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CFR PARTS AFFECTED IN THIS ISSUE

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

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Presidential Documents

Title 3—

The President

Executive Order 12787 of December 31, 1991

The Order of Succession of Officers To Act as Secretary of Defense

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 3347 of title 5, United States Code, it is hereby ordered as follows:

Section 1. *Succession to the Authority of the Secretary of Defense.*

(a) In the event of the death, permanent disability, or resignation of the Secretary of Defense, the incumbents holding the Department of Defense positions designated below shall, in the order indicated, act for and exercise the powers of the Secretary of Defense:

(1) Deputy Secretary of Defense.

(2) Secretary of the Army.

(3) Secretary of the Navy.

(4) Secretary of the Air Force.

(5) Under Secretary of Defense for Acquisition.

(6) Under Secretary of Defense for Policy.

(7) Deputy Under Secretary of Defense for Acquisition.

(8) Director of Defense Research and Engineering, Assistant Secretaries of Defense, the Comptroller of the Department of Defense, the Director of Operational Test and Evaluation, the Deputy Under Secretary of Defense for Policy, and the General Counsel of the Department of Defense, in the order fixed by their length of service as permanent appointees in such positions.

(9) Under Secretaries of the Army, the Navy, and the Air Force, in the order fixed by their length of service as permanent appointees in such positions.

(10) Assistant Secretaries and General Counsels of the Army, the Navy, and the Air Force, in the order fixed by their length of service as permanent appointees in such positions.

(b) In the event of the temporary absence or temporary disability of the Secretary of Defense, the incumbents holding the Department of Defense positions designated in paragraph (a) of this section shall, in the order indicated, act for and exercise the powers of the Secretary of Defense.

(1) In these instances, the designation of an Acting Secretary of Defense applies only for the duration of the Secretary's absence or disability, and does not affect the authority of the Secretary to resume the powers of his office upon his return.

(2) In the event that the Secretary of Defense is merely absent from his position, the Secretary may continue to exercise the powers and fulfill the duties of his office during his absence, notwithstanding the provisions of this order.

(c) Precedence among those officers designated in paragraph (a) of this section who have the same date of appointment shall be determined by the Secretary of Defense at the time that such appointments are made.

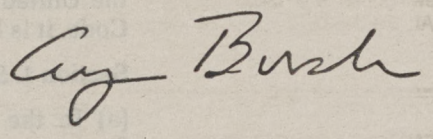
(d) Notwithstanding paragraphs (a) and (b) of this section, an officer shall not act for or exercise the powers of the Secretary of Defense under this order if that officer serves only in an acting capacity in the position that would otherwise entitle him to do so.

Sec. 2. *Temporary Nature of Succession.*

Succession to act for and exercise the powers of the Secretary of Defense pursuant to this order shall be on a temporary or interim basis and shall not have the effect of vacating the statutory appointment held by the successor.

Sec. 3. *Revocation of Prior Executive Order.*

Executive Order No. 12514 of May 14, 1985, is hereby revoked.



THE WHITE HOUSE,
December 31, 1991.

[FR Doc. 92-401
Filed 1-3-92; 2:03 pm]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 91-174]

Mexican Fruit Fly; Addition of Regulated Area in Los Angeles, CA

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mexican fruit fly regulations to quarantine the State of California and designate a portion of Los Angeles County as a regulated area, and by listing American Samoa, the Northern Mariana Islands, and the parts of Louisiana not previously listed, as areas into or through which the movement of regulated articles is restricted. This action is necessary on an emergency basis to prevent the spread of the Mexican fruit fly to noninfested areas of the United States and to impose certain restrictions on the movement of regulated articles from regulated areas in California and Texas, into or through American Samoa, the Northern Mariana Islands, and the parts of Louisiana not previously listed.

We are also amending the Mexican fruit fly regulations by adding two alternative treatments to the list of approved treatments that may be used to qualify regulated articles for interstate movement with a certificate.

DATES: Interim rule effective December 31, 1991. Consideration will be given only to comments received on or before March 9, 1992.

ADDRESSES: To help ensure that your comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road Hyattsville, MD 20782. Please state that your comments refer to Docket Number 91-174. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Mike B. Stefan, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 640, Federal Building 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8247.

SUPPLEMENTARY INFORMATION:

Background

The Mexican fruit fly, *Anastrepha ludens* (Loew), is a destructive pest of citrus and many other types of fruits. The short life cycle of the Mexican fruit fly allows rapid development of serious outbreaks that can cause severe economic losses in commercial citrus-producing areas. The Mexican fruit fly regulations, contained in 7 CFR 301.64 *et seq.* (referred to as the regulations), restrict the interstate movement of regulated articles from regulated areas in order to prevent the spread of the Mexican fruit fly to noninfested areas.

Until the effective date of this interim rule, Texas was the only State quarantined because of the Mexican fruit fly. Regulated areas within Texas are listed in paragraph (c) of § 301.64-3 of the regulations.

Regulated articles are listed in paragraph (a) of § 301.64-2 of the regulations and include, but are not limited to, avocados, apples, peaches, pears, plums, prunes, pomegranates, and certain varieties of citrus fruit.

Quarantined Areas

Recent trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS), an agency of the U.S. Department of Agriculture, reveal that infestations of Mexican fruit fly have been discovered in Los Angeles County near Maywood, California.

The regulations in § 301.64-3 provide that the Deputy Administrator of APHIS for Plant Protection and Quarantine shall list as a regulated area each quarantined State, or each portion of a quarantined State, in which the Mexican fruit fly has been found by an inspector, in which the Deputy Administrator has reason to believe the Mexican fruit fly is present, or that the Deputy Administrator considers necessary to regulate because of its proximity to the Mexican fruit fly or its inseparability for quarantine enforcement purposes from localities in which the Mexican fruit fly occurