skinless poultry and (2) mechanically separated poultry product, which is a finely comminuted ingredient produced by the mechanical deboning of poultry carcasses or parts of carcasses. Poultry products permitted to be irradiated would include any uncooked poultry to which no other ingredients have been added.

The Agency believes it is inappropriate to provide for irradiation of cooked poultry products because, having been cooked, they should be free of the foodborne pathogens intended to be eliminated by irradiation. Also, the Agency did not petition for the irradiation of cured poultry nor poultry products with other ingredients added because no adequate study existed regarding the irradiation of such poultry products. Therefore, this proposed rule does not permit the irradiation of cooked poultry products, cured poultry products, or poultry products with the addition of other ingredients.

Packaging Requirements

FDA stated in its May 2, 1990, regulation that "FSIS * * * can establish specific packaging requirements * * * consistent with current good manufacturing practice * * *." (55 FR 18542) Therefore, FDA concluded that FSIS could establish any packaging requirement as long as those requirements comply with 21 CFR 179.25 and 179.26.

To best ensure a reduction of the microbial load on poultry product, FSIS believes that all irradiated poultry would be packaged, in compliance with 21 CFR 179.25 and 179.26, prior to irradiation and remain in the same package through the distribution in commerce to the point of purchase. Once a package of irradiated poultry product is opened, the product is subject to the same possible contaminants as any unpackaged poultry; therefore, the special benefits inherent to irradiated poultry would possibly be nullified. Therefore, to provide poultry products with the highest potential for reduced microbial contaminates, FSIS proposes that poultry products to be irradiated be packaged, then irradiated, and remain in that package until the point of purchase.

FSIS proposes to require, as part of a quality control system, that a guaranty or statement of assurance accompany each shipment of poultry product. The guaranty or statement of assurance would identify that the packaging material is approved, in accordance with 21 CFR 179.45, as a packaging material for use during the irradiation of pre-packaged foods. Product not accompnied by such a guaranty or statement of assurance would not be permitted to be irradiated. FDA defines in 21 CFR 179.45 the packaging material which may be used during the irradiation of pre-packaged foods.

In addition, FDA noted that use of air-permeable packaging materials provides an extra margin of safety from *C. botulinum* toxin production and spoilage in chicken incubated both aerobically (with oxygen) and anaerobically (without oxygen). FDA stated that "[b]ecause the petitioner [USDA] requested that only air-permeable packaging be permitted, FDA is including a provision in the regulation that packaging used shall not exclude

[6] Huhtanen, C.N., Jenkins, R.K., and Thayer, D.W., "Gamma Radiation Sensitivity of *Listeria monocytogenes*," *Journal of Food Protection*, Vol. 52, No. 9, pages 610–613, September 1989 and Patterson, M., "Sensitivity of *Listeria monocytogenes* to Irradiation on Poultry Meat and in Phosphate-Buffered Saline," Letters in Applied Microbiology, Vol. 8, No. 5, pages 181–184, February 1989. Copies of these documents are available from the Office of the FSIS Hearing Clerk, Room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

oxygen." (55 FR 18542) Therefore, as an extra margin of safety, FSIS proposes to require that the guaranty or statement of assurance also certify that the packaging material does not exclude oxygen, but does exclude moisture and microorganisms from penetrating the package barrier.

Labeling Requirements

On April 18, 1986, FDA published a final rule in the **Federal Register** (50 FR 13376) amending 21 CFR 179: "Irradiation in the Production, Processing and Handling of Food." That rule addressed the labeling of irradiated foods, including conditions of safe use, as well as misbranding considerations. The FDA labeling requirements apply to all uses of ionizing radiation for the treatment of food. In summary, the relevant parts are as follows:

—The label and labeling of packages of irradiated foods must bear the international radiation logo displayed below:



—To better inform the public that products have been treated by irradiation, the packages must also bear the statement, "Treated with Radiation" or "Treated by Irradiation."

In 50 FR 13376, there was a provision (21 CFR 179.26(c)(4)) that the statements "Treated with Radiation" or "Treated by Irradiation" need only be used for a 2-year period, if it was believed that the public had become familiar with the fact that products were irradiated. However, on April 18, 1988, FDA published a rule (53 FR 12756) which extended the 21 CFR 179.26(c)(4) provision, thus requiring the labeling statements for another 2-year period. Again, on April 18, 1990, FDA amended its regulation on the labeling of irradiated food (55 FR 14413) and at that time removed the 21 CFR 179.26(c)(4) provision. Therefore, FDA is permanently requiring that the statement "Treated with Radiation" or "Treated by Irradiation" accompany the logo. The reason for the change was that there was no basis for determining when the statement and the logo would no longer be necessary as a means to inform consumers that a food had been irradiated.

FDA regulations apply the retail labeling requirement only to food which has itself been irradiated. The preamble to the FDA final rule also endorses the use of optional labeling statements which describe the type or purpose of irradiation treatment applied, and the use of optional, educational statements about irradiation.

FSIS has determined that the labeling requirements of the FDA final rule provide information to the consumer which is accurate and not misleading. FSIS is obligated to consider whether differences exist between meat and poultry products and the food products that FDA regulates, in case different or additional labeling requirements may be warranted for irradiated meat and poultry products. The Agency believes that FDA labeling requirements are adequate to inform the public that products have been treated with radiation and that no difference exists, and that a regulation for different or additional statements is not necessary.

Irradiation Statements and Logo—To assure that labeling statements pertaining to irradiation would be clearly indicated on product labeling, FSIS proposes that the required statements on irradiated products would appear as a qualifier contiguous to the product name and in letters of the same style, color and type as the product name. Letters used for the qualifying statement would be no less than one-third the size of the largest letter in the product name.

FSIS believes that it would not be appropriate to propose a different logo for irradiated poultry products than that accepted by FDA. FSIS has determined that the irradiation logo would be colored green to be consistent with the international logo. The green logo is recommended by the Food and Agriculture Organization of the United Nations, the World Health Organization, the International Atomic Energy Association, and the International Trade Center (ITC) for its symbolic intent, green being representative of agricultural commodities.

Labeling Requirements—The following information would be required on irradiated poultry product labels:

(a) The logo and a statement that the product has been irradiated, as required by FDA in 21 CFR 179.26(c), and

(b) The handling statement, "Keep Refrigerated" or "Keep Frozen," as appropriate. Such statements are currently required, in accordance with 9 CFR 381.125, to be on the labeling of all products that are not shelf stable (e.g., products not canned or dried).

Optional Labeling Statement About Irradiation—Educational statements about irradiation (e.g., how the product was treated, product safety, process benefits) may be applied to labeling provided the information is not false or misleading. Such statements would be evaluated by the Agency on a case-by-case basis. Any rules of general applicability formulated through this case-by-case review will be addressed in future rulemaking. Such statements should pertain to the general technology of food irradiation, or the application used for the food so labeled, such as "Irradiated to Control Foodborne Bacteria." Various truthful phrases could be used so long as the explanatory language is applicable and not misleading. Statements implying that irradiation imparts special properties to a particular brand of product, as opposed to a food category, would not be permitted on labeling.

Labeling statements about the purpose of irradiation for a specific food item would be permitted when the statement reflects the approved irradiation application for that food. For example, poultry irradiated according to this proposed rule could be labeled with a statement referring to control of foodborne bacteria, but could not be labeled with a statement that the product has an extended shelf life or is "pathogen free," since the validity of such claims have not been evaluated by the Agency.

Application for Inspection

Before an establishment may irradiate poultry, the operator would have to apply to and obtain approval from FSIS for a Grant of Inspection as described in the poultry products inspection regulations (9 CFR 381.16) because the facilities are considered processing establishments, and the Agency must recognize them as such. However, facilities whose only processing of poultry consists of irradiation of pre-packaged raw poultry would not need to meet the blueprint and specification requirements of 9 CFR 381.19, since only pre-packaged products would be processed.

Facilities whose only processing of poultry consists of irradiation of pre-packaged raw poultry would submit a description of their quality control system along with their application for inspection. The quality control system would be evaluated and approved in accordance with section 381.145(e) of the poultry products inspection regulations. Inspection for radiation processing would be granted based upon the approval of the quality control system. Establishments which conduct operations requiring inspection in addition to irradiation of pre-packaged raw poultry would provide with their

applications for inspection a description of their proposed quality control system in addition to the information required under 9 CFR 381.19 (a) through (f).

Facilities whose only processing of poultry consists of irradiation of pre-packaged raw poultry would only be subject to certain sanitation, facility, and operating requirements as described in the poultry products inspection regulations (9 CFR 381.46 to 381.61); since only pre-packaged product would be processed. These existing regulations for sanitation, facility, and operating requirements generally are measures to prevent exposed-product cross-contamination, which is not applicable in irradiation facilities.

As part of their quality control system, the irradiation facility would need to incorporate the necessary sanitation, facility, and operating requirements, as determined by the Administrator, to ensure that the irradiation facility is kept clean, sanitary, and in good repair.

Irradiation facilities using radionuclide sources would be licensed by the Nuclear Regulatory Commission (NRC) (10 CFR parts 2, 19, 20, 30, 71, 150 and 170), or by the appropriate State government acting under authority granted by the NRC. The NRC or the State government would also conduct compliance and safety inspections in the plant. Occupational Safety and Health Administration (OSHA) or the appropriate State government acting under authority granted by OSHA regulates all radiation sources not regulated by the NRC. This would include sources of electron beam radiation and x-radiation. Irradiation facilities possessing or using these sources would have registered such sources with the State. Facilities using these sources are subject to inspection by OSHA or by the State in an OSHA State Plan State. FDA (HHS Publication 83–8203),[7] OSHA (29 CFR part 1910), and the National Institute of Standards and Technology (NIST) (NBS Handbook 142) [8] are also involved in regulating the operational aspects of irradiation facilities.

Each of these agencies has imposed requirements applicable to irradiation operations that reflect the scope of their particular authorities, including ones which are vital to plant safety and public health. All applicants for Federal poultry products inspection service would be expected to submit documentation as part of a quality control system showing that they have licensing and/or possess radiation sources registered by the NRC or appropriate State agency acting under authority granted by the NRC and with OSHA or the appropriate State agency acting under authority granted by OSHA.

Compliance with Licensing/ Registration/Safety

Irradiation facilities operating under FSIS inspection would be responsible for proper controls to prevent FSIS employees from being exposed to radiation in excess of acceptable limits established by OSHA and NRC. In accordance with OSHA's regulation (29 CFR 1910.96), each radiation area must be "conspicuously posted" with appropriate signs and/or barriers. Work practices not in accordance with 29 CFR 1910.96 would result in the withdrawal of FSIS employees from the irradiation facility. Additionally, such work practices would lead to initiation of the termination process of quality control systems in accordance with the established procedures in 9 CFR 381.145(g).

In accordance with FSIS Directive 4791.1, FSIS would ensure safe and healthful working conditions for FSIS employees assigned to irradiation facilities. This would be accomplished by engineering controls, administrative controls, work practice controls, or withdrawal of FSIS employees from the irradiation facility to the extent necessary to assure that employees are protected as provided under 29 CFR 1910.96. FSIS would maintain records of the radiation exposure of FSIS employees for whom personnel monitoring is required.

FSIS would provide appropriate specialized safety and radiological health training for FSIS employees assigned to irradiation facilities.

General Control

FSIS expects that poultry processing establishments may choose to add irradiation capabilities within their current facilities or contract with irradiation processors. Further, irradiation processors may purchase products for irradiation or provide irradiation processing on a contractual basis for product owners. In each case, all parties will be expected to maintain controls, to the extent of their responsibilities, under this regulation.

The Agency proposes that a quality control system in accordance with a new proposed 9 CFR 381.149 be required for irradiation processing. Most radiation processors presently irradiate commodities other than poultry, including medical supplies, polymers, and spices, and do not have adequate provisions for drainage, potable water, or refrigeration as required of other official USDA poultry establishments, except cold-storage warehouses. Therefore, the Agency would require that all poultry products first be prepared and packaged at official establishments that maintain such controls.

Quality Control System

FSIS proposes that, at a minimum, the operator of the irradiation facility must establish and comply with a quality control system which provides for the following:

1. Facility and Licensing Requirements: Procedures to ensure that the irradiation facility complies with the applicable provisions of Subpart H of the poultry products inspection regulations, as determined by the Administrator. In addition, if there were no permanent refrigerated storage capacity in the facility, there would need to be procedures to ensure that adequate refrigeration units would be made available during the irradiation of poultry.

As discussed earlier, irradiation processors would provide documentation showing that facilities using radionuclide sources are licensed by the NRC (10 CFR parts 2, 19, 20, 30, 71, 150 and 170), or by the appropriate State government acting under authority granted by the NRC. Documentation would also be provided showing that the facilities are registered with OSHA or the appropriate State government acting under authority granted by OSHA.

2. Training: Prior to irradiating poultry intended for commercial distribution, irradiation facilities would have to provide a statement in the quality control system certifying that their perssonel would operate under supervision of a person who has successfuly completed a course of instruction for operators of food irradiation facilities. Additionally, the statement would assure that the personnel have been trained in quality control, food technology, irradiation processing, and radiation health and safety.

Typically, FSIS would expect plant supervisors to have completed modules of instruction that include the fundamentals of food irradiation, e.g., facilities and equipment design and approval, processing procedures,

[7] A copy of this document is available from the Office of the FSIS Hearing Clerk, room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

[8] A copy of this document is available from the Office of the FSIS Hearing Clerk, room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

labeling, packaging, quality control system, and employee safety issues. The instruction would be of sufficient length of time to cover the subject matter, and use expert instructors in food irradiation. An example of a curriculum presently available to irradiation facility supervisors/managers is the Food Irradiation Process Control School (FIPCOS), sponsored by the Food and Agriculture Organization (FAO) of the United Nations and the International Atomic Energy Agency (IAEA). Although attendess of this school do not presently receive a formal certification of successful completion of the curriculum, their curriculum serves as a basis for presenting good manufacturing practices to irradiation supervisors/managers.

3. Poultry Product and Packaging Material: In order to ensure that a product receives an absorbed dose within the required range, criteria related to poultry product and packaging material would be identified in the quality control system and controlled. These criteria relate: The type of product to be irradiated (including the size, thickness, weight, and cut of product); the bulk density (the mass (weight) of a product unit divided by its total volume); the packaging material in direct contact with the product; the proper packing configuration of the product within the packaging material; and the proper packing configuration of the packaged product (size, shape, number, and weight of the packaged product units on a pallet or container to be transported through the radiation chamber).

For the packaging material, a guaranty or statement of assurance, as discussed earlier, would have to accompany each shipment of product. The guaranty or statement of assurance would state that the material complies with appropriate provisions of the FFDCA (21 U.S.C. 301 *et seq.)* allowing its use. In addition, the statement would provide assurance that the packaging material is air-permeable, but does exclude moisture and microorganisms from penetrating the package barrier.

4. Dosimetry: The quality control system would address the procedures and equipment for measuring the absorbed dose of ionizing radiation in the product. The accuracy of the dosimetry system would have to be demonstrated on experimental or previously irradiated product using the same dosimetry system and proposed quality control system procedures. For guidance, the existing standards and others proposed by the international organization, the American Society of Testing and Materials (ASTM), can be followed in documenting the accuracy of the dosimetry system.

ASTM Subcommittee E10.101, "Dosimetry for Radiation Processing," is composed of 165 international experts. The subcommittee is involved in the development of standard practices for the selection and application of dosimetry systems for radiation processing and for characterizing and qualifying food irradiation facilities. Eight standards have been published in Volume 12.02 of the Annual Book of ASTM Standards. Specifically, establishments irradiating poultry can obtain useful guidance from standards E1204—Practice for the Application of Dosimetry in the Characterization of a Gamma Irradiation Facility for Food Processing, E1261—Guide for the Selection and Application of Dosimetry Systems for Radiation Processing of Food, and E1431—Practice for Dosimetry in Electron and Bremsstrahlung Irradiation Facilities for Food Processing.[9] Other ASTM standards are being developed which will impact the use of dosimetry systems and at the time of publication will provide further guidance for radiation processing establishments.

To ensure accuracy, irradiation facilities would be expected to demonstrate that their dosimetry system is traceable and calibrated at least every 6 months, as recommended by ASTM, to the national standards specified by the National Institute of Standards and Technology (NIST). On a user-fee basis, NIST administers such a service. Each production lot must have at least one dosimeter positioned at the regions of minimum and maximum absorbed dose (or at one region verified to represent such) on at least the first, middle, and last product unit.

The product would not be allowed to be reirradiated (i.e., the total absorbed dose cannot be administered more than once) since the absorbed dose of ionizing radiation is cumulative in the product. The total absorbed dose could be administered in more than one treatment (i.e., the absorbed dose from each partial treatment would be cumulated to result in the total absorbed dose) if documentation of the absorbed dose is assured throughout the product during each partial treatment and the process is continuous (occurring within the same day).

[9] These standards are found in Volume 12.02, Annual Book of ASTM Standards. A copy of these standards is available, for a fee, from the American Society of Testing and Materials (ASTM), 1916 Race St., Philadelphia, PA 19103–1187.

5. Labeling: The quality control system would address controls to assure that the labeling of the poultry product received from other sources is correct, as discussed earlier.

6. Handling, Storage, and Transportation: The quality control system would address procedures for the proper handling of poultry products. Such procedures would address conditions such as poultry with damaged packaging or improperly irradiated product. The quality control system would also address procedures for preventing cross-contamination, reirradiation, and commingling of irradiated and unirradiated products.

The quality control system would address maintenance of perishable poultry product at appropriate temperatures in accordance with 9 CFR 381.66, throughout radiation processing and shipment. Perishability of the poultry product is vastly affected by the temperature at which the product is held througout processing, as well as the amount of time the product is held at any given temperature. Since numbers of bacteria are reduced by radiation, competition for growth by the remaining organisms is also reduced. Thus, if there is temperature abuse, i.e., storage at temperatures above the refrigerator temperature that are not in accordance with 9 CFR 381.66, optimal conditions would exist for the outgrowth of spoilage organisms. If both non-refrigerator temperatures and anaerobic- or semi-anaerobic-conditions exist, the potential for outgrowth of *Clostridium botulinum* would also exist.

7. Corrective Action: The quality control system would address procedures for corrective action for failure to adhere to any of the above procedures and to dispose of product affected during the failure. Additionally, procedures would be needed to prevent reoccurrence of any failures.

If an establishment does not maintain its approved quality control system within the established standards of that program, approval of the quality control system would be subject to termination in accordance with applicable procedures (9 CFR 381.145(g)).

FSIS believes the above general requirements for the quality control system are adequate to maintain public health protections, assure accurate labeling, and provide flexibility for safe application of irradiation technology. Commenters are requested to address the adequacy of the proposed requirements and/or the need for specific provisions or detailed requirements.

Recordkeeping

A written record of the process (quality control system), monitoring activity, and corrective action is necessary. In order for the Agency to monitor radiation processing and for the irradiation facility to be assured that safe, wholesome, and properly labeled product is being produced, the written record would be maintained by the operator for a 2-year period in accordance with 9 CFR 381.177(a).

Proposed Rule

The following regulatory changes are proposed to provide poultry product irradiation procedures in Part 381 of the Federal poultry products inspection regulations:

List of Subjects in 9 CFR Part 381

Irradiation of poultry product, Labeling of irradiated poultry product, Treatment of poultry product to control foodborne pathogens.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. The authority citation for part 381 would continue to read as follows:

Authority: 7 U.S.C. 450; 21 U.S.C. 451–470; 7 CFR 2.17, 2.55.

2. Section 381.19 would be amended by adding a new paragraph (g) to read as follows:

§ 381.19 Application for inspection; required facilities.

* * * * *

(g) *Irradiation facilities.* Applicants for inspection whose processing is limited to irradiation of packaged poultry product while in the custody of the establishment need not submit information required by this section, *provided* the applicant has submitted to the Administrator a proposed quality control system as specified in § 381.149 of this part. All applicants for inspection whose operations include irradiation and other processing would submit, to the Administrator, a proposed quality control system as specified in section 381.149 of this part, in addition to information required in this section.

3. The "Reserved" designation of § 381.135 would be removed and the following text would be added:

§ 381.135 Irradiated poultry product.

(a) The labeling of packages of poultry product irradiated in conformance with § 381.147(f)(4) of this part must bear the following logo along with a statement such as, "Treated with radiation" or "Treated by irradiation," in addition to all other labeling requirements of this subpart. The logo must be placed prominently and conspicuously in conjunction with the required statement and be colored green. The statement must appear as a qualifier contiguous to the product name and in letters of the same style, color, and type as the product name. Letters used for the qualifying statement shall be no less than one-third the size of the largest letter in the product name. Any labeling bearing the logo and any wording of explanation with respect to this logo must be approved as required by subparts M and N.



(b) The product label must bear the handling statement "Keep Refrigerated" or "Keep Frozen," as appropriate, in conformance with § 381.125 of this subpart.

(c) Optional labeling statements about the purpose for radiation processing may be included on the product label in addition to the above stated requirements. Such statements must not be false or misleading.

4. Section 381.147(f)(4) would be amended by adding a new class of substance "Radiation Sources," in alphabetical order, to read as follows:

§ 381.147 Restrictions on the use of substances in poultry products.

* * * * *

(f) * * *

(4) * * *

Class of substances	Substance	Purpose	Products	Amount
Radiation sources.....	Ionizing radiation sources as approved in 21 CFR 179.26(a).	For control of food-borne pathogens.	Fresh or frozen, uncooked, packaged poultry products that are: (1) Whole carcasses that are "ready-to-cook," which includes such poultry products as fresh or frozen, uncooked ground, hand-boned, and skinless poultry, (2) mechanically separated poultry—a finely comminuted ingredient produced by the mechanical deboning of poultry carcasses or parts of carcasses.	Minimum absorbed does of 1.5 kiloGray (150 kilorads) to a maximum absorbed does of 3.0 kiloGray (300 kilorads).

* * * * *

5. The heading of paragraph (e) of § 381.145 would be revised and paragraphs (e)(1) and (e)(3) would be revised to read as follows:

§ 381.145 Poultry products and other articles entering or at official establishments; examination and other requirements.

* * * * *

(e) *Evaluation and Approval of Quality Control Programs or Systems.*

(1) The Administrator shall evaluate the material presented in accordance with the provisions of paragraph (c) or (d) of this section or § 381.149 of this subpart. If it is determined by the Administrator, on the basis of the evaluation, that the total quality control system, partial quality program, or quality control system for irradiation facilities will result in finished products controlled in this manner being in full compliance with the requirements of the Act and regulation thereunder, the total quality control system, partial quality control program, or quality control system for irradiation facilities will be approved and plans will be made for implementation under departmental supervision.

* * * * *

(3) The establishment owner or operator shall be responsible for the effective operation of the approved total plant quality control system, partial

quality control program, or quality control system for irradiation facilities to assure compliance with the requirements of the Act and regulations thereunder. With the exception of a quality control system for irradiation facilities, as specified in § 381.149 of this subpart, the Secretary shall continue to provide the Federal inspection necessary to carry out the responsibilities of the Act.

* * * * *

6. The heading of paragraph (g) of § 381.145 would be revised, paragraph (g)(2) would be revised, and a new paragraph (g)(4) would be added to read as follows:

* * * * *

(g) Termination of Quality Control Programs or Systems.

* * * * *

The approval of a total plant quality control system, partial quality control program, or a quality control system for irradiation facilities may be terminated upon the establishments's receipt of a written notice from the Administrator under the following conditions:

* * * * *

(4) If approval of a quality control system for irradiation facilities, as specified in § 381.149 of this subpart, has been terminated in accordance with the provisions of this section, a request for approval of the same or a modified quality control system will be evaluated by the Administrator upon receipt.

* * * * *

7. The "Reserved" designation of § 381.149 would be removed and the following text would be added:

§ 381.149 Irradiation of poultry product to control foodborne pathogens.

(a) Definitions of food irradiation terms:

(1) *Absorbed dose* is the amount of energy imparted by ionizing radiation to a quantity of product.

(2) *Bulk density* is the mass (weight) of a product unit divided by its total volume.

(3) *Dose mapping* is the identification of the regions of minimum and maximum absorbed dose in a product unit.

(4) A *dosimeter* is the device for measuring absorbed dose.

(5) *Dosimetry* is the process of measuring absorbed dose.

(6) *Ionizing radiation* is radiation with sufficient energy to cause the removal of electrons from atoms or molecules, thereby creating ions.

(7) *Irradiate* means to expose a material to ionizing radiation.

(8) A *product unit* is the volume of product, made up of one or more packages of product, which is collectively transported past the radiation source (e.g., in boxes or totes or on pallets or carriers).

(9) A *production lot* is the quantity of like product units designated as such by the operator of the irradiation facility or their agent to be processed in no more than one continuous shift of up to 8 hours.

(10) *Radiation source* is the radioactive material (i.e., cobalt-60) or machine that emits ionizing radiation.

(11) *Source activity decay* is the decrease in the radioactivity of radionuclide source material (i.e. cobalt-60) with the passing of time.

(12) *Traceability* is the capacity, through documentation, to relate an end-point measurement to recognized standards.

(b) Poultry product may be treated to reduce foodborne pathogens by the use of ionizing radiation as identified in § 381.147(f)(4) of this Subpart. Only irradiation facilities operating under a FSIS-approved quality control system, in accordance with paragraph (c) of this section, may irradiate poultry product for food uses.

(c) A description of the quality control system must be sent to the Administrator identifying the responsible official for quality control and stating that all data and information generated by the system will be maintained to enable the Department to monitor compliance. The quality control system will be evaluated and approved in accordance with § 381.145(e) of this subpart. A copy of the description will be placed on file in the irradiation facility and be available to any duly authorized representative of the Secretary. At a minimum, the operator of the irradiation facility must establish and comply with a quality control system which provided for the following:

(1) *Licensing, Sanitation, and Facility.* (i) Provide documentation showing that the irradiation facility is licensed and/or possesses radiation sources registered with the Nuclear Regulatory Commission (NRC) or the appropriate State government acting under authority granted by the NRC.

(ii) Provide documentation showing that the irradiation facility is registered with the Occupational Safety and Health Administration (OSHA) or the appropriate State government acting under authority granted by OSHA.

(iii) Procedures to ensure that the irradiation facility complies with the applicable provisions of subpart H of this part, as determined by the Administrator.

(iv) Procedures to ensure that, if the facility has no refrigerated storage capacity, adequate numbers of refrigerated units (such as trucks or carriers) will be made available during the radiation processing of poultry.

(2) *Training.* (i) Provide a statement by the operator certifying that the irradiation facility personnel would operate under supervision of a person who has successfully completed a course of instruction for operators of food irradiation facilities.

(ii) Provide a statement by the operator certifying that the facility personnel have been trained in quality control, food technology, irradiation processing, and radiation health and safety.

(3) *Poultry Product; Packaging, handling.* (i) Procedures to ensure that each production lot of packaged poultry is accompanied by a certificate which states that the food-contact packaging material is guaranteed by the supplier as complying with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*) and regulations in 21 CFR 179.45 for food irradiation processing and that the food-contact packaging material is air-permeable, but does exclude moisture and microorganisms from penetrating the package barrier.

(ii) Procedures to ensure that product units throughout each production lot are uniform in size, weight, thickness, and orientation to the radiation source.

(iii) Procedures to ensure that packages are distributed throughout each production lot uniformly with respect to package stacking arrangements bulk density, and orientation of the packages to the radiation source.

(iv) Procedures to ensure that there is only one product type.

(v) Procedures to ensure that product temperature is kept uniform within a production lot, such that fresh refrigerated product is processed separately from frozen product.

(vi) Procedures to ensure that product unit bulk density is uniform throughout a production lot.

(vii) Procedures to ensure that product is kept intact and in sealed packages.

(viii) Procedures to ensure that product is not reirradiated.

(ix) Procedures to ensure that non-irradiated product is not commingled with irradiated product.

(x) Procedures to ensure that irradiated product within each production lot is identified to permit product recall.

(xi) Procedures to dispose of poultry with damaged packaging or poultry which has been improperly irradiated.

(4) *Dosimetry.* (i) Laboratory operation procedures for determining the absorbed dose value from the dosimeter.

(ii) Calibration criteria for verifying the accuracy and consistency of any means of measurement (e.g., time clocks and weight scales).

(iii) Calibration and accountability criteria for verifying the traceability and accuracy of dosimeters for the intended purpose, and the verification of calibration at least every 6 months.

(iv) Procedures for assuring the product unit is dose mapped to identify the regions of minimum and maximum absorbed dose and such regions are consistent from one product unit to another of like product.

(v) Procedures for accounting for the total absorbed dose received by the product unit (e.g., partial applications of the absorbed dose within one production lot).

(vi) Procedures for verifying routine dosimetry (i.e., assuring each production lot receives the total absorbed dose). Each production lot must have at least one dosimeter positioned at the regions of minimum and maximum absorbed dose (or at one region verified to represent such) on at least the first, middle, and last product unit.

(vii) Procedures for verifying the relationship of absorbed dose as measured by the dosimeter to time exposure of the product unit to the radiation source.

(viii) Procedures for verifying the integrity of the radiation source and processing procedure. Aside from expected and verified radiation source activity decay for radionuclide sources, the radiation source or processing procedure must not be altered, modified, replenished, or adjusted without repeating dose mapping of product units to redefine the regions of minimum and maximum absorbed dose.

(5) *Labeling.* Procedures for verifying that the product is accurately and appropriately labeled in accordance with § 381.135.

(6) *Transportation, Storage, and Handling.* Procedures for assuring that temperature and time requirements of subpart I, § 381.66 are maintained during shipping of the poultry product to the irradiation facility, radiation processing, storage, and shipping of poultry product to the point of purchase.

(7) *Corrective Action.* (i) Procedures for corrective action for failure to adhere to any of the above procedures.

(ii) Procedures to dispose of product affected during the failure to adhere to any of the above procedures.

(iii) Procedures to prevent reoccurrence of any failures to adhere to any of the above procedures.

(d) The quality control system shall be subject to periodic review, and the approval of such system may be terminated in accordance with § 381.145(g) of this subpart.

(8.) Section 381.175 would be amended by adding a new paragraph (b)(4) to read as follows:

§ 381.175 Records required to be kept.

* * * * *

(b) * * *

(4) Records of irradiation as required by § 381.149 fo this part.

Done at Washington, DC, on: April 17, 1992.

H. Russell Cross,

Administrator, Food Safety and Inspection Service.

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Part III

Architectural and Transportation Barriers Compliance Board

36 CFR Part 1191

Americans With Disabilities Act Accessibility Guidelines; Petition for Rulemaking on Accessible Automated Teller Machines; Proposed Rule

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1191

[Docket 92-1]

Americans With Disabilities Act Accessibility Guidelines; Petition for Rulemaking on Accessible Automated Teller Machines

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Petition for rulemaking.

SUMMARY: The American Bankers Association, NCR Corporation, and InterBold have filed a petition requesting the Architectural and Transportation Barriers Compliance Board to amend the reach range requirement for accessible automated teller machines (ATMs) under the Americans with Disabilities Act Accessibility Guidelines (ADAAG). ADAAG currently requires that accessible ATMs provide for a parallel approach and both a forward and side reach to the highest control for wheelchair users. The Board is considering amending ADAAG to specifically incorporate dimensions for vertical and horizontal reaches to the highest control from a parallel approach and requests comments on the matter. The dimensions will be determined through this rulemaking.

DATES: Comments should be received by June 5, 1992. Comments received after this date will be considered to the extent practicable.

In addition, the Board has scheduled a public hearing in Washington, DC on May 28, 1992, 9 a.m. to 5 p.m., to hear from ATM manufacturers, banks, individuals with disabilities, and others who will be affected by the rulemaking.

ADDRESSES: Comments should be sent to the Office of the General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. The petition and comments are available for inspection at this address from 9 a.m. to 4 p.m. on regular business days.

The public hearing will be held at the Holiday Inn Crown Plaza, 775 12th Street, NW., Salon C, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: James Raggio, Office of the General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone (202) 272–5434(Voice); (202) 272–5449(TDD). These are not toll-free numbers. This document is available in accessible formats (cassette tape, braille, large print, or computer disc) upon request.

SUPPLEMENTARY INFORMATION:

Current ADAAG Requirements

On July 26, 1991, the Architectural and Transportation Barriers Compliance Board published the Americans with Disabilities Act Accessibility Guidelines (ADAAG) to assist the Department of Justice in establishing accessibility standards for new construction and alterations in places of public accommodation and commercial facilities covered by title III of the Americans with Disabilities Act. See 56 FR 35408 (July 26, 1991), as corrected at 56 FR 38174 (August 12, 1991) (36 CFR part 1191, appendix A). On the same day, the Department of Justice adopted ADAAG as the accessibility standards for title III of the Americans with Disabilities Act. See 56 FR 35544, 35602 (July 26, 1991) (28 CFR 36.406).

Consistent with the legislative history, ADAAG includes specific provisions for accessible automated teller machines (ATMs).[1] Where ATMs are provided in new construction, one machine at each location must comply with the technical requirements for accessible ATMs. See ADAAG 4.1.3(20). If existing buildings are altered for ATMs, one machine at each altered location must comply with the technical requirements for accessible ATMs. See ADAAG 4.1.5 and 4.1.6(1)(b).

ADAAG 4.34 contains the technical requirements for accessible ATMs. ADAAG 4.34.1 requires that accessible ATMs be on an accessible route. ADAAG 4.34.2 provides that controls for user activation must be operable with one hand without tight grasping, pinching, or twisting of the wrist and not require more than 5 lbs to activate. ADAAG 4.34.4 requires that instructions and all information for use be made accessible to and independently usable by persons with vision impairments.

ADAAG 4.34.3 addresses the minimum clear floor space needed for a wheelchair user to approach an accessible ATM and the maximum height for placement of controls so that a wheelchair user can reach them.[2] ADAAG 4.34.3 provides that:

> Free standing or built-in units not having a clear space under them shall comply with 4.27.2 and 4.27.3 and provide for a parallel approach and both a forward and side reach to the unit allowing a person in a wheelchair to access the controls and dispensers.[3]

The dimensions for wheelchair approaches and reach ranges are contained in ADAAG 4.2.4 through 4.2.6 and the accompanying figures. These sections and the accompanying figures are taken from the "American National Standard Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People" (ANSI A117.1—1980). The minimum clear floor space required to accommodate a single, stationary wheelchair and occupant is 30 inches by 48 inches. See ADAAG 4.2.4.1 and Figure 4(a).[4] For a parallel approach, this space is positioned with the longer dimension (48 inches) parallel and adjacent to the object to be reached. See Figure 4(c). For a forward approach, this space is positioned with the shorter dimension (30 inches) parallel and adjacent to the object to be reached. See Figure 4(b).

The highest side reach allowed is 54 inches from the floor where the distance from the wheelchair to the object to be reached does not exceed 10 inches. See ADAAG 4.2.6 and Figure 6(b). If the side reach is over an obstruction that exceeds 10 inches, the highest side reach allowed is 46 inches from the floor. See ADAAG 4.2.6 and Figure 6(c). The obstruction may not be more than 34 inches high and 24 inches deep. See id.

The highest forward reach allowed is 48 inches from the floor. See ADAAG 4.2.5 and Figure 5(a). If the forward reach is over an obstruction, clear floor space must be provided under the obstruction that equals or exceeds the distance from the front edge of the obstruction to the object to be reached. See ADAAG 4.2.5 and Figure 5(b). The

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[1] The House Report states as follows with respect to ATMs:

> For new construction and alterations, the purpose is to ensure that the service offered to persons with disabilities is equal to the service offered to others. It would be a violation of this title [title III] to build a new bank with ATMs that were not readily accessible to and usable by persons with disabilities. It is not sufficient that the person with a disability can conduct business inside the bank. The ATMs provide an additional service which must be made available to persons with disabilities. H. Rept. 101–485, pt. 3, at 63.

[2] Drive-up only ATMs are not required to comply with the approach and reach range requirements for controls. See ADAAG 4.1.3(20) Exception.

[3] ADAAG 4.27.2 and 4.27.3 generally address controls and equipment such as light switches and paper cup and towel dispensers. These sections allow a forward or a parallel approach to the object and require the highest operable part of a control to be placed within at least one of the reach ranges specified in ADAAG 4.2.5 (forward reach) and 4.2.6 (side reach).

[4] If a clear floor space is located in an alcove or otherwise confined on all or part of three sides, additional maneuvering clearances may be required. See ADAAG 4.2.4.2 and Figures 4 (d) and (e).

distance from the front edge of the obstruction to the object to be reached may not exceed 25 inches. See id. If the forward reach over an obstruction is between 20 inches and 25 inches, the highest forward reach allowed is 44 inches from the floor. See id.

These reach ranges were based on anthropometric data for wheelchair users and represent "maximum" reach limits as opposed to "comfortable" reach zones.

The Petition

On December 2, 1991, the Board received a letter from the American Bankers Association (ABA) requesting the Board to clarify the approach and reach range requirements for accessible ATMs. The ABA noted that ADAAG 4.27.2 and 4.27.3, which are referenced in ADAAG 4.34.3 and generally address controls and equipment such as light switches and paper cup and towel dispensers, allow a forward or a parallel approach and require the highest operable part of a control to be placed within at least one of the reach ranges specified in ADAAG 4.2.5 (forward reach) and 4.2.6 (side reach). The Board's General Counsel responded that ADAAG 4.34.3 specifically states that "a parallel approach and both a forward and side reach" must be provided to the highest control on accessible ATMs and that the reach range requirement can be met by installing the machine so that the highest control is not more than 48 inches from the floor.

On February 24, 1992, the ABA, NCR Corporation, and InterBold [5] filed a petition requesting the Board to amend ADAAG 4.34.3 to allow either a side reach or forward reach to the highest control on accessible ATMs.[6] The petitioners claim that ATM manufacturers, relying on ANSI A117.1 and ergonomic studies, have developed ATMs which allow only a side reach to the highest control. Petition at 6. They contend that a forward reach would require bending and substantial downward adjustment of the arms and hands from a standing position, making some current ATM models less comfortable for others to use, as well as presenting difficulties for persons with vision impairments and persons who use walkers, canes, braces, crutches, and leg prostheses. Petition at 7. The petitioners also claim that a forward reach would require ATM controls to be installed on the same vertical plane as the wall instead of recessed or set back into the wall, compromising security and privacy. Petition at 7. They further claim that a side reach provides more functional space for ATMs to offer additional features such as postage stamps, mass transit tickets, and voice response for persons with vision impairments. Petition at 8. Finally, the petitioners contend that ATM manufacturers will incur significant costs to redesign their products for a forward reach and that the market for current and used ATMs will be adversely affected. Petition at 8–11.

Current ATM Models

The Board has requested the three leading manufacturers who sell ATMs in the United States to provide information about the highest control on their current ATM models.[7] The information is summarized in Table 1 attached to this document. The companies currently market 18 ATM models, excluding drive-up only models.[8] The models include walk-up units that are designed to be installed through-the-wall; and lobby units that may be used as a free-standing machine or installed in an enclosure. Some ATMs are full-function machines that dispense cash, accept deposits and payments, and provide information such as account balances. Other ATMs perform a single function: dispense cash only or provide information only (noncash). There is also an interactive sales platform ATM that can perform various other banking services.

Current ATM models are designed so that the controls are recessed or set back into the wall or the unit for privacy and security purposes. The horizontal reach to the highest control, as measured from the vertical plane of the wall for walk-up ATMs installed through-the-wall and from the base of the unit for free-standing lobby ATMs, ranges from 1½ inches to 16⅝ inches. See Table 1 attached to this document.[9] Banks usually place surrounds around ATMs which typically contain writing counters and bins for envelopes and waste paper that project into the clear floor space provided for the parallel approach adjacent to the machine and extend the horizontal reach to the highest control. When ATMs are installed in exterior walls of buildings, the horizontal reach to the highest control can also be increased by decorative details on building facades which are especially common on older buildings.

In addition to wide variations in the horizontal reach to the highest control, ATMs differ from light switches and paper cup and towel dispensers in other ways. Operating a light switch and removing a paper cup or towel from a dispenser involves a single motion. To operate an ATM, a person must perform a range of motions:

- Insert bank card into card reader;
- Enter personal identification number on numeric keypad;
- Select transaction (deposit, withdrawal, payment, information) using function keys;
- Identify account (checking or savings) using function keys;
- Enter amount using function keys or numeric pad;
- Verify amount using function keys or numeric pad;
- Remove cash from cash dispenser;
- Insert deposit or payment envelope in depository;
- Remove receipt from receipt dispenser; and
- Remove bank card from card reader.

Furthermore, during inclement weather and colder temperatures, ATM users will be wearing coats and jackets which may limit their reach range. It is unlikely that ATM users will remove their coats and jackets for the short time that they use the machines, especially if they are outside.

Need for Amendment

Based on the factors discussed above, the Board originally proposed in ADAAG 4.34.3 that accessible ATMs "provide for a parallel approach and both a forward and side reach" to the highest control. See Notice of Proposed Rulemaking (NPRM), 56 FR 2296, 2380 (January 22, 1991). The ABA submitted comments on the NPRM but did not comment on the proposed reach range requirement. Nor did the ATM

[5] InterBold is a general partnership between Diebold, Incorporated and International Business Machines Corporation formed in October 1990.

[6] The petitioners captioned their request as a "[p]etition to clarify the reach range and approach requirements for ATMs" and asked the Board to "clarify that ADAAG Section 4.34.3 does not require new ATMs to allow both a forward and side reach." Petition at 13. The Board agrees with its General Counsel's response to the ABA's earlier letter that ADAAG 4.34.3 specifically states that "a parallel approach and both a forward and side reach" must be provided to the highest control on accessible ATMs and treats the petition as a request to amend ADAAG 4.34.3 to allow either a side reach or a forward reach.

[7] About 8,500 new ATMs were sold in the United States during 1991. InterBold made 45% of the machines; NCR Corporation made 43%; and Fujitsu Systems of America made 10%. Nielsen Report (February 1992); Bank Network News (October 26, 1991).

[8] Some models may be used as either a drive-up or a walk-up ATM. Table 1 includes information on theses models.

[9] Two ATM models can be installed with the controls on the same vertical plane as the wall for a zero horizontal reach. See Table 1, note j.

manufacturers submit timely comments on the provision.[10] The Board made numerous revisions to the proposed ADAAG based on comments in response to the NPRM. However, in the absence of timely comments, the reach range requirement for accessible ATMs was unchanged from the NPRM.

In light of the new information provided by the ATM manufacturers about the highest control on their current ATM models, the Board has initiated a further review of the reach range requirement for accessible ATMs. As shown in Table 1 attached to this document, current ATM models have horizontal reaches to the highest control which range from 1-½ inches to 16-⅝ inches.[11] Current ATM models do not have clear floor space under them and, thus, the horizontal reaches do not strictly comply with the requirement for a forward reach over an obstruction. See ADAAG 4.2.5 and Figure 5(b). It has been suggested that the horizontal reach can be minimized for walk-up ATMs installed through-the-wall by recessing the wall under the machine to provide knee clearance for wheelchair users. Recessing the wall under ATMs would allow for a forward reach to some current ATM models but not others, depending on the thickness of the wall.[12] Recessing the walls under ATMs may also pose security issues.

The petitioners request that the Board amend ADAAG 4.34.3 to allow either a side reach or a forward reach to the highest control on accessible ATMs. A side reach would allow the highest control to be placed at a maximum height of 54 inches from the floor where the horizontal reach does not exceed 10 inches. See ADAAG 4.2.6 and Figure 6(b). If the horizontal reach to the highest control is between 10 inches and 24 inches, the control must be placed at a maximum height of 46 inches from the floor. See ADAAG 4.2.6 and Figure 6(c). One of the petitioners, InterBold, has two ATM models (1062i and 1072i) that have a horizontal reach greater than 10 inches but only one of the models (1072i) can be installed as low as 46 inches. See Table 1. The second model (1072i) is a walk-up ATM installed through-the-wall and if the floor level on the back side of the machine is higher than the floor level on the front side of the machine by as much as a fraction of an inch, this model would not comply with the side reach requirement.[13] Furthermore, if banks install surrounds around ATMs and the surrounds project a few inches over the clear floor space provided for a parallel approach in from of the machine, most of the other current ATM models would have a horizontal reach greater than 10 inches and need to be installed with the highest control at a maximum height of 46 inches from the floor to comply with the side reach requirement. See ADAAG 4.2.6 and Figure 6(c). A number of current ATM models cannot be lowered to this height. Thus, the amendment proposed by the petitioners will not fully resolve the issues raised by the petition.

The Board is considering amending ADAAG 4.34.3 to specifically incorporate dimensions for vertical and horizontal reaches to the highest control on accessible ATMs from a parallel approach and requests comments on the issues discussed below. The dimensions will be determined through this rulemaking.

Vertical Reach From Parallel Approach [14]

When the Board originally proposed in ADAAG 4.34.3 that accessible ATMs "provide for a parallel approach and both a forward and side reach," the Board intended that the vertical reach to the highest control from a parallel approach not exceed 48 inches.[15] Many current ATM models have stands or adjustable legs and can be lowered so that the highest control is not more than 48 inches from the floor. Only 4 of the 18 current ATM models in Table 1 attached to this document cannot be lowered to provide a maximum 48 inch vertical reach to the highest control.

The petitioners contend that installing the highest control on some current ATM models to provide a maximum 48 vertical reach would require bending and substantial downward adjustment of the arms and hands from a standing position, making ATMs less comfortable for others to use, as well as presenting difficulties for persons with vision impairment and persons who use walkers, canes, braces, crutches, and leg prostheses. Petition at 6.

The Board requests comments on what the maximum vertical reach should be to the highest control on accessible ATMs from a parallel approach. In particular, the Board seeks pertinent information on the following:

(1) For those ATM models that can be lowered to provide a maximum 48 vertical reach to the highest control from a parallel approach but which manufacturers believe would be less comfortable or more difficult for others to use, the Board is interested in data and studies on the ergonomic zones for each user group: adults at a standing position; wheelchair users; persons who use other mobility aids (e.g., walkers, canes, braces, and leg prostheses); persons with vision impairments; and elderly persons. If the ergonomic zones vary depending on the configuration of the ATM controls and fascia, separate data should be provided for each model in question.

(2) Banks do not always install ATMs with the highest control at the vertical reach recommended by the manufacturers. The Board is interested in the views of banks which have installed ATMs with the highest control at 48 inches or less from the floor, including why a lower vertical reach was selected and reactions from customers who use the machines. To be useful, the comments should include the ATM model and the vertical reach measured from the floor to the highest control.[16]

(3) The Board is also interested in the views of ATM users, including wheelchair users; persons who use other mobility aids (e.g., walkers, canes, braces, crutches, and leg prostheses); persons with vision impairments; and elderly persons, regarding their experiences with reaching and using ATM controls.[17] To be useful, the comments should include the ATM model, if known, and the vertical reach measured from the floor to the highest control.[18]

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[10] The comment period closed on March 25, 1991. The Board received a late comment from NCR Corporation on July 3, 1991 noting a potential conflict between ADAAG 4.27.3 which generally requires the highest operable part of a control to be placed within at least one of the reach ranges specified in ADAAG 4.2.5 (forward reach) and 4.2.6 (side reach), and ADAAG 4.34.3 which specifically requires accessible ATMs to provide "both a forward and side reach to the unit."

[11] See note 9, supra.

[12] Walls usually range from 3 inches to 10 inches in thickness.

[13] Inside and outside floor levels typically vary from zero to six inches.

[14] The vertical reach is measured on the vertical plane from the clear floor space provided for a parallel approach adjacent to the machine to the horizontal plane at the level of the highest control. See Figure 1 attached to this document.

[15] The Board notes that California has recently proposed to amend its building code to provide for a maximum 48 inch vertical reach to the highest control on accessible ATMs.

[16] See note 14, supra.

[17] The Board has received comments on the proposed ADAAG that the maximum 54 inch side reach specified in ADAAG 4.2.6 is not readily accessible to and usable by some wheelchair users. See 56 FR 35408, 35430 (July 26, 1991). Ergonomic data for wheelchair users are usually given for persons with full upper body mobility. Wheelchair users who have limited upper body mobility may not reach as far. N. Diffrient, A. Tilley, & J. Bardagjy, "Humanscale 1/2/3," Selector 3a, note (Henry Dreyfuss Associates Designers, 1974). Ergonomic data show that the comfortable reach zone for wheelchair users is between 36 inches and 48 inches. Id., Manual at 26.

[18] See note 14, supra.

(4) For those ATM models that manufacturers believe cannot meet a maximum 48 inch vertical reach to the highest control from a parallel approach, the Board is interested in receiving information on possible design and technology solutions. The Board is encouraged by the creative solutions developed to date by manufacturers to make some of their ATM models accessible. InterBold has developed an "enhanced access" fascia which allows the highest control in its 1072i model to be placed at 46 inches while retaining the upper height profile of the machine. Fujitsu Systems of America has developed an optional software enhancement that allows transactions to be selected from either the cathode ray tube (CRT) function keys or the numeric keyboard which is located below the CRT function keys. In models with this software enhancement, the card reader is the highest control which wheelchair users need to access and it can be placed at a vertical reach of 48 inches or less. The Board is also interested in information on the time and cost involved for the possible redesign solutions.

(5) For ATMs installed through the wall, the vertical reaches shown in Table 1 attached to this document are achievable where the floor level at the front side of the machine is equal to or higher than the floor level at the back side of the machine. In new construction, accessible ATM locations should be planned and designed so that this condition can be met. When existing buildings are altered for ATMs, this condition may not always be met (i.e., the floor level at the back side of the machine may be higher than the floor level at the front side of the machine). In an alteration, if strict compliance with new construction requirements is technically infeasible, the alteration must provide the maximum accessibility feasible. See 28 CFR § 36.402(a) and (c); ADAAG 4.1.6(1)(j). If the floor level at the back side of the ATM is higher than the floor level at the front side of the machine, it may not be feasible to cut away the higher floor level due to water seepage and other structural problems. It has been suggested, however, that it may be feasible to install a ramp with a landing at the front side of the ATM to achieve the required vertical reach. The Board seeks information on inside and outside floor level variances in existing buildings and the suggested solution of installing a ramp to achieve the required vertical reach.

(6) The petitioners contend that a 54 inch vertical reach provides more functional space than a 48 inch vertical reach for ATMs to offer additional features such as postage stamps, mass transit tickets, and voice response for persons with vision impairments. Petition at 8. The Board is interested in hearing whether these features can also be provided on ATMs with a 48 inch vertical reach.

(7) The Board is also interested in information on the cost of compliance with the current reach requirement in ADAAG 4.34.3 and any proposed change to the provision.

Horizontal Reach From Parallel Approach [19]

The Board requests comments on what the maximum horizontal reach should be to the highest control on accessible ATMs from a parallel approach. The Board is particularly interested in the dimensions of common ATM surrounds, especially how far they project into the minimum 30 inch by 48 inch clear floor space provided for a parallel approach adjacent to the machine. The Board is also interested in any studies or other information on the relationship between recessed controls and privacy and security.

The Board recognizes that the maximum vertical and horizontal reaches to the highest control are interrelated and commenters should take this interrelationship into account. The Board further recognizes that the configuration of the ATM controls, including the distance between the controls and the angle at which they are placed, can affect the usability of the machine and also requests comments on this issue.

Used ATMs

ATMs have an average 10 to 15 year useful life. As banks purchase new ATMs, they usually redeploy older ATMs to locations where anticipated transaction volume is not high enough to warrant the expense of a new ATM. The ATM models listed in Table 1 attached to this document are largely fourth generation machines. Most third generation ATMs can meet a maximum 48 inch vertical reach to the highest control from a parallel approach. The Board is interested in receiving information on used ATMs which cannot meet a maximum 48 inch vertical reach to the highest control from a parallel approach. To be useful, comments should include the ATM model number and the lowest vertical reach possible as measured from the floor to the highest control.[20]

Public Hearing

The Board has scheduled a public hearing in Washington, DC on May 28, 1992, 9:00 a.m. to 5:00 p.m., to hear from ATM manufacturers, banks, individuals with disabilities, and others who will be affected by the rulemaking. The hearing will be held at the Holiday Inn Crown Plaza, 775 12th Street, NW., Salon C, Washington, DC 20005. Persons who wish to present oral comments at the public hearing are encouraged to register in advance by calling the telephone numbers listed at the beginning of this notice. A block of time will be reserved in the afternoon of May 28th for those who wish to register on the day of the hearing. Persons who register in advance will be notified by May 22, 1992 of the time assigned to make their presentation. If there is not adequate time to hear from all those wishing to present oral comments, the Board reserves the right to select among those wishing to speak in order to ensure that a range of viewpoints and interests is represented.

The public hearing site is accessible to individuals with disabilities. Sign language interpreters and an assistive listening system will be available for individuals with hearing impairments.

Dated: April 29, 1992.

For the Architectural and Transportation Barriers Compliance Board.

Gordon H. Mansfield,

Chair of the Board.

Attachment—Table 1 and Figure 1

[19] For ATMs installed through the wall, the horizontal reach is measured on the horizontal plane from the vertical plane of the wall to the highest control. See Figure 1 attached to this document. The horizontal reach can be extended by surrounds that project into the clear floor space provided for a parallel approach adjacent to the machine. For lobby ATMs that are not enclosed, the horizontal reach is measured on the horizontal plane from the vertical plane of the base of the machine to the highest control.

[20] See note 14, supra.

TABLE 1.—CURRENT ATM MODELS

Model	Highest control	Vertical reach from floor to highest control when ATM installed		Horizontal reach from wall to highest control [a]
		Per manufacturer's recommendation	At lowest possible height	
NCR Corporation				
5070 [b]	Receipt Dispenser	45"	45"	7"
5084	Statement Printer	49"	33"	7⅛"
5085	Card Reader	54"	38"	6½"
5674 [c]	Card Reader	53"	53"	8⅛"
5675 [c]	Card Reader	53"	53"	8⅛"
5684	Card Reader	54"	38"	8⅛"
5685	Card Reader	54"	38"	8⅛"
5663 [d]	Card Reader	43"	43"	6½"
5682 [e]	Card Reader	51"	51"	3½"
InterBold				
1060i [b]	Swipe Card Reader	54" (with 36" pedestal)	18" (without pedestal)	6⅛"
1061i [d]	Keypad	54" (with 36"pedestal)	18" (without pedestal)	6⅛"
1062i [b]	Card Reader	50"	50"	14"
1070i [i]	Card Reader	53"	38"	9½"
1072i [f]	Card Reader	46"	46"	16⅝"
Fujitsu Systems of America				
7010 [b]	CRT Function Keys [g]	53¼"	48"	1½"
	Card Reader [h]	48"	42¾"	1½"
7020 [b]	CRT Function Keys [g]	53¼"	48"	1½"
	Card Reader [h]	48"	42¾"	1½"
7030 [i]	CRT Function keys [g]	47¼"	42"	[j] 5½"
	Card Reader [h]	42"	36¾"	[j] 5½"
7040 [i]	CRT Function Keys [g]	53¼"	48"	[j]5½"
	Card Reader [h]	48"	42¾"	[j] 5½"

[a] For lobby ATMs, the horizontal reach is measured from the vertical plane of the base of the machine, unless otherwise noted.
[b] Lobby ATM.
[c] This model may also be used as a lobby ATM. Data in this chart is for through-the-wall installation.
[d] Information only (noncash) ATM.
[e] Interactive sales platform ATM.
[f] This model has an "enhanced access" facia to make the machine more comfortable to use from a standing position.
[g] This model has an optional software enhancement that allows transaction selection from either the CRT function keys or the numeric keyboard which is located below the CRT function keys.
[h] In model with software enhancement that permits transactions to be selected from the numeric keyboard, the card reader is the highest control.
[i] This model may be used as either a drive-up or a walk-up ATM. Data in this chart are for walk-up installation.
[j] This model can be installed with the controls on the same vertical plane as the wall for a zero horizontal reach.

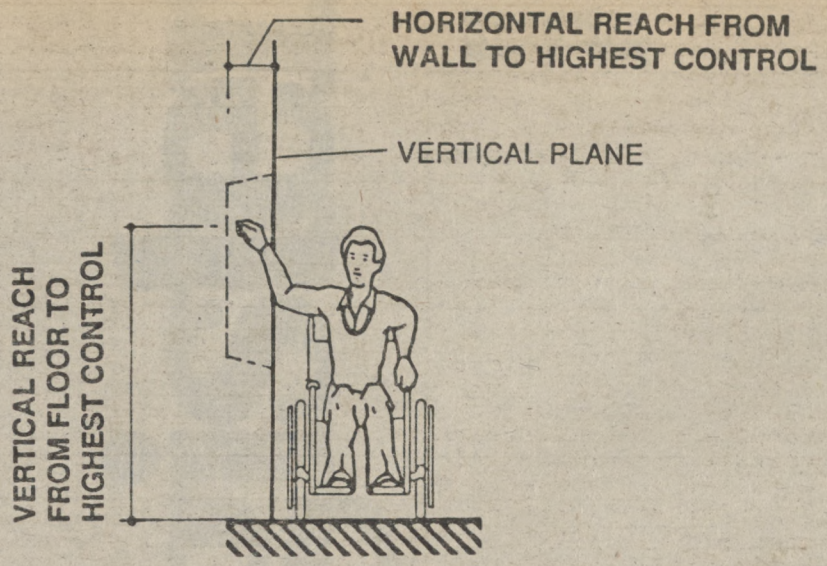


Figure 1

VERTICAL AND HORIZONTAL REACHES TO ATM CONTROLS

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federal register

Wednesday
May 6, 1992

Part IV

Department of Education

National English Literacy Demonstration Program for Individuals of Limited English Proficiency; Final Priorities for FY 1992 and Invitation for Applications for FY 1992; Notices

DEPARTMENT OF EDUCATION

National English Literacy Demonstration Program for Individuals of Limited English Proficiency

AGENCY: Department of Education.

ACTION: Notice of final priorities for fiscal year 1992.

SUMMARY: The Secretary announces priorities for awards to be made in fiscal year (FY) 1992 using funds appropriated in FY 1991 under the National English Literacy Demonstration Program. Under an absolute priority, Federal financial assistance will be used to create partnerships among service providers to develop and implement transitional programs in English literacy. The proposed partnerships must include at least one community-based organization and at least one community college or technical institute, but may also include other public or private nonprofit agencies, institutions or organizations. Within the same competition, under a competitive preference, up to 30 additional points will be awarded to transitional projects that include certain key components.

EFFECTIVE DATE: The provisions in this notice take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Laura Karl Messenger, U.S. Department of Education, 400 Maryland Avenue, SW., room 4512–MES, Washington, DC 20202–7327. Telephone: (202) 732–2365. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: In accordance with section 372(d), Part C, Adult Education Programs, the purpose of the National English Literacy Demonstration Program for Individuals of Limited English Proficiency is to develop innovative approaches and methods of English literacy education. These approaches and methods must be designed to help limited English proficient adults and out-of-school youth to achieve full competence in the English language, and should be based on current research on effective and innovation programs for limited English proficient adults.

As studies about literacy programs suggest, English literacy programs that help limited English proficient adults to realize both their employment and educational goals are more effective in increasing English proficiency than those programs that lack these mutually reinforcing relationships. Transitional English literacy programs coordinate services among English-as-a Second-Language (ESL) instructional levels and among service providers. Their purposes are to:

(1) Help limited English proficient adults and out-of-school youth make the transition from one instructional level to another, and from one instructional service provider to another; and

(2) Prepare them for the literacy demands of vocational education, college transfer, or college credit programs.

Transitional English literacy programs provide a broad range of instruction. A partnership among service providers is necessary because one service provider often provides a different level of English literacy instruction than another. Community-based organizations, community colleges, and technical institutes are specifically identified for inclusion in the partnership because they have often represented opposite ends of the English literacy instructional spectrum. Community-based organizations tend to provide beginning levels of ESL and literacy instruction, while community colleges and technical institutes tend to provide more advanced levels of ESL instruction that prepare individuals for participation in vocational or other academic programs. In many locales, it is likely that other service providers will also be included in the partnership, to ensure that all appropriate service providers will work together to provide a well-coordinated English literacy demonstration program. However, the Secretary believes that the participation of at least one community-based organization and at least one community college or technical institute is essential for each project.

Within the absolute priority for partnerships providing transitional programs in English literacy, the Secretary establishes a competitive preference for projects containing certain key components. These components are identified in this notice under the heading "Selection Criterion." From the demonstration projects that are funded, the Secretary hopes to derive new methods or approaches in program design, coordination of services, and English literacy instruction.

Note: The Adult Education Act authorizes the use of funds exclusively for adult education. Because the Act does not authorize the use of funds for vocational education, college transfer, or college credit programs, instruction for these purposes is not permitted under this program. Only those instructional methods or approaches designed to prepare limited English proficient individuals for participation in these programs or to increase their English literacy skills while they are enrolled in these programs are allowed.

The Secretary wishes to highlight, for potential applicants, that this program can help to further the purposes of AMERICA 2000, the President's education strategy to help America move itself toward the National Education Goals. Specifically, the program addresses Track III of the AMERICAN 2000 strategy—Transforming America into "A Nation of Students"—and National Education Goal 5—ensuring that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

On November 19, 1991, the Secretary published a notice of proposed priorities for this program in the **Federal Register** (56 FR 58480).

Note: This notice of final priorities does not solicit applications. A notice inviting applications under this competition is published in a separate notice in this issue of the **Federal Register**.

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priorities, 19 parties submitted comments on the proposed notice. Three commenters supported the priorities as written and recommended no change. An analysis of all other comments follows:

Partnership Requirement

Comments: Fourteen commenters addressed the absolute priority requiring that eligible applicants propose a partnership involving at least one community-based organization and at least one community college or technical institute. Eight commenters asserted that local educational agencies should be both eligible applicants and eligible partners. Other commenters suggested that partnerships should also include four-year institutions of higher education, employment and training agencies or organizations, or any combination of an expanded list of eligible applicants that would include these entities. One commenter recommended that the priority be for a partnership between a community-based organization and any educational entity.

Discussion: The proposed priority would not exclude any of the above-mentioned entities from submitting an application or participating as a partner under this program. At a minimum, however, a partnership would have to include at least one community-based organization and at least one community college or technical institute. The Secretary believes that the presence of these two kinds of entities in a partnership is essential to ensure that participants are provided with a broad continuum of ESL instructional services.

Changes: None.

Definition of Transitional Program

Comments: Four commenters asked for a definition of "transitional English literacy programs". One commenter felt the term "comprehensive adult English-as-a-Second-Language" or "sheltered English as-a-Second-Language" should be used to describe the program rather than "transitional English literacy" program. Another commenter stated that English literacy students are several levels away from being ready to transition into regular (credit) community college classes. Another commenter asked whether the term "transitional" meant transition from native language literacy to oral ESL, transition from ESL literacy to regular ESL beginning levels, or transition from ESL to academic or vocational study.

Discusssion: Transitional English literacy programs create a continuum of services across the ESL instructional spectrum, and may include native language literacy instruction through ESL preparation for academic or vocational study. Their purpose is to prepare participants for advancement from one instructional level to another. In many locales, the separate, sometimes disparate parts of a transitional English literacy program may already exist. What these separate programs lack is a transitional ESL curriculum that bonds the programs together into a total continuum of ESL instructional services. The Secretary anticipates that the partnership among service providers will foster the coordination of services that is necessasry to develop and implement an effective transitional English literacy program.

Changes: None.

Individualized Education Plan

Comments: One commenter asserted that while an individualized education plan may be desirable for each program participant, it is not realistic to expect programs not receiving Federal demonstration funds to provide this service, as very few adult programs have access to counseling services.

Discussion: As transitional English literacy programs create a continuum of ESL instructional services and prepare participants for advancement from one instructional level to another, participants most likely will enter the program at different points along the ESL instructional continuum. Consequently, transitional English literacy programs must be designed to meet the different English literacy needs of each participant. By referencing an individualized education plan in the selection criterion for the competitive preference, the Secretary acknowledges that English literacy students are a diverse group with varied learning styles and educational needs. Further, since preliminary data from the National Evaluation of Adult Education Programs study indicate that 91 percent of adult education programs offer counseling as a support service, the Secretary believes the use of individualized education plans can be an important and feasible component of effective transitional English literacy programs.

Changes: None.

Research and Development

Comments: Two commenters expressed concern that the program does not appear to allow for research and development efforts to advance the field of ESL. One commenter recommended that the program emphasize the development of models of assessment criteria for placement into and exit from one program and entrance into another.

Changes: The competitive preference calls for the development of a transitional ESL curriculum that is content-based, and that facilitates a smooth transition among instructional levels and service providers. Inherent in the development of an effective transitional ESL curriculum is the need for criteria to assess participants' progress. The Secretary agrees, however, that the competitive preference should be clear on this point.

Changes: The criterion for the competitive preference has been expanded to include a component on use of measures for assessing participants' transition through the various levels and components of the proposed program.

Selection Criteria

Comments: Three commenters recommended selection criteria for this program. They recommended that the selection criteria include a criterion for evaluation, use of current research, and institutional experience with ESL populations.

Discussion: The Secretary will use all the selection criteria published in 34 CFR part 435 of the Adult Education Act regulations to evaluate applications submitted under this competition. Because these published selection criteria already include evaluation, use of current research, and institutional experience with ESL populations, no change is necessary to address the commenters' concerns.

Changes: None.

Use of Current Research

Comments: One commenter recommended the Secretary require that the approaches and methods proposed under this program be based on current research on effective and innovative education for language minority adults.

Discussion: The Secretary agrees that applicants should be encouraged to consider current research findings in the field, but does not think it would be appropriate to include such a general requirement.

Changes: Under the Supplementary Information section of this notice, the Secretary encourages applicants to consider current research findings on effective and innovative education for limited English proficient adults in designing their projects.

Terminology

Comments: One commenter recommended that the term "English literacy" be changed to "English competence", as most limited English proficient students need to improve their oral communication skills as well as their reading, writing and grammar skills.

Discussion: The term "English literacy" is used in the statutory title of this program. "English literacy program" is defined in section 312 of the Adult Education Act as: "a program of instruction designed to help limited English proficient adults, out-of-school youth, or both, achieve full competence in the English language." The Secretary believes that the term "full competence" includes speaking, listening, reading, and writing.

Changes: None.

Target Population

Comments: One commenter requested that the program's target population be expanded to include newly immigrated youth who are not yet in school or who are on summer vacation.

Discussion: The Adult Education Act, which authorizes this program, defines an adult as an individual who has

attained 16 years of age or who is beyond the age of compulsory school attendance under applicable State law. It also contains definitions of "adult education" and "out-of-school" youth. To the extent that newly immigrated youth meet these definitions they would be eligible. The Secretary does not interpret these definitions to include youth who are not enrolled in school simply because school is not in session.

Changes: None.

Priorities

Absolute Priority

Under 34 CFR 75.105(c)(3) and section 372(d), part C of the Adult Education Act, the Secretary gives preference to applications that meet the following priority. The Secretary funds under this competition only applications that propose partnerships among service providers to develop and implement a transitional English literacy demonstration program. A transitional English literacy demonstration program coordinates services among ESL instructional levels and among service providers. Its purpose is to: (1) Help limited English proficient adults and out-of-school youth make the transition from one instructional level to another, and from one instructional service provider to another; and (2) prepare them for the literacy demands of vocational education, college transfer, or college credit programs. Eligible applicants for the National English Literacy Demonstration Program include public or private non-profit agencies, institutions, or organizations. Under this absolute priority, any eligible entity may apply. However, it must propose a partnership involving at least one community-based organization and at least one community college or technical institute. Note that because community-based organizations, community colleges, and technical institutes are themselves public or private non-profit agencies or institutions, they are eligible to submit an application as a partnership among themselves. Partnerships must be structured in accordance with 34 CFR 75.127–29. All partners must enter into a signed agreement, detailing the activities that each partner plans to perform, designating one partner to act as the applicant on behalf of the partnership, and binding each partner to the statements and assurances made by the applicant in the application.

Competitive Preference

Under 34 CFR 75.105(c)(2)(i) and section 372(d), part C of the Adult Education Act, the Secretary gives preference to transitional projects that include the key components listed in this notice under the heading "Selection criterion." The Secretary awards up to 30 points to an application that meets this competitive preference in a particularly effective way. These points are in addition to any points the application earns under the selection criteria for the program.

Selection Criterion

The following selection criterion will be used to determine the extent to which a project responds to the competitive preference.

Projects that develop and implement a transitional English literacy program must include the following key components:

(1) Outreach efforts that identify those limited English proficient adults and out-of-school youth who are most in need of English literacy programs.

(2) An individualized education plan for each program participant, based on individual assessment and counseling.

(3) A transitional ESL curriculum that is content-based, and that facilitates a smooth transition among instructional levels and service providers.

(4) Use of measures for assessing each participant's transition through the various levels and components of the proposed program.

(5) Support services and retention strategies throughout all phases of the program.

(6) Coordination of services among all service providers.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Applicable Program Regulations: 34 CFR parts 425 and 435.

Program Authority: 20 U.S.C. 1211a(d), *et seq.*

(Catalog of Federal Domestic Assistance Number 84.223A National English Literacy Demonstration Program for Individuals of Limited English Proficiency)

Dated: April 9, 1992.

Lamar Alexander,

Secretary of Education.

[FR Doc. 92–10503 Filed 5–5–92; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.223]

National English Literacy Demonstration Program for Individuals of Limited English Proficiency; Notice Inviting Applications for Fiscal Year (FY) 1992 Funds

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing the program, including the Education Department General Administrative Regulations (EDGAR), the notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition.

Purpose of Program: The National English Literacy Demonstration Program for Individuals of Limited English Proficiency provides financial assistance for the development of innovative approaches and methods used in English literacy programs for individuals of limited English proficiency. The Secretary wishes to highlight, for potential applicants, that this program can help to further the purposes of AMERICA 2000, the President's education strategy to help America move itself toward the National Education Goals. Specifically, the program adresses Track III of the AMERICA 2000 strategy—Transforming America into "A Nation of Students"—and National Education Goal 5—ensuring that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Eligible Applicants: Public or private nonprofit agencies, institutions, or organizations. However, applicants are directed to the notice of final priorities for this program, published elsewhere in this issue of the **Federal Register**, which gives a more complete statement of eligibility requirements.

Deadline for Transmittal of Applications: June 8, 1992.

Deadline for Intergovernmental Review: August 7, 1992.

Available Funds: $698,987.

Estimated Range of Awards: $150,000—$316,000.

Estimated Average Size of Awards: $233,000.

Estimated Number of Awards: 3.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals and Nonprofit Organizations).

(2) 34 CFR Part 75 (Direct Grant Programs).

(3) 34 CFR Part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR Part 81 (General Education Provisions Act—Enforcement).

(7) 34 CFR Part 82 (New Restrictions on Lobbying).

(8) 34 CFR Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) 34 CFR Part 86 (Drug-Free Schools and Campuses).

(b) The regulations for this program in 34 CFR part 435.

Priorities: The priorities in the notice of final priorities for this program, as published elsewhere in this issue of the **Federal Register**, apply to this competition.

Selection Criteria: The Secretary uses the following selection criteria to evaluate applications for new grants under this competition.

The maximum score for all of these criteria is 100 points.

The maximum score for each criterion is indicated in parentheses. The Secretary assigns the 15 points, reserved in 34 CFR 435.20(b), as follows: 10 additional points to the selection criterion in 34 CFR 435.21(c) (Plan of operation) for a total of 30 points for that criterion; and 5 additional points to the selection criterion in 34 CFR 435.21(g) (Budget and cost effectiveness) for a total of 10 points for that criterion.

(a) *Extent of need for the project.* (15 points) The Secretary reviews each application to determine the extent to which the project meets specific needs, including consideration of—

(1) The need for the innovative approaches and methods of English literacy education for individuals of limited English proficiency that the project proposes to develop;

(2) How the needs were identified; and

(3) How the project will meet the needs.

(b) *Project objectives.* (10 points) The Secretary reviews each application to determine the extent to which the project objectives—

(1) Relate to the innovative approaches and methods of English literacy education for individuals of limited English proficiency proposed for use in the project;

(2) Are clearly stated;

(3) Are measurable; and

(4) Describe appropriate outcomes.

(c) *Plan of operation.* (30 points) The Secretary reviews each application to determine the quality of the plan of operation for the project including—

(1) The quality of the project design and how it incorporates the use of new instructional methods and technologies;

(2) The extent to which the management plan is well-designed and ensures proper and efficient administration of the project;

(3) The quality of the applicant's plan to use its resources and personnel to achieve each objective; and

(4) How the applicant will select project participants and ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition.

(d) *Evaluation.* (15 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate to the project;

(2) To the extent possible, are objective and produce data that are quantifiable;

(3) Contribute to the possible replication of the project; and

(4) To the extent possible, include a third party evaluation.

(e) *Quality of key personnel.* (15 points)

(1) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(i) The qualifications of the director and other key personnel to be used in the project, particularly as their experience and expertise relate to English literacy and training in English-as-a-second-language for adults;

(ii) The appropriateness of the time that each person referred to in paragraph (e)(1)(i) of this section will commit to the project; and

(iii) How the applicant, as part of its nondiscriminatory employment practices, will ensure that personnel will be selected without regard to race, color, national origin, gender, age, or handicapping condition.

(2) To determine personnel qualifications under paragraphs (e)(1)(i) and (ii), the Secretary consideres—

(i) Experience and training in fields related to the objectives of the project;

(ii) Experience and training in project management; and

(iii) Any other qualifications that pertain to the quality of the project.

(f) *Institutional commitment.* (5 points) The Secretary reviews each application to determine the extent to which the applicant's agency, institution, or organization—

(1) Has experience in providing English literacy services for individuals of limited English proficiency;

(2) Will provide appropriate resources; and

(3) Will provide adequate facilities, equipment, and supplies.

(g) *Budget and cost effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project; and

(2) Costs are reasonable in relation to the objectives of the project.

Additional factors: In making awards under this program, the Secretary considers, in addition to the selection criteria, whether funding a particular application would contribute to the funding of a variety of approaches and methods.

Intergovernmental Review of Federal Programs: This program is subject to the requirements of Executive Order 12373 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applications must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive Order. If you want to know the name and address of any State Single Point of Contact, see the list

published in the **Federal Register** on April 2, 1992 (57 FR 11354).

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA 84.223, U.S. Department of Education, Room 4161, 400 Maryland Avenue, SW., Washington, DC 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Eastern time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. *Do not send applications to the above address.*

Instructions for Transmittal of Applications: (a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and six copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.223), Washington, DC 20202–4725 or

(2) Hand deliver the original and six copies of the application by 4:30 p.m. (Eastern time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.223), room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC 20202–4725.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgement to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is submitted.

Application Instructions and Forms: To apply for an award under this program competition, your application must be organized in the following order and include the following five parts:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)).

Part II: Budget Information.

Part III: Budget Narrative.

Part IV: Program Narrative.

Part V: Additional Assurances and Certifications:

a. Assurances—Non-Construction Programs (Standard Form 424B).

b. Certification regarding Lobbying: Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and Instructions.

c. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and Instructions.

(Note: The grantee should keep this form on file. It should not be transmitted to the Department.)

d. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and Instructions, and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL–A).

All forms and instructions are included as appendix A of this notice. Questions and answering pertaining to this program are included, as appendix B, to assist potential applicants.

All applicants must submit ONE original signed application, including ink signatures on all forms and assurances and SIX copies of the application. Please mark each application as original or copy. Local or State agencies may choose to submit two copies with the original.

No grant may be awarded unless a complete application form has been received. (20 U.S.C. 1241–1391)

For Further Information Contact: Laura Karl Messenger, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 4512—MES), Washington, DC 20202–7242. Telephone (202) 732–2365. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1221a(d).

Dated: April 29, 1992.

Betsy Brand,

Assistant Secretary, Office of Vocational and Adult Education.

BILLING CODE 4000–01–M

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:

Application	Preapplication
☐ Construction	☐ Construction
☒ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (*give city, county, state, and zip code*):	Name and telephone number of the person to be contacted on matters involving this application (*give area code*)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

8. TYPE OF APPLICATION:

☒ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration

D. Decrease Duration Other (*specify*):

7. TYPE OF APPLICANT: (*enter appropriate letter in box*) ☐

A. State H. Independent School Dist.
B. County I. State Controlled Institution of Higher Learning
C. Municipal J. Private University
D. Township K. Indian Tribe
E. Interstate L. Individual
F. Intermunicipal M. Profit Organization
G. Special District N. Other (Specify): _____

9. NAME OF FEDERAL AGENCY:
U.S. Department of Education

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 . 2 2 3

TITLE: National English Literacy Demonstration Program for Individuals of Limited English Profiency

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (*cities, counties, states, etc.*):

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	A	B	C
1. Personnel			
2. Fringe Benefits (Rate %)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (lines 1 through 7)			
9. Indirect Cost (Rate %)			
10. Training Costs/Stipends			
11. TOTAL, Federal Funds Requested (lines 8 through 10)			

SECTION B - Cost Sharing Summary (if appropriate)

	A	B	C
1. Cash Contribution			
2. In-Kind Contribution (only costs specifically for this project)			
3. TOTAL, Cost Sharing (Rate %)			

NOTE: For FULLY-FUNDED PROJECTS use Column A to record the first 12-month budget period; Column B to record the remaining months of the project; and Column C to record the total.

For MULTI-YEAR PROJECTS use Column A to record the first 12-month budget period; Column B to record the second 12-month budget period; and Column C to record the third 12-month budget period.

SECTION C - Budget Estimates (Federal Funds Only) For Balance of Project

Budget Periods

Second	Third	Fourth	Fifth

INSTRUCTIONS FOR PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

1. Personnel: Show salaries to be paid to project personnel.

2. Fringe Benefits: Indicate the rate and amount of fringe benefits.

3. Travel: Indicate the amount requested for both inter- and intra-State travel of project staff. Include funds for at least one trip for two people to attend a project director's meeting in Washington, D.C.

4. Equipment: Indicate the cost of non-expendable personal property that has a useful life of more than one year and a cost of $300 or more per unit ($5,000 or more if State, Local, or Tribal Government).

5. Supplies: Include the cost of consumable supplies and materials to be used during the project.

6. Contractual: Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment; and (2) sub-contracts.

7. Other: Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.

8. Total, Direct Cost: Show the total for lines 1 through 7.

9. Indirect Costs: Indicate the rate and amount of indirect costs. NOTE: For training grants, the indirect cost rate cannot exceed 8%.

10. Training/Stipend Cost: (if allowable)

11. TOTAL, Federal Funds Requested: Show total for lines 8 through 10.

SECTION B - Cost Sharing Summary

Indicate the actual rate and amount of cost sharing when there is a cost sharing requirement. If cost sharing is required by program regulations, the local share required refers to a percentage of TOTAL PROJECT COST, not of Federal funds.

SECTION C - Budget Estimates (Federal Funds Only) for Balance of Project

If the project period exceeds 12 months, include cost estimates for the continuation budget periods, as appropriate. This SECTION does not apply to projects that are full-funded.

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Instructions for Part III—Budget Narrative

The budget narrative should explain, justify, and, if needed, clarify your budget summary. For each line item (personnel, fringe benefits, travel, etc.) in your budget, explain why it is there and how you computed the costs.

Please limit this section to no more than five pages. Be sure that each page of your application is numbered consecutively.

Instructions for Part IV—Program Narrative

The program narrative will comprise the largest portion of your application. This part is where you spell out the who, what, when, where, why, and how of your proposed project.

Although you will not have a form to fill out for your narrative, there is a format. This format is the selection criteria. Because your application will be reviewed and rated by a review panel on the basis of the selection criteria, your narrative should follow the order and format of the criteria.

Before preparing your application, you should carefully read the legislation and regulations of the program, eligibility requirements, information on any priority set by the Secretary, and the selection criteria for this competition.

Your program narrative should be clear, concise, and to the point. Begin the narrative with a one page abstract or summary of your proposed project. Then describe the project in detail, addressing each selection criterion in order.

The Secretary strongly suggests that the applicant limit the program narrative to no more than 30 double-spaced typed pages (on one side only), although the Secretary will consider applications of greater length. Be sure to number consecutively ALL pages in your application.

You may include supporting documentation as appendices. Be sure that this material is concise and pertinent to this program competition.

Applicants are advised that: (a) The Department considers only information contained in the application in ranking applications for funding consideration. Letters of support sent separately from the formal application package are not considered in the review by the technical review panels. (34 CFR 75.217)

(b) The technical review panel evaluates each application solely on the basis of the established technical review criteria. Letters of support contained in the application will strengthen the application only insofar as they contain commitments that pertain to the established technical review criteria, such as commitment and resources.

Additional Materials

Instructions for Estimated Public Reporting Burden

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing that Act, the Department of Education invites comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 90 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project, OMB 1830–0514, Washington, DC 20503. (Information collection approved under OMB control number 1830–0514. Expiration date: 6/30/92)

BILLING CODE 4000–01–M

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

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Prescribed by OMB Circular A-102

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 --

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 --

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about--

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will--

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 --

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013, 6/90 (Replaces ED 80-0008, 12/89; ED Form GCS-008, (REV. 12/88); ED 80-0010, 5/90; and ED 80-0011, 5/90, which are obsolete)

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material change
For Material Change Only:
year _____ quarter ____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known:*

Congressional District, *if known:*

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:

Congressional District, *if known:*

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, *if applicable:* _____

8. Federal Action Number, *if known:*

9. Award Amount, *if known:*
$

10. a. Name and Address of Lobbying Entity
(if individual, last name, first name, MI):

b. Individuals Performing Services *(including address if different from No. 10a)*
(last name, first name, MI):

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply):*
$ _____ ☐ actual ☐ planned

12. Form of Payment *(check all that apply):*
☐ a. cash
☐ b. in-kind; specify: nature _____
value _____

13. Type of Payment *(check all that apply):*
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ **Date:** _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 mintues per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ **Page** _____ **of** _____

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Standard Form - LLL-A

BILLING CODE 4000-01-C

Appendix B

Potential applicants frequently direct questions to officials of the Department regarding application notices and programmatic and administrative regulations governing various direct grant programs. To assist potential applicants the Department has assembled the following most commonly asked questions.

Q. Can we get an extension of the deadline?

A. No. A closing date may be changed only under extraordinary circumstances. Any change must be announced in the **Federal Register** and apply to all applications. Waivers for individual applications cannot be granted regardless of the circumstances.

Q. How many copies of the application should I submit and must they be bound?

A. Our new policy calls for an original and six copies to be submitted. The binding of applications is optional.

Q. May we use this same application to compete for funds under a different grant program?

A. Yes, however, the likelihood of success is not good. A properly prepared application must meet the specifications of the grant program to which it is submitted.

Q. I'm not sure which grant program is most appropriate for my project. What should I do?

A. We are happy to discuss any questions with you and provide clarification on the unique elements of the various grant programs.

Q. Will you help us prepare our application?

A. We are happy to provide general program information. Clearly, it would not be appropriate for staff to participate in the actual writing of an application, but we can respond to specific questions about application requirements, evaluation criteria, and the priorities. Applicants should understand that this previous contact is not required, nor will it in any way influence the success of an application.

Q. When will I find out if I'm going to be funded?

A. You can expect to receive notification within 3 to 4 months of the application closing date, depending on the number of applications received and the number of grant programs with closing dates at about the same time.

Q. Once my application has been reviewed by the review panel, can you tell me the outcome?

A. No. Every year we are called by a number of applicants who have legitimate reasons for needing to know the outcome of the review prior to official notification. Some applicants need to make job decisions, some need to notify a local school district, etc. Regardless of the reason, because final funding decisions have not been made at that point, we cannot share information about the review with anyone.

Q. Will my application be returned if I am not funded?

A. We no longer return unsuccessful applications. Thus, applicants should retain at least one copy of the application.

Q. Can I obtain copies of reviewers' comments?

A. Upon written request, reviewers' comments will be mailed to unsuccessful applicants.

Q. Is travel allowed under these projects?

A. Travel associated with carrying out the project is allowed. Because we may request the project director of funded projects to attend an annual project directors meeting, you may also wish to include a trip or two to Washington, D.C. in the travel budget. Travel to conferences is sometimes allowed when it is for purposes of dissemination.

Q. If my application receives high scores from the reviewers, does that mean that I will receive funding?

A. Not necessarily. It is often the case that the number of applications scored highly by the reviewers exceeds the dollars available for funding projects under a particular competition. The order of selection, which is based on the scores of all the applications and other relevant factors, determines the applications that can be funded.

Q. What happens during negotiations?

A. During negotiations technical and budget issues may be raised. These are issues that have been identified during the panel and staff reviews that require clarification. Sometimes issues are stated as "conditions." These are issues that have been identified as so critical that the award cannot be made unless those conditions are met. Questions may also be raised about the proposed budget. Generally, these issues are raised because there is inadequate justification or explanation of a particular budget item, or because the budget item seems unimportant to the successful completion of the project. If you are asked to make changes that you feel could seriously affect the project's success, you may provide reasons for not making the changes or provide alternative suggestions. Similarly, if proposed budget reductions will, in your opinion, seriously affect the project activities, you may explain why and provide additional justification for the proposed expenses. An award cannot be made until all negotiation issues have been resolved.

Q. How do I provide an assurance?

A. Except for SF–424B, "Assurances—Non-Construction Programs," which must be completed, simply state in writing that you are meeting a proscribed requirement.

Q. Where can copies of the **Federal Register**, program regulations, and Federal statutes be obtained?

A. Copies of these materials can usually be found at your local library. If not, most can be obtained from the Government Printing Office by writing to: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Telephone: (202) 783–3238. When requesting copies of regulations or statutes, it is helpful to use the specific name, public law number, or part number. The material referenced in this notice should be referred to as follows:

(1) Adult Education Act, as amended by the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100–297).

(2) 34 CFR Part 435 (National English Literacy Demonstration Program for Individuals of Limited English Proficiency).

(3) 34 CFR parts 1–299.

[FR Doc. 92–10504 Filed 5–5–92; 8:45 am]

BILLING CODE 4000–01–M

federal register

Wednesday
May 6, 1992

Part V

Resolution Trust Corporation

12 CFR Part 1609

Affordable Housing Disposition Program; Interim Final Rule

RESOLUTION TRUST CORPORATION

12 CFR Part 1609

RIN 3205-AA03

Affordable Housing Disposition Program

AGENCY: Resolution Trust Corporation.

ACTION: Interim final rule; request for comments.

SUMMARY: The Resolution Trust Corporation (RTC) is amending the existing regulations governing its Affordable Housing Disposition Program (AHDP). The amendments set forth in this interim final rule are necessary because the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act (the Refinancing Act) of 1991 changed the manner in which the RTC is to identify, market and sell certain affordable housing properties. This interim final rule also clarifies certain policies of the RTC regarding the disposition of assets in the AHDP. By implementing the statutory changes required by the Refinancing Act and by clarifying certain provisions of the AHDP, these regulations will enhance the availability and affordability of residential real property for very-low income, lower-income and moderate-income families and individuals.

DATES: This interim final rule is effective May 6, 1992. Comments must be received by July 6, 1992.

ADDRESSES: Written comments regarding this interim final rule should be addressed to John M. Buckley, Jr., Executive Secretary, Resolution Trust Corporation, 801 17th Street, NW., Washington, DC 20434–0001. Comments may be hand delivered to room 314 on business days between 9 a.m. and 5 p.m. Comments may also be inspected in the Public Reading Room, 801 17th Street, NW., between 9 a.m. and 5 p.m. on business days. Phone number: 202–416–6940; FAX 202–416–4753.

FOR FURTHER INFORMATION CONTACT: Stephen S. Allen, Director, Affordable Housing Disposition Program, (202) 416–7348, or Barry Wides, Financing Coordinator, Affordable Housing Disposition Program, (202) 416–7138. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION: On August 31, 1990 (55 FR 35564), the Resolution Trust Corporation (RTC) published a final rule establishing the procedures to be followed by the RTC in connection with the sale of eligible residential properties to qualifying purchasers under the Affordable Housing Disposition Program (AHDP). Those procedures were established in accordance with the affordable housing provisions of section 21A(c) of the Federal Home Loan Bank Act, as amended by section 501 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 1441a).

The Refinancing Act, enacted on December 12, 1991, amended certain of the affordable housing provisions of FIRREA. The primary purpose of this interim final rule is to implement the statutory changes made to the AHDP by the Refinancing Act and to incorporate those changes into the existing affordable housing regulations.

In addition to the amendments required by the Refinancing Act, this interim final rule also clarifies the RTC's policies on several issues relating to the disposition of assets in the AHDP. Most significantly, this interim final rule (i) amends the definition of "useful life" to state that the useful life of a property ends in the event of involuntary loss of use of the property, (ii) explains the RTC's options if an offer to purchase multifamily property fails after the bona fide offer period expires, and (iii) provides a formula for calculating preferences for sales that benefit lower-income groups. The formula for calculating preferences for sales that benefit lower-income groups clarifies RTC procedures with respect to a provision in FIRREA concerning the evaluation of substantially similar offers. Specifically, FIRREA directs the RTC when choosing among substantially similar offers to give preference to the offer that would preserve the highest percentage of dwelling units for occupancy by very low-income and lower-income families. This rule will standardize RTC procedures and put potential purchasers on notice as to the specific manner in which their bids will be evaluated. This formula will provide an adjustment to a purchaser's cash equivalent offer to recognize the diminished rental income potential of properties that contain lower-income occupancy restrictions above the minimum statutory set aside.

Other stylistic changes to the regulations have also been made.

Because of the length of the interim final rule and the volume of changes, this interim final rule is published in its entirety.

Administrative Procedure Act

The RTC is adopting this regulation as an interim final regulation. It will be effective immediately upon publication in the **Federal Register**, without the usual notice-and-comment period or delayed effective date as provided for in the Administrative Procedure Act, 5 U.S.C. 553. These requirements may be waived for "good cause." The RTC believes that "good cause" exists because the amendments made to the affordable housing provisions of FIRREA by the Refinancing Act took effect immediately upon the enactment of the Refinancing Act. Moreover, immediate clarification of existing policies is necessary in order to avoid undue delays in the disposition of affordable housing properties.

By implementing these changes immediately, the RTC is complying with the mandate from Congress to dispose of single family, multifamily and condominium properties expeditiously and to the benefit of low and moderate income households. The immediate effectiveness of the regulation is also necessary to avoid public confusion regarding the RTC's policies and procedures in this area. Such confusion could impede the sales of affordable housing properties resulting in deterioration of existing inventory and increased holding costs associated with these properties. Such costs would ultimately be borne by the taxpayer.

For the reasons, the RTC finds that the benefits to the public in adopting an interim final rule outweigh any harm from the delay in seeking public comment. The RTC solicits comment and will consider those comments in the adoption of the rule as final, which will take place within 90 days after the close of the public comment period.

Regulatory Flexibility Act

As required by the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, the following initial regulatory flexibility analysis is hereby provided:

1. Reasons, objectives, and legal bases underlying the interim final regulations: These elements have been discussed elsewhere in the Supplementary Information and Administrative Procedure Act.

2. Impact of the interim final regulations on small businesses: This rule is not expected to have a significant economic impact on a substantial number of small entities. The RTC expects, rather, that the regulation will result in a benefit to small business entities whose service will be utilized in fulfilling the mandates of the legislation.

3. Overlapping or conflicting federal rules. There are no known federal rules which overlap, duplicate, or conflict with the interim final regulations.

List of Subjects in 12 CFR Part 1609

Low and moderate income housing, Reporting and recordkeeping requirements, Savings associations.

For the reasons set out in the preamble, title 12 chapter XVI of the Code of Federal Regulations is amended by revising part 1609 to read as follows:

PART 1609—AFFORDABLE HOUSING DISPOSITION PROGRAM

Sec.

1609.1 Authority, purpose, and scope.
1609.2 Definitions.
1609.3 Clearinghouses.
1609.4 Technical assistance advisors.
1609.5 Brokers and other marketing specialists.
1609.6 RTC staff.
1609.7 Marketing period.
1609.8 Recapture of profits from resale.
1609.9 Suspension of marketing period for sales to nonprofit organizations and public agencies.
1609.10 Reporting.
1609.11 Transfer of eligible properties to State housing finance agencies, State housing agencies and local housing agencies.

Authority: 12 U.S.C. 1441a.

§ 1609.1 Authority, purpose, and scope.

The regulations in this part implement section 21A(c) and section 21A(b)(12) of the Federal Home Loan Bank Act, as added by section 501 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 1441a), and as amended by the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, Public Law 102–139, 105 Stat. 736, and the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Pub. L. 102–233) (codified at 12 U.S.C. 1441a(c)). This part applies to the disposition of eligible residential properties to qualifying purchasers to provide homeownership and rental housing opportunities for very low-income, lower-income, and moderate-income families. The Affordable Housing Disposition Program will be carried out in accordance with applicable requirements of the Fair Housing Act (42 U.S.C. 3601–3619) and other applicable civil rights authorities.

§ 1609.2 Definitions.

(a) *Adjusted income and income* shall have the meanings given such terms in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)).

(b) *Adjustment for family size* means that factor based on family size applied by the RTC to median income to determine a family's adjusted income for purposes of this program. For RTC purposes, 50 percent and 65 percent of area median income numbers shall be adjusted for family size in the same manner as HUD adjusts 50 percent numbers; and 80 percent and 115 percent numbers shall be adjusted in the same manner as HUD adjusts 80 percent numbers.

(c) *Annual income* has the same meaning as such term has under 24 CFR 813.106.

(d) *Bona fide offer* means an offer to purchase eligible multifamily property which meets the terms and conditions set forth in the applicable notice of readiness for sale and includes the information set forth in § 1609.7(b)(7) of this part.

(e) *Bulk purchase offer* means an offer to purchase in a single transaction two or more eligible residential properties.

(f) *Cash equivalent offer* means an offer after application of a cash equivalency calculation consisting of a discounted cash flow comparison between cash offers for a property and seller financed offers for the same property.

(g) *Clearinghouse* means:

(1) The States housing finance agency for the State in which an eligible residential property is located;

(2) The Office of Community Investment (or other comparable division) within the Federal Housing Finance Board in the jurisdiction where the eligible residential property is located; and

(3) Any national nonprofit organizations (including any nonprofit entity under title IX of the Housing and Community Development Act of 1968) (42 U.S.C. 3931) that the RTC determines has the capacity to act as a clearinghouse for information.

(h) *Condominium project* means real estate which has five or more residential condominium units and the remaining portions of which are designated for common ownership solely by the owners of the condominium units, each owner having an undivided interest in the common elements; provided however, that such condominium units are not required to be located in the same structure, but must be part of a common condominium regime or plan.

(i) *Condominium unit* means a portion of a condominium project designated for separate ownership.

(j) *Eligible condominium property* means a condominium unit:

(1) To which the RTC acquires title in its coporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

(2) That has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) (without regard to any increase of such amount of high cost areas).

(k) *Eligible residential property* includes eligible single family, eligible multifamily property and eligible condominium property.

(l) *Eligible multifamily property* means a property consisting of more than four dwelling units:

(1) To which the RTC acquires title either in its corporate capacity or as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under receivership, which subsidiary has as its principal business the ownership of real property), but not in its capacity as an operating conservator; and

(2) That has an appraised value or value determined by the RTC that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 1715*l*(d)(3)(ii)), for elevator-type structures (without regard to any increase of such amount for high-cost areas).

(m) *Eligible single family property* means a one- to four-family residence (including a cooperative or manufactured home permanently attached to real estate):

(1) To which the RTC acquires title in its corporate capacity, its capacity as conservator, or its capacity as receiver (including its capacity as the sole owner of a subsidiary corporation of a depository institution under conservatorship or receivership, which subsidiary has as its principal business the ownership of real property); and

(2) That has an appraised value or value determined by the RTC that does not exceed the applicable dollar amount set forth in the first sentence to section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) (without regard to any increase of such amount for high-cost areas).

(n) *HUD* means the U.S. Department of Housing and Urban Development.

(o) *Lower-income occupancy requirements* means:

(1) With respect to eligible multifamily property, that not less than 35 percent of all dwelling units purchased by a qualifying multi-family purchaser in a single transaction shall be made available for occupancy by, and be maintained as affordable for, lower-

income families during the remaining useful life of the property in which the units are located, provided that not less than 20 percent of all units shall be made available for occupancy by, and be maintained as affordable for, very low-income families during the remaining useful life of such property;

(2) With respect to eligible single family property, that all eligible single family property purchased by public agencies or nonprofit organizations shall be made available for occupancy by, and be maintained as affordable for, lower-income families for the remaining useful life of the property, or be made available for purchase by any such family that agrees to occupy the property as a principal residence for at least 12 months and certifies in writing that the family intends to occupy the property for at least 12 months; and

(3) With respect to eligible condominium property, that, unless otherwise waived by the RTC in accordance with § 1609.7(c)(4)(ii) of this part, all condominium properties purchased by public agencies, nonprofit organizations, or for-profit entities shall be made available for occupancy by, and be maintained as affordable for, lower-income families for the remaining useful life of the property, or be made available for purchase by any such family who agrees to occupy the property as a principal residence for at least 12 months and who certifies in writing that the family intends to occupy the property for at least 12 months.

(p) *Lower-income families* means families and individuals whose incomes do not exceed 80 percent of area median income, as defined under 42 U.S.C. 1437a(b)(2) and as determined by the Secretary of HUD, with adjustment for family size.

(q) *LURA* means a Land Use Restriction Agreement or other form of recordable legal agreement between the RTC and the purchaser of eligible residential property which sets forth the lower-income occupancy requirements and other restrictions on the property.

(r) *Marketing period* means the period of time during which qualifying purchasers have exclusive rights to make offers to purchase eligible single family properties or eligible condominium properties and to submit expressions of serious interest in purchasing eligible multifamily properties. The marketing period begins, with respect to an eligible residential property, on the date specified in the Notice of Marketing Period issued by the RTC for the property. The marketing period ends, with respect to an eligible single family property, three months and one week after the date so specified in the Notice of Marketing Period. The marketing period ends, with respect to an eligible multifamily property, three months after the date so specified in the Notice of Marketing Period; however, if the marketing period is extended in accordance with the provisions of § 1609.7(b)(12) of this part, the marketing period will end three months after the date specified in the subsequent Notice of Marketing Period or on an earlier date, if any, specified in the subsequent Notice of Marketing Period. The marketing period ends, with respect to an eligible condominium property, 180 days after the date so specified in the Notice of Marketing Period.

(s) *Median income for the area* has the same meaning as the term has under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437a). For RTC purposes 65 percent of area median income numbers shall be based upon HUD's income limits for very low-income families and 115 percent of area median income numbers, upon HUD income limits for lower-income families.

(t) *MOU* means memorandum of understanding.

(u) *Moderate-income families* means families and individuals whose incomes exceed 80 percent but do not exceed 115 percent of area median income, as determined by the Secretary of HUD, with adjustment for family size.

(v) *National nonprofit organization* means a nonprofit organization which has membership in more than one State or operates housing and community development programs or provides technical assistance in more than one State.

(w) *Net realizable market value* means a price below the market value that takes into account:

(1) Any reductions in holding costs resulting from the expedited sale of a property including, but not limited to, foregone real estate taxes, insurance, maintenance costs, security costs, potential diminution of value from property being held in inventory, and loss of use of funds; and

(2) The avoidance, where applicable, of fees paid to real estate brokers, auctioneers, or other individuals of organizations involved in the sale of property owned by the RTC.

(x) *Nonprofit organization* means a private organization (including a limited equity cooperative):

(1) No part of the net earnings of which inures to the benefit of any member, shareholder, founder, contributor, or individual; and

(2) That is approved by the RTC as to financial responsibility.

(y) *Principal residence* means the dwelling at which a household resides for at least a majority of each year.

(z) *Public agency* means any Federal, State, local, or other governmental entity, and includes any public housing agency.

(aa) *Qualifying condominium purchaser* means:

(1) A qualifying household, in the case of eligible condominium property offered for sale individually; or

(2) In the case of eligible condominium property offered for sale in bulk, a nonprofit organization, public agency or for-profit entity, which makes a commitment to satisfy the lower-income occupancy requirements for the eligible condominium property for which it makes a purchase offer.

(bb) *Qualifying household* means a household:

(1) That intends to occupy an eligible single family property as a principal residence;

(2) That agrees to occupy the property as a principal residence for at least 12 months;

(3) That certifies in writing that the household intends to occupy the property as a principal residence for at least 12 months; and

(4) Whose income does not exceed 115 percent of area median income, as determined by the Secretary of HUD, with adjustment for family size.

(cc) *Qualifying multifamily purchaser* means a public agency, a nonprofit organization, or a for-profit entity which makes a commitment to satisfy the lower-income occupancy requirements for any eligible multifamily property for which it makes a purchase offer.

(dd) *Qualifying purchaser* includes qualifying single family purchasers, qualifying multifamily purchasers, and qualifying condominium purchasers. For bulk sales transactions, qualifying purchaser excludes qualifying households.

(ee) *Qualifying single family purchaser* means a qualifying household (including qualifying households with members who are veterans), or a public agency or nonprofit organization that agrees to either:

(1) Make an eligible single family property available for occupancy as affordable housing for lower-income families (including lower-income families with members who are veterans) during the remaining useful life of such property; or

(2) Make the property available for purchase by any such family that agrees to occupy the property as a principal residence for at least 12 months and that certifies in writing that the family

intends to occupy the property for at least 12 months.

(ff) *Recapture* means the process by which the RTC receives a percentage of the proceeds from the sale of properties which are subject to recapture, as set forth in § 1609.8 of this part.

(gg) *RTC* means the Resolution Trust Corporation.

(hh) *Secretary* means the Secretary of Housing and Urban Development.

(ii) *Subsidiary* means an entity which is a wholly-owned subsidiary of a depository institution under conservatorship or receivership, as applicable, which has as its principal business the ownership of real property, including wholly-owned subsidiaries of subsidiaries.

(jj) *Technical assistance advisor (TAA)* means a public agency or nonprofit organization that is designated by the RTC to provide assistance to potential purchasers of eligible residential property.

(kk) *Useful life* means the later of forty (40) years from the date of the LURA or fifty (50) years from the date the property was initially occupied as multifamily housing; provided, however, that in the event of an involuntary loss of use of the property caused by seizure, condemnation, foreclosure, deed in lieu of foreclosure, fire or other casualty, the useful life of the property shall terminate on the date of such loss.

(ll) *Very low-income families* means families and individuals whose incomes do not exceed 50 percent of area median income, as defined under 42 U.S.C. 1437a(b)(2) and as determined by the Secretary of HUD, with adjustment for family size.

§ 1609.3 Clearinghouses.

(a) *Eligibility.* Clearinghouses shall include:

(1) The State housing finance agency for the State in which an eligible residential property is located;

(2) The Office of Community Investment (or other comparable division) within the Federal Housing Finance Board in the jurisdiction where the eligible residential property is located; and

(3) Any national nonprofit organization(s) that the RTC determines has the capacity to act as a clearinghouse for information.

(b) *Designation.* The RTC shall designate one or more eligible Clearinghouses to act in that capacity in each State.

(1) *State housing finance agencies.* The RTC may ask the Governor of each State to confirm the designation of the State housing finance agency to serve as a clearinghouse. At the Governor's discretion, the clearinghouse function may be supported, in part, by a State agency, which is not a State housing finance agency, serving as a technical assistance advisor.

(2) *Office of Community Investment.* The RTC may ask the Federal Housing Finance Board (FHFB) to designate the Office of Housing Finance Programs or other comparable division to serve as a clearinghouse. At the FHFB's discretion, the clearinghouse function may be delegated to, or supplemented in whole or in part by, its District Banks.

(3) *National nonprofit organizations.* The RTC may ask national nonprofit organizations to submit a written request for designation as a clearinghouse. The request should take the form of a written expression of interest in serving as a clearinghouse; evidence of Internal Revenue Code Section 501(c)(3) (26 U.S.C. 501) designation; a list of cities and States in which the organization is operating; a description of experience in promoting low- and moderate-income housing; the latest annual report; and a description of means by which the organization will disseminate property information. The RTC may, in its discretion, accept or reject such a request in writing.

(c) *Functions.* (1) Under the terms of the MOU's to be entered into between the RTC and the clearinghouses, the clearinghouses shall perform the following functions:

(i) Serve as repository of property listings and Notices of Marketing Period from the RTC for public inspection; and

(ii) Make information available upon request during the marketing period to qualifying purchasers concerning eligible residential properties for which the clearinghouse has received a Notice of Marketing Period.

(2) Clearinghouses are encouraged to perform the following functions:

(i) Disseminate RTC property inventories as well as listings of properties for which they have received Notices of Marketing Period for sale on a regular basis to State and local government agencies, nonprofit housing organizations, for-profit entities, organizations representing special population groups such as the homeless, and disabled, handicapped, and elderly persons, and mumbers of minority groups; and

(ii) Publicize the availability of eligible residential properties through various media, including newspapers and other media serving minority groups.

(3) A clearinghouse shall not be subject to suit for its failure to comply with the requirements of this section.

§ 1609.4 Technical assistance advisors.

(a) *Eligibility.* Technical assistance advisors may include clearinghouses, State and local public agencies, and nonprofit organizations.

(b) *Designation.* An eligible entity may submit a written request to the RTC regional and national office for designation as a TAA; evidence of Internal Revenue Code Section 501(c)(3) (26 U.S.C. 501) designation, where applicable; a description of experience in promoting low—and moderate-income housing; and a description of the functions that the entity proposes to perform, identifying staffing capability to perform such functions. The RTC may, in its discretion, accept or reject such a request in writing.

(c) *Functions.* A TAA may assist a purchaser of an eligible residential property. It may perform one or more of the following functions:

(1) Qualifying single family property purchasers and qualifying condominium property purchasers;

(2) Assisting qualifying households to identify suitable properties and secure financing;

(3) Assisting qualifying multifamily purchasers and qualifying condominium purchasers to identify suitable properties and secure financing;

(4) Assisting sponsors of housing for special populations, such as homeless, disabled, handicapped, and elderly persons, in identifying suitable properties and secure financing;

(5) Providing specialized assistance to qualifying purchasers; or

(6) Assisting in other promotional services as needed by the RTC such as information disseminations, identification of qualifying purchasers, and other promotional activities as needed.

(d) *Compensation.* (1) The RTC shall enter into an MOU with each TAA which will specify the services that the TAA will perform.

(2) The MOU may provide that the RTC shall compensate the TAA for its sevices on a basis agreed upon between the RTC and TAA. Compensation arrangements may include special compensation for services which lead to the purchase of eligible residential properties by lower-income families.

§ 1609.5 Brokers and other marketing specialists.

(a) *Designation.* The RTC shall involve brokers, auctioneers, and other marketing specialists in the marketing of eligible residential properties that it offers for sale.

(b) *Functions.* The broker, auctioneer, or other marketing specialist shall:

(1) Actively market the eligible residential properties on its listing, including using multi-listing services, as appropriate, and advertising in local media and media targeted to low- and moderate-income families (including those who are members of minority groups and those with members who are veterans);

(2) Pre-qualify and counsel prospective purchasers, as prescribed by the RTC;

(3) Provide an opportunity for prospective purchasers to inspect the property and to review property records, including purchasers identified by TAA's, without regard to race, color, religion, sex, national origin, handicap, and familial status;

(4) Certify that they—

(i) Will not decline to show properties, or discriminate in the marketing or sale of properties because of race, color, religion, sex, national origin, handicap, or familial status;

(ii) Will prominently display the Fair Housing Poster in all offices where brokering and sales activities take place;

(iii) Will use the Equal Housing Opportunity logo, slogan, or statement in advertising; and

(iv) Will use any available minority media (in addition to other media that are used) when advertising properties;

(5) Present offers or contracts from qualifying purchasers to the RTC for acceptance, rejection, or counter offer, along with certifications of eligibility from the qualifying purchasers; and

(6) Perform all other responsibilities incident to the sale and closing.

(c) *Compensation.* The RTC shall enter into a listing agreement with each broker or, at its discretion, utilize open listing agreements which specify the mutual responsibilities of the RTC and the broker and which provide for compensation as a percentage of the sales price of a property sold with the broker's services. The RTC shall compensate the auctioneers and other marketing specialists for their services on the basis of a contract which specifies the services to be provided and rate of compensation. Compensation arrangements may include incentives for the sale of properties to qualifying lower income families and individuals (including lower income veterans and lower income families with members who are veterans).

§ 1609.6 RTC staff.

(a) *Designation.* The RTC shall designate affordable housing disposition specialists on the staff of regional and consolidated field offices and sales centers.

(b) *Functions.* (1) The affordable housing disposition specialists generally shall perform the following functions:

(i) Coordinate sales of eligible residential properties in each office and serve as an advocate for the program;

(ii) Review and approve written requests from eligible entities to serve as TAA's;

(iii) Negotiate an MOU with each TAA regarding the services to be performed and the method and amount of compensation;

(iv) Negotiate an MOU with the clearinghouses regarding the services to be performed;

(v) Within a reasonable time after acquisition of title of eligible residential properties, send a list of eligible residential properties to clearinghouses with a Notice of Marketing Period, and coordinate the sale of properties to non-profit organizations or public agencies;

(vi) Monitor marketing efforts of clearinghouses, TAA's, and brokers or their marketing specialists, giving particular attention to marketing of eligible single family properties and eligible condominium properties for sale to lower-income families, and marketing of properties to special populations and minority groups;

(vii) Identify potential sources of financing for eligible residential properties through coordination with Federal, State, and local agencies and private lenders and investors;

(viii) Coordinate with other Federal agencies that are selling residential properties in the same market areas; and

(ix) Carry out all other necessary activities for the program.

(2) The functions performed by the affordable housing disposition specialists may be amended or expanded from time to time at the discretion of the RTC.

§ 1609.7 Marketing period.

(a) *Eligible single family property*—(1) *Notice of Marketing Period.* (i) When an eligible single family property is ready for marketing, the RTC shall send a Notice of Marketing Period to the clearinghouse serving the area in which the property is located. The Notice shall be transmitted by certified mail or any other means of communication with date and time confirmation.

(ii) The property listing accompanying the Notice shall contain basic information on the property including, at a minimum, information on property location, size, construction, condition, number of rooms, number of bedrooms, number of bathrooms, list price based on an estimated fair market value, and contact person.

(iii) The Notice shall specify a date that begins the start of the Marketing Period.

(2) *Qualifying single family purchasers*—(i) *Households.* To qualify to purchase an eligible single family property, a household must certify in writing to the RTC that its income does not exceed 115 percent of area median income, with adjustment for family size; and that it intends to occupy the property as a principal residence for at least 12 months.

(ii) *Public agencies and nonprofit organizations.* To qualify to purchase one or more eligible single family properties, a public agency or nonprofit organization must certify to the RTC that it will make the property available for occupancy by, and maintain it as affordable for, lower-income families (including low-income families with members who are veterans) for the remaining useful life of such property; or make the property available for purchase by any such family that agrees to occupy the property as a principal residence for at least 12 months and certifies in writing that the family intends to occupy the property for at least 12 months.

(iii) *Penalty for false certifications.* A household that provides false or incomplete information regarding its income or that falsely certifies that it intends to occupy the property as its principal residence can be fined or imprisoned pursuant to 18 U.S.C. 1001. A household that sells the property within 12 months of acquisition will be subject to the recapture provisions set forth in § 1609.8 of this part.

(3) *Offer and sale.* The RTC may sell eligible single family property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum sale price. The RTC may, before the end of the marketing period, accept purchase offers on eligible single family property from qualifying single family purchasers.

(4) *Preference for sales that benefit lower income groups*—(i) *Purchase offers from qualifying households.* In choosing among equal purchase offers qualifying households for eligible single family property, the RTC will give preference to the bids from the households in the lower income groups (e.g. very low-income over lower-income).

(ii) *Purchase offers from non-profit organizations and public agencies.* In choosing among bulk purchase offers from non-profit organizations and public agencies, the RTC will give preference to the offer that would reserve the highest percentage of single family

properties for occupancy or purchase by very low-income families and would retain such affordability for the longest term (not exceeding the term of the applicable LURA). The preference will be calculated in accordance with the following formula:

Add to the cash equivalent offer, 0.25% of that cash equivalent offer for each 1% of the properties set aside for occupancy or purchase by very low-income families.

Example: Non-profit organization X offers to purchase 10 eligible single family properties for $300,000 and agrees to reserve 5 of those properties for occupancy or purchase by very low-income families. Non-profit organization Y offers to purchase the same 10 eligible single family properties for $325,000 and intends to reserve all fo the properties for occupancy and purchase by lower-income families (but not very low-income families). Although Y has offered more for the properties, the properties should be sold to non-profit organization X for $300,000.

X's offer=$300,000.

X's preference price=$300,000+($300,000×50×0.0025)=($300,000+$37,500=$337,500

Y's offer=$325,000. Y does not receive a preference because Y did not set aside any of the properties for occupancy or purchase by very low-income families.

(5) *Deed restriction*—(i) *Qualifying households.* An eligible single family property purchased by a qualifying household which is subject to recapture must be so restricted by a LURA or other recorded instruments for the recapture period.

(ii) *Non-profit organizations and public agencies.* Eligible single family properties purchased by a public agency or nonprofit organization for rental or resale to lower-income families must be so restricted by a LURA or other recorded instrument which is binding upon successors in interest, with the provisions that the property may subsequently be sold to a lower-income family without further deed restrictions (except the recapture restrictions). The LURA or other recorded legal instrument shall also require the property owner to cooperate with an annual compliance review and to pay a reasonable fee to cover the cost of the review.

(iii) Lower-income occupancy requirements shall be judicially enforceable against purchasers of eligible single family property or their successors in interest by affected very low- and lower-income families, State housing finance agencies, and any agency, corporation, or authority of the United States Government.

(6) *Restrictions on the rental of single family properties.* (i) In the event that a public agency or nonprofit organization purchases one or more eligible single family properties for rental purposes, the rents charged to very low-income families may not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of area median income, with adjustment for family size; and the rents charged to lower-income families may not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of area median income, with adjustment for family size.

(ii) Where a property is occupied by a family receiving housing assistance payments, pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1401), as amended, the family's contribution toward rent may not exceed 30 percent of the family's adjusted income, and the rent on the property may not exceed 30 percent of 50 percent of area median income.

(7) *Continued occupancy of current residents.* No public agency or nonprofit organization which purchases one or more eligible single family properties may terminate the occupancy of any person residing in the property on the date of purchase for purposes of meeting the lower-income occupancy requirement. The purchaser shall be in compliance with the requirement if each newly vacant dwelling property is reserved for lower-income occupancy until the lower-income occupany requirement is met.

(8) *Property offered for resale.* If the RTC receives a purchase offer, but fails to close on an eligible single family property, the RTC may accept an alternative contract offer or notify the appropriate clearinghouses so that the property can be re-offered for sale for an appropriate interval determined by the RTC, provided, however, that the appropriate interval shall not exceed 97 days.

(9) *Sales after the marketing period.* If the RTC does not receive a purchase offer for an eligible single family property within the applicable marketing period, the RTC may sell the property to any purchaser.

(10) *Avoidance of displacement.* During the marketing period, the RTC may sell an eligible single family property to the household residing in the property without regard to the income of the houshold, provided that:

(i) Such household is residing in the property at the time the Notice of Marketing Period was provided to the clearinghouse;

(ii) Such sale was necessary to avoid the displacement of, and unnecessary hardship to, the resident household;

(iii) The resident household intends to occupy the property as its principal residence for at least 12 months; and

(iv) The resident household certifies in writing that the household intends to occupy the property for at least 12 months and is subject to the penalties described in § 1609.7(a)(2)(iii) of this part if the household fails to comply with the residency requirement.

(b) *Eligible multifamily property*— (1) *Notice of Marketing Period.* (i) The RTC shall send a Notice of Marketing Period to clearinghouses when an eligible multifamily property is ready for marketing to qualifying multifamily purchasers. The RTC shall send a second Notice of Marketing Period to the clearinghouse if it determines, in accordance with § 1609.7(b)(12) of this part, to extend the marketing period for an eligible multifamily property. The Notice shall be transmitted by certified mail or any other means of communications with date and time confirmation.

(ii) The property listing accompanying the Notice shall include, at a minimum, basic information on property location, condition, and age, number of units, number of units occupied, amenities, the list price based on an estimated fair market value of the property, and contact person.

(iii) The Notice shall specify a date that begins the start of the marketing period.

(iv) During the marketing period, the RTC shall offer an eligible multifamily property exclusively to qualfying multifamily purchasers.

(v) The RTC shall allow qualifying multifamily purchasers reasonable access to eligible properties for purposes of inspection.

(2) *Qualifying multifamily purchasers.* Prior to receiving access to an eligible multifamily property, a public agency, nonprofit organization, or for-profit entity must make a written commitment (for itself or any related entity) to the listing broker or other marketing specialist that it is a qualifying multifamily purchaser which will satisfy the lower-income occupancy requirements in any eligible multifamily property for which it requests access, if and when it makes an offer to purchase that property. The written commitment should acknowledge the terms and conditions governing the sale of eligible multifamily properties. This commitment will be included as a part of the bid package.

(3) *Determination of market value.* The RTC shall establish a market value and a net realizable market value for each eligible multifamily property, giving consideration to the lower-income occupancy requirements and the related rent limitations.

(4) *Lower-income occupancy requirements*—(i) *Rent limitations.* (A)

(A) To comply with lower-income occupancy requirements, the rents charged to very low-income families may not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of area median income, with adjustment for family size; and the rents charged to lower-income families may not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of area median income, with adjustment for family size.

(B) Where a unit is occupied by a family receiving housing assistance payments, pursuant to section 8 of the United States Housing Act of 1937, as amended, the family's contribution toward rent may not exceed 30 percent of the family's adjusted income, and the rent on the unit may not exceed 30 percent of 50 percent of area median income.

(ii) *Continued occupancy of current residents.* No purchaser of an eligible multifamily property may terminate the occupancy of any person residing in the property on the date of purchase for purposes of meeting the lower-income occupancy requirement. The purchaser shall be in compliance with the requirement if each newly vacant dwelling unit is reserved for lower-income occupancy until the lower-income occupancy requirement is met.

(iii) *Financial infeasibility.* The Secretary or the State housing finance agency for the State in which the property is located may temporarily reduce the lower-income occupancy requirements applicable to a property sold under this program if the Secretary or the applicable State housing finance agency determines that an owner's compliance with such requirements is no longer financially feasible. The owner of the property shall make a good-faith effort to return lower-income occupancy to the level required by the property's LURA, and the agency, as appropriate, shall review the reduction annually to determine whether financial infeasibility continues to exist.

(5) *Expression of serious interest.* Before the end of the marketing period, a qualifying multifamily purchaser may express serious interest in purchasing an eligible multifamily property from the RTC. The expression of serious interest shall be submitted to the listing broker or other marketing specialist and shall provide evidence that the purchaser intends to prepare a bona fide offer and has the ability to purchase the property. At a minimum, the documentation supporting the expression of serious interest would include:

(i) Confirmation of public, nonprofit, or for-profit status;

(ii) A financial statement and evidence of a source of equity funds; and

(iii) Certification of no prior exclusion from Federal procurement or non-procurement programs.

(6) *Notice of Readiness for Sale.* At the end of the marketing period, the RTC will send a Notice of Readiness for Sale only to qualifying multifamily purchasers that submitted, during the marketing period, a written expression of serious interest in an eligible multifamily property. This Notice will outline the minimum terms and conditions for sale of the property.

(7) *Bona fide offer.* Within forty-five days after receipt of a Notice of Readiness for Sale, a qualifying multifamily purchaser may submit a bona fide offer to purchase the property. The Notice of Readiness for Sale will be deemed received 5 days after it is mailed. The bona fide offer, as specified in the bid package, should include:

(i) A sale contract constituting a binding offer for a sum certain accompanied by a reasonable earnest money deposit specific specified by the RTC;

(ii) A conditional commitment for financing from a lender, a request for seller financing, or other evidence, acceptable to the RTC, of financial resources to consummate the transaction;

(iii) A written commitment to meet specific lower-income occupancy objectives and the process for complying with these objectives;

(iv) A written description of experience in housing ownership or management, preferably of low- and moderate-income housing;

(v) Reaffirmation or revision of the information submitted with the expression of serious interest;

(vi) A governing body resolution, where applicable, authorizing the purchase and affirming the commitment to meet the lower-income occupancy requirements.

(8) *Failed offers.* (i) If, before the expiration of the 45-day period for submission of bona fide offers, the offer to purchase a property initially accepted by the RTC is subsequently rejected or fails (for any reason), the RTC shall accept another offer to purchase the property that complies with the terms and conditions established by the RTC (if another offer was made during the 45-day period for submission of bona fide offers). This provision does not require a qualifying multifamily purchaser whose offer is accepted during the bona fide offer period to purchase the property before the expiration of that period.

(ii) If, after the expiration of the 45-day period for the submission of bona fide offers, the offer to purchase a property initially accepted by the RTC is subsequently rejected or fails (for any reason), the RTC, in its sole discretion, may negotiate with any of the parties who submitted bona fide offers on the property during the bona fide offer period to secure an offer acceptable to the RTC.

(9) *Preference for sales that benefit lower income groups.* In choosing among bona fide offers for eligible multifamily property, the RTC will give preference to the offer that would reserve the highest percentage of dwelling units for occupancy by very low-income families and lower-income families and would retain such affordability for the longest term (not exceeding the term of the deed restrictions). For this § 1609.7(b)(9) only, *lower-income families* means families and individuals whose incomes are greater than 50 percent of area median income but do not exceed 80 percent of area income, as defined under 42 U.S.C 1437a(b)(2) and as determined by the Secretary of HUD, with adjustment for family size. The preference will be calculated in accordance with the following formula:

Add to the cash equivalent offer—

0.25% of the cash equivalent offer amount for each 1% of the "very low-income" units that exceed the minimum 20% very low-income units requirement, and

0.125% of the cash equivalent offer amount for each 1% of the "lower income" units that exceed the minimum 15% lower-income units requirement.

Example: Multifamily purchaser A offers to purchase an eligible multifamily property for $1,000,000 and agrees to reserve 20% of the units for occupancy by very low-income families and 30% for lower-income families. Multifamily purchaser B offers to purchase the same eligible multifamily property for $900,000 and intends to reserve 50% of the units for occupancy by very low-income families and 50% for occupancy by lower-income families. Multifamily purchaser C offers to purchase the eligible multifamily property for $1,015,000 and agrees to reserve 20% of the units for occupancy by very low-income families and 15% for occupancy by lower-income families. Under the preference formula described above, the property should be sold to purchaser A for $1,000,000.

A's offer=$1,000,000.

A's preference price = $1,000,000 + ($1,000,000 × 15 × 0.00125) = $1,000,000 + $18,750 = $1,018,750.

B's offer=$900,000.

B's preference price=$900,000+($900,000×30×0.0025)+($900,000×35×0.00125)=$900,000+$67,500+$39,375=$1,006,875.

C's offer=$1,015,000. C does not receive a preference because C did not set aside any units above the minimum 20% for very low-

income families and 15% for lower income families.

(10) *Deed restrictions.* (i) Lower-income occupancy requirements shall be judicially enforceable against purchasers of eligible multifamily property or their successors in interest by affected very low- and lower-income families, State housing finance agencies, and any agency, corporation, or authority of the United States Government.

(ii) Lower-income occupancy requirements shall be contained in a LURA or other recorded legal instrument which shall require the property owner to cooperate with an annual compliance review and to pay a reasonable fee to cover the cost of the review.

(11) *Offer and sale of multifamily properties in bulk—(i) Expression of serious interest.* (A) The RTC may, in its discretion, list multiple eligible multifamily properties with a clearinghouse for bulk sale. During the marketing period, a qualifying multifamily purchaser may submit an expression of serious interest in a bulk sale package offered by the RTC.

(B) During the marketing period, a qualifying multifamily purchaser also may submit an expression of serious interest in a bulk package of its own choice accompanied by a list of eligible multifamily properties.

(ii) *Notice of Readiness for Sale.* At the end of the marketing period, the RTC shall send a Notice of Readiness for Sale to each qualifying multifamily purchaser who expressed serious interest in making a bulk purchase. The notice will identify the properties in the bulk sale package and will outline the minimum terms and conditions for the sale of the properties in the bulk sale package. The RTC will consider the expressions of serious interest, but reserves the right to determine the final composition of the bulk sale package.

(iii) *Bona fide offer.* Within 45-days of receipt of the Notice of Readiness for Sale, a qualifying multifamily purchaser may submit a bona fide purchase offer for the bulk sale package which conforms to the terms and conditions set forth in the Notice of Readiness for Sale. A qualifying multifamily purchaser, in its discretion, may submit both individual and bulk purchase offers for each multifamily property for which the RTC received an expression of serious interest from a purchaser interested in an individual sale. The offers shall be in conformance with the requirements in § 1609.7(b)(7) of this part.

(iv) All other restrictions on the sale of eligible multifamily property shall apply to bulk sales of eligible multifamily property.

(12) *Extended marketing period.* The RTC may, in its discretion, provide a second Notice of Marketing Period, and offer for sale any eligible multifamily property for which no qualifying multifamily purchaser has expressed serious interest during the initial marketing period, or for which no qualifying multifamily purchaser has made a bona fide offer within the 45-day period following the date of receipt of the Notice of Readiness for Sale. During the extended marketing period, the provisions for marketing and selling eligible multifamily property under this § 1609.7 shall apply, including the duration of the periods for submission of expressions of serious interest and bona fide offers (unless shortened by the RTC).

(13) *Sale to other purchasers.* If the RTC does not receive an expression of serious interest with respect to an eligible multifamily property during the marketing period, or does not receive a bona fide offer for such a property within the 45-day period following the date of receipt of a Notice of Readiness for Sale, the RTC may sell the property, individually or in combination with other properties, to any purchaser(s).

(c) *Eligible condominium property—*(1) *Notice of Marketing Period.* (i) The RTC shall send a Notice of Marketing Period to clearinghouses when an eligible condominium property is ready for marketing to qualifying condominium purchasers. The Notice shall be transmitted by certified mail or any other means of communication with date and time confirmation.

(ii) The Notice shall specify a date that begins the marketing period.

(iii) The Notice shall state whether the eligible condominium property is offered for sale individually or in bulk.

(iv) The property listing accompanying the Notice shall include, at a minimum, basic information on property location, size, construction, age, condition, amenities, number of rooms, number of bedrooms, number of bathrooms, list price based on an estimated fair market value, and contact person.

(v) The RTC shall allow qualifying condominium purchasers reasonable access to eligible properties for purposes of inspection.

(2) *Marketing eligible condominium properties.* Prior to listing an eligible condominium property with a clearinghouse, the RTC, in its sole discretion, will determine whether to offer the property for sale individually or as part of a bulk sale package of multiple eligible condominium properties. The composition of a bulk sale package will be determined solely by the RTC prior to listing the properties with a clearinghouse. Properties listed for sale on an individual basis will be available for purchase by qualifying households only. Properties listed as part of a bulk sale package may be purchased by nonprofit organizations, public agencies or for-profit entities. After 90 days of marketing, properties listed for individual sales may be relisted as part of a bulk sale package for the remaining 90 days.

(3) *Individual sales—*(i) *Qualifying condominium purchasers—qualifying households.* To qualify to purchase an eligible condominium property, a household must certify in writing to the RTC that its income does not exceed 115 percent of area median income, with adjustment for family size; and that in intends to occupy the property as a principal residence for at least 12 months.

(ii) *Avoidance of displacement.* During the marketing period, the RTC may sell an eligible condominium property to the household residing in the property without regard to the income of the household, provided that:

(A) Such household was residing in the property at the time the Notice of Marketing Period was provided to the clearinghouse;

(B) Such sale is necessary to avoid the displacement of, and unnecessary hardship to, the resident household;

(C) The resident household intends to occupy the property as its principal residence for at least 12 months; and

(D) The resident household certifies in writing that the household intends to occupy the property for at least 12 months.

(iii) *Penalty for false certifications.* A household that provides false or incomplete information regarding its income or that falsely certifies that it intends to occupy the property as its principal residence can be fined or imprisoned pursuant to 18 U.S.C. 1001. A household that sells the property within 12 months of acquisition will be subject to the recapture provisions set forth in § 1609.8 of this part.

(iv) *Deed restrictions.* An eligible condominium property purchased by a qualifying household or a resident household which is subject to recapture must be so restricted for the recapture period by deed or other recorded instrument.

(4) *Bulk sales to public agencies, nonprofit organizations and for-profit entities—*(i) *Lower-income occupancy requirement.* To qualify to purchase a bulk package of eligible condominium

properties, a public agency, nonprofit organization, or for-profit entity must certify to the RTC that it will make 100 percent of the properties purchased available for occupancy by, and will maintain the properties as affordable for, lower-income families (including lower-income families with members who are veterans) for the remaining useful life of such properties, or make the properties available for purchase by any such family that agrees to occupy the property as a principal residence for at least 12 months and certifies in writing that the family intends to occupy the property for at least 12 months and is subject to the penalties described in § 1609.7(c)(3)(iii) of this part if the household fails to comply with the residency requirement.

(ii) *Waiver of 100 percent lower-income occupancy requirement.* Notwithstanding the 100 percent lower-income occupancy requirement set forth in paragraph (c)(4)(i) of this section, the RTC may, in its sole discretion, waive the 100 percent lower-income occupancy requirement and provide instead that not less than 35 percent of all eligible condominium properties purchased shall be made available for occupancy by, and be maintained as affordable for, lower-income families for the remaining useful life of the property, or be made available for purchase by any such family that agrees to occupy the property as a principal residence for at least 12 months. Any determination by the RTC to reduce the percentage of properties set aside for lower-income and very low income families must be made prior to listing the property with a clearinghouse and the applicable percentages shall be specified in the Notice of Marketing Period.

(iii) *Rent limitations.* (A) To comply with lower-income occupancy requirements, the rents charged to very low-income families may not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of area median income, with adjustment for family size; and the rents charged to lower-income families may not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of area median income, with adjustment for family size.

(B) Where a unit is occupied by a family receiving housing assistance payments pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1401), as amended, the family's contribution toward rent may not exceed 30 percent of the family's adjusted income, and the rent on the unit may not exceed 30 percent of 50 percent of area median income.

(iv) *Continued occupancy of current residents.* No public agency, nonprofit organization, or for-profit entity which purchases eligible condominium property may terminate the occupancy of any person residing in the property on the date of purchase for purposes of meeting the lower-income occupancy requirement. The purchaser shall be in compliance with the requirement if each newly vacant dwelling unit is reserved for lower-income occupancy until the lower-income occupancy requirement is met.

(v) *Financial infeasibility.* The Secretary or the State housing finance agency for the State in which the property is located may temporarily reduce the lower-income occupancy requirements applicable to a property sold under this program if the Secretary or the applicable State housing finance agency determines that an owner's compliance with such requirements is no longer financially feasible. The owner of the property shall make a good-faith effort to return lower-income occupancy to the level required by the property's LURA, and the agency, as appropriate, shall review the reduction annually to determine whether financial infeasibility continues to exist.

(vi) *Written commitment before access.* Prior to receiving access to an eligible condominium property, a public agency, nonprofit organization, or for-profit entity must make a written commitment (for itself or any related entity) to the listing broker or other marketing specialist that it is a qualifying condominium purchaser that will satisfy the lower-income occupancy requirements in any eligible condominium property for which it requests access, if and when it makes an offer to purchase that property. The written commitment should acknowledge the terms and conditions governing the sale of eligible condominium properties.

(vii) *Location.* The RTC may not sell or offer to sell as part of the same negotiation or purchase multiple eligible condominium properties that are not located in the same condominium project.

(viii) *Preference for sales that benefit lower income groups.* In choosing among bulk purchase offers from non-profit organizations, public agencies and for-profit entities, the RTC will give preference to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income families and would retain such affordability for the longest term (not exceeding the term of the LURA). The preference will be calculated in accordance with the following formula:

Add to the cash equivalent offer, 0.25% of the cash equivalent offer for each 1% of the units set aside for occupancy or purchase by very low-income families.

Example: Non-profit organization X offers to purchase 10 eligible condominium properties for $300,000 and agrees to reserve 5 of those properties for occupancy or purchase by very low-income families. For-profit entity Y offers to purchase the same 10 eligible condominium properties for $325,000 and intends to reserve all of the properties for occupancy and purchase by lower-income families (but not very low-income families). Although for-profit entity Y has offered more for the properties, the properties should be sold to non-profit organization X for $300,000.

X's offer = $300,000

X's preference price = $300,000 + ($300,000 x 50 x 0.0025) = $300,000 + $37,500 = $337,500

Y's offer = $325,000. Y does not receive a preference because Y did not set aside any units for occupancy or purchase by very low-income families.

(ix) *Deed restrictions.* (A) Eligible condominium properties purchased by a public agency, nonprofit organization, or for-profit entity for rental or resale to lower-income families must be so restricted by a LURA or other recorded instrument which is binding upon successors in interest, with the provision that the property may subsequently be sold to a lower-income family without further deed restrictions (except for recapture restrictions). The deed or other recorded legal instrument shall also require the property owner to cooperate with an annual compliance review and to pay a reasonable fee to cover the cost of the review.

(B) Lower-income occupancy requirements shall be judicially enforceable against purchasers of eligible condominium property or their successors in interest by affected very low- and lower-income families, State housing finance agencies, and any agency, corporation, or authority of the United States Government.

(5) *Offer and sale.* The RTC shall establish a market value for each eligible condominium property. The RTC may sell eligible condominium property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum sales price.

(6) *Sale to other purchasers.* If the RTC does not receive a purchase offer with respect to an eligible condominium property during the marketing prior the RTC may sell the property, individually or in combination with other properties, to any other purchasers.

§ 1609.8 Recapture of profits from resale.

(a) *Properties subject to recapture.* All eligible single family property and eligible condominium property sold to the following purchasers shall be subject to the recapture provisions of this section if resold by the purchaser within one-year after acquisition of the property :

(1) Qualifying households;

(2) Lower-income families who purchase the property from a non-profit organization, a public agency or a for-profit entity, in accordance with §§1609.7(a), 1609.7(c), 1609.9, or 1609.11 of this part; and

3. Resident households who purchase the property under the avoidance of displacement provisions in § 1609.7(a)(10) or § 1609.7(c)(3) of this part.

(b) *Recapture formula.* The RTC shall receive 75 percent of the amount of any proceeds from resale in excess of the sum of:

(1) The original sale price for the acquisition of the property by the purchasers listed in § 1609.8(a);

(2) The actual cost of any improvements to the property made after the date of the acquisition; and

(3) Any closing costs in connection with the acquisition.

(c) *Exceptions to recapture*—(1) *Relocation.* The RTC may, in its discretion, waive the applicability of the recapture requirement to any qualifying household, lower-income family or resident household. The RTC may grant any such waiver only for good cause shown, including any necessary relocation of the affected household.

(2) *Other recapture provisions apply.* The recapture provisions shall not apply to any eligible single family property or eligible condominium property for which a portion of the sale proceeds or any subsidy provided in connection with the acquisition of the property is required to be recaptured or repaid under any other Federal, State, or local law (including section 143(m) of the Internal Revenue Code of 1986) (26 U.S.C. 143) or regulation, or under any sale agreement.

(d) *Deed restrictions.* The recapture provisions shall be set forth in a LURA or other recorded legal instrument.

§ 1609.9 Suspension of marketing period for sales to nonprofit organizations and public agencies.

(a) The RTC may, in its sole discretion, suspend any of the rules governing the disposition of eligible single family property set forth in 12 U.S.C. 1441a(c)(2)(A) and (B) or eligible multifamily property set forth in 12 U.S.C. 1441a(c)(3)(A) through (D), if during the duration of the suspension the RTC negotiates the sale of the property to a nonprofit organization or public agency. The RTC may determine the length of the suspension at the time of the suspension. If the property is not sold pursuant to such negotiations, the requirements of any provisions suspended shall apply upon termination of the suspension.

(b) Use restrictions. Eligible single family property and eligible multifamily property sold to a nonprofit organization or a public agency during the suspension period shall be subject to the following use restrictions:

(1) Eligible single family property—

(i) Must be made available for occupancy by, and be maintained as affordable for, lower-income families for the remaining useful life of the property, or be made available for purchase by such families;

(ii) Is subject to the rent and occupancy restrictions described in §§ 1609.7(a)(6) and (7) of this part;

(iii) Upon resale to a lower-income family, is subject to the principal residency requirements; and

(iv) Is subject to recapture.

(2) Eligible multifamily property—

(i) Must comply with the lower-income occupancy requirements for eligible multifamily property; and

(ii) Shall be subject to the rent limitations described in § 1609.7(b)(4)(i) of this part.

§ 1609.10 Reporting.

(a) Reports to Congress. The RTC shall submit to the Congress semiannual reports regarding the disposition of eligible residential property during the most recently concluded reporting period. The first report to Congress shall be submitted not later than April 12, 1992. Subsequent reports shall be submitted not less than every 6 months thereafter.

(b) Reporting period. The term *reporting period* means the six-month period for which a report under this § 1609.10 is made. The first reporting period shall be the period beginning on August 9, 1989, the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and ending on December 12, 1991, the date of the enactment of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991. Each successive reporting period shall begin upon the conclusion of the preceding reporting period.

(c) RTC regional offices will tract all sales of eligible residential property and maintain the following information for analysis and reports to Congress and the Thrift Depositor Protection Oversight Board:

(1) Property description, the location of the property, and the number of dwelling units in the property;

(2) Appraised value of the property;

(3) Sale price of the property;

(4) For eligible single family properties—

(i) The income and race (to the extent allowed by applicable federal law) of the purchaser of the property, if the property is sold to an occupying household, or is sold for resale to an occupying household; and

(ii) Whether the property is reserved for residency by very low- or lower-income families, if the property is sold for use as rental property;

(5) For eligible multifamily properties, the number and percentage of dwelling units in the property reserved for occupancy by very low- and lower-income families;

(6) The number of eligible single family properties sold after the expiration of the applicable marketing period for each such property;

(7) The number of eligible multifamily properties sold after the expiration of the periods for submission of a notice of serious interest and a bona fide offer to purchase;

(8) The number of eligible single family properties for which the marketing period had not expired before the conclusion of the applicable reporting period (or had not yet commenced); and

(9) The number of eligible multifamily properties for which the marketing period had not expired before the conclusion of the applicable reporting period (or had not yet commenced).

§ 1609.11 Transfer of eligible properties to State housing finance agencies, State housing agencies and local housing agencies.

(a) *Transfers to State and local housing agencies.* The RTC may, in its sole discretion, transfer eligible single family property and eligible multifamily property to the State housing finance agency or any State housing agency for the State in which the property is located or to any local housing agency in whose jurisdiction the property is located. The transfer may be conducted by direct sale, consignment sale, or any other method the RTC considers appropriate.

(b) *Individual or bulk transfers.* The RTC may transfer such properties individually or in bulk, as agreed to by the RTC and the State housing finance agency or State or local housing agency.

(c) *Acquisition price and discount.* The acquisition price paid by the State housing finance agency or State or local

housing agency for the transferred properties shall be an amount agreed to by the RTC and the transferee agency.

(d) *Affordability.* The State housing finance agency or State or local housing agency shall endeavor to make the properties transferred more affordable to lower-income families based upon the extent to which the acquisition price of a property is less than market value of the property.

(e) *Lower-income use.* Any State housing finance agency or State or local housing agency acquiring properties under this provision must agree that it will offer to sell or transfer the properties only in the manner set forth in 12 U.S.C. 1441a(c)(12)(C).

Dated at Washington, DC, this 28th day of April 1992.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 92–10293 Filed 5–5–92; 8:45 am]

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federal register

Wednesday
May 6, 1992

Part VI

Department of Health and Human Services

National Institutes of Health

Meeting of the Recombinant DNA Advisory Committee and Proposed Actions Under the Guidelines for Research Involving Recombinant DNA Molecules; Notices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Advisory Committee Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee on June 1–2, 1992. The meeting will be held at the National Institutes of Health (NIH), building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20892, starting at approximately 9 a.m. on June 1, 1992, to adjournment at approximately 5 p.m. on June 2, 1992. The meeting will be open to the public to discuss the following proposed actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules (51 FR 16958):

Proposed Major Actions to the *NIH Guidelines;*

Eleven additions to appendix D of the *NIH Guidelines* Regarding Human Gene Therapy/Gene Transfer Protocols;

An addition to section IV–C–2 of the *NIH Guidelines* Regarding Conflicts of Interest;

Addition to the *Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA into the Genome of Human Subjects* regarding Submission Requirements for Human Gene Transfer/Gene Therapy Protocols;

Other Matters To Be Considered by the Committee.

Attendance by the public will be limited to space available. Members of the public wishing to speak at this meeting may be given such opportunity at the discretion of the Chair.

Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, National Institutes of Health, building 31, room 4B11, Bethesda, Maryland 20892, phone (301) 496–9838, FAX (301) 496–9839, will provide materials to be discussed at this meeting, roster of committee members, and substantive program information. A summary of the meeting will be available at a later date.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the *NIH Guidelines.* In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: April 29, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–10663 Filed 5–5–92; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Recombinant DNA Research: Proposed Actions Under the Guidelines

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of proposed actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules (51 FR 16958).

SUMMARY: This notice sets forth proposed actions to be taken under the National Institutes of Health (NIH) Guidelines for Research Involving Recombinant DNA Molecules. Interested parties are invited to submit comments concerning these proposals. These proposals will be considered by the Recombinant DNA Advisory Committee (RAC) at its meeting on June 1–2, 1992. After consideration of these proposals and comments by the RAC, the Director of the National Institutes of Health will issue decisions in accordance with the NIH Guidelines.

DATES: Comments received by May 18, 1992, will be reproduced and distributed to the RAC for consideration at its June 1–2, 1992, meeting.

ADDRESS: Written comments and recommendations should be submitted to Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, building 31, room 4B11, National Institutes of Health, Bethesda, Maryland 20892, or sent by FAX to 301–496–9839.

All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from the Office of Recombinant DNA Activities, building 31, room 4B11, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–9838.

SUPPLEMENTARY INFORMATION: The NIH will consider the following actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules:

I. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Dr. Brenner

In a letter dated January 21, 1992, Dr. Malcolm Brenner of the St. Jude Children's Research Hospital, Memphis, Tennessee, indicated his intention to submit a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: "Phase I Study of Cytokine-Gene Modified Autologous Neuroblastoma Cells for Treatment of Relapsed/Refractory Neuroblastoma."

II. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Dr. Oldfield

In a letter dated February 14, 1992, Dr. Edward H. Oldfield of the National Institutes of Health, Bethesda, Maryland, submitted a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: "Gene Therapy for the Treatment of Brain Tumors Using Intra-Tumoral Transduction with the Thymidine Kinase Gene and Intravenous Ganciclovir."

III. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Dr. Bank

In a letter dated April 14, 1992, Dr. Arthur Bank of Columbia University, New York, New York, submitted a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: "Use of Human MDR Gene in Patients with Advanced Cancer."

IV. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Dr. Smith

In a letter dated April 9, 1992, Dr. Clay Smith of Memorial Sloan Kettering Cancer Center, New York, New York, submitted a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review

and approval. The title of this protocol is: "Treatment of HIV Infection with Transplantation of Genetically Altered Syngeneic Peripheral Blood Lymphocytes."

V. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Dr. Smith

In a letter dated April 9, 1992, Dr. Clay Smith of Memorial Sloan Kettering Cancer Center, New York, New York, submitted a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: "Treatment of HIV Infection with Reinfusion of Genetically Altered Peripheral Blood Lymphocytes."

VI. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Transfer Protocol/Dr. Dunbar

In a letter dated April 14, 1992, Dr. Cynthia E. Dunbar of the National Institutes of Health, Bethesda, Maryland, submitted a human gene transfer protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: "Retroviral-Mediated Gene Transfer of Bone Marrow and Peripheral Blood Stem Cells During Autologous Bone Marrow Transplantation for Multiple Myeloma."

VII. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Transfer Protocol/Dr. Dunbar

In a letter dated April 14, 1992, Dr. Cynthia E. Dunbar of the National Institutes of Health, Bethesda, Maryland, submitted a human gene transfer protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: "Retroviral-Mediated Gene Transfer of Bone Marrow and Peripheral Blood Stem Cells During Autologous Bone Marrow Transplantation for Metastatic Breast Cancer."

VIII. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Transfer Protocol/Dr. Dunbar

In a letter dated April 14, 1992, Dr. Cynthia E. Dunbar of the National Institutes of Health, Bethesda, Maryland, submitted a human gene transfer protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: "Retroviral-Mediated Gene Transfer of Bone Marrow and Peripheral Blood Stem Cells During Autologous Bone Marrow Transplantation for Chronic Myelogenous Leukemia."

IX. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Transfer Protocol/Dr. Deisseroth

In a letter dated February 28, 1992, Dr. Albert B. Deisseroth of MD Anderson Cancer Center, Houston, Texas, indicated his intention to submit a human gene transfer protocol to the Recombinant Advisory Committee for formal review and approval. The title of this protocol is: "Use of Two Retroviral Markers to Test Relative Contribution of Marrow and Peripheral Blood Autologous Cells to Recovery After Preparative Therapy."

X. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Dr. Gansbacher

In a letter dated January 16, 1992, Dr. Bernd Gansbacher of the Memorial Sloan Kettering Cancer Center, New York, New York, indicated his intention to submit a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: "Immunization with HLA–A2 Matched Allogeneic Melanoma Cells that Secrete Interleukin-2 Patients with Metastatic Melanoma."

XI. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Therapy Protocol/Dr. Gansbacher

In a letter dated January 16, 1992, Dr. Bernd Gansbacher of the Memorial Sloan Kettering Cancer Center, New York, New York, indicated his intention to submit a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: "Immunization with Interleukin-2 Secreting Allogeneic HLA–A2 Matched Renal Cell Carcinoma Cells in Patients with Advanced Renal Cell Carcinoma."

XII. Addition to Section IV–C–2 of the NIH Guidelines Regarding Conflicts of Interest/Mr. Rifkin

In a letter dated April 24, 1992, Mr. Jeremy Rifkin of the Foundation of Economic Trends, Washington, DC submitted a petition to the Recombinant DNA Advisory Committee for formal review and approval. The addition would read:

Section IV–C–2–a. Avoidance of Conflicts of Interest. Members of the RAC shall avoid actual conflicts of interest and the appearance of conflicts of interest.

Section IV–C–2–b. Members of the RAC shall be held responsible for knowledge of the statutory and regulatory requirements of special Government employees (SGEs) regarding conflicts of interest, including but not limited to the HHS Standards of Conduct (45 C.F.R. Section 73.735), the Federal Personnel Manual, the Federal Criminal Code concerning conflicts of interest (18 U.S.C. Section 201 et seq.), the HHS regulations concerning committee management (45 C.F.R. Subtitle A, Part 11), and any further requirements that may be promulgated by HHS, the Congress, or the President.

Section IV–C–2–c. Full disclosure of all relevant affiliations and financial interests, as defined in Section IV–C–2–d, shall be made by prospective members of the RAC. This shall include the relevant financial interests of their spouses, dependent children and other dependents. Disclosures made by members of the RAC shall be updated promptly in the event of changes in information previously reported or when new information arises that is relevant to the question of conflict of interest. At a minimum, these disclosures shall be updated semi-annually.

Section IV–C–2–d. Individuals who are required to file a financial disclosure report under the Ethics in Government Act (5 U.S.C. Appx Section 101) shall follow the requirements of that section. Individuals who are not required to file a public financial disclosure report under Section 101 of the Ethics in Government Act shall disclose:

Section IV–C–2–d–(1). The identity of their principal employment;

Section IV–C–2–d–(2). A list of positions held (whether paid or unpaid) and any contractual relationships for the performance of services with any corporation, company, firm, partnership or other business enterprise, any non-profit organization, any labor organization, or any educational or other institution whose activities or purposes may be (or may foreseeable become) relevant to the purposes and functions of the RAC as determined by the NIH, and any such relevant relationships held by their spouses, dependent children or other dependents;

Section IV–C–2–d–(3). The identity, but not value or amount, of any other sources of income or any other interests in a trade or business, real estate, or other asset held for investment or production of income, exceeding $1000 in value which are relevant to the purposes and functions of the RAC as determined by the NIH, and any such relevant income or interests of their spouse, dependent children, or other dependents.

Section IV–C–2–e. The information required under Section IV–C–2–d–(1), (2), and (3) shall be made available to the public upon request.

Section IV–C–2–f. For the purposes of Section IV–C–2–c and IV–C–2–d, the word "relevant" means those relationships, affiliations, holdings or interests of an individual, his/her spouse, dependent children, or other dependents, which could be substantially affected by review, policy recommendations or the giving of advice by the RAC. A "substantial effect" is where there is a significant possibility that RAC action will have an direct or indirect economic impact on the individual, on others with whom the individual is closely associated, or on any person with whom the individual has a family or marital relationship or similar close personal relationship.

Section IV–C–2–g. Prohibited Situations. No RAC member, or his/her spouse, dependent children, or other dependents, shall be allowed to have personal equity holdings or options in any company that would be affected by the outcome of research or that produces a product or equipment being evaluated in a research project subject to approval by the RAC. This does not apply to equipment or products that are commonly found in research laboratories, such as commercially-available centrifuges, pH meters, and common reagents. This prohibition does not include blind trusts, diversified mutual funds, or other financial interests over which the individual has no discretionary control.

Section IV–C–2–h. Waivers. The NIH may grant a waiver to the requirement of Section IV–C–2–g if it determines that such holdings are so insignificant that they do not have the potential of influencing the independent decision-making of the RAC. Such waiver shall take effect upon its publication in the Federal Register and shall identify:

Section IV–C–2–h–(1). The RAC member covered by the waiver by name, and

Section IV–C–2–h–(2). The reasons for granting the waiver.

This particular petition contains a background text that is not included in the meeting announcement. It is available on request and can be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, building 31, room 4B11, Bethesda, Maryland, (301) 496–9838.

The following comments pertain to the above request. Members of the RAC are currently required to:

(1) Meet the statutory and regulatory conflict of interest requirements applicable to Special Government Employees, and (2) file financial disclosure statements (Form HHS 474, Confidential Statement of Employment and Financial Interests). These statements are evaluated by NIH to determine if a prospective or current member has a financial conflict of interest that would necessitate restrictions on his/her service on the RAC. Under the Ethics in Government Act (5 U.S.C.A. appx 4 section 207), the disclosures required on form HHS 474, Confidential Statement of Employment and Financial Interests, cannot be disclosed to the public without the consent of the individual. Because members and prospective members of the RAC are already subject to statutory and regulatory requirements regarding financial conflicts of interest, it would appear that any addition to the NIH Guidelines on this issue would have to be limited to referencing the existing requirements in order to avoid any conflict with those requirements.

XIII. Addition to the Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Into the Genome of Human Subjects Regarding Submission Requirements for Human Gene Transfer/Gene Therapy Protocols

Dr. Donald Krogstad, member of the RAC, suggested an outline for submission requirements for human gene transfer/gene therapy protocols during the RAC meeting of February 11, 1992. This outline reads as follows:

Suggestions for Focusing Discussion at the RAC.

I. Investigator-Submitted Material.

Format. Consider having both written and oral material presented in similar formats—e.g., following the Point to Consider—with a 150–250 word Abstract at the beginning of written material. When a proposal has been presented previously, there should be a short section (<150 words) detailing the major revisions since the previous submission.

Length of Written Material and Time for Oral Presentation. Only on rare occasion is there significant new information after 20 pages of written material or 20 minutes of oral presentation. To expedite both written and oral review, written material could be limited to approximately 20 pages per proposal (not counting references, tables and figures), and oral presentations to 25 minutes.

II. Reviewers' Responses

Format. Reviewers' comments should state explicitly whether the Points to Consider have been addressed satisfactorily, and whether questions of Safety and Efficacy have been resolved. They should state also whether a proposal is: (a) Acceptable as written, (b) Acceptable with specific revisions, or (c) Unacceptable in its present form.

Discussion of Written Reviews. Discussion among the various reviewers and with the Principal Investigator should help to clarify substantive questions about the protocols, which currently occupies a substantial amount of time at the RAC.

Length of Time for Oral Presentation of Reviews. After discussion with other reviewers and the Principal Investigator, it should be possible to present most reviews orally in <5 minutes.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: May 1, 1992.

Jay Moskowitz,

Associate Director for Science Policy and Legislation, NIH.

[FR Doc. 92–10664 Filed 5–5–92; 8:45 am]

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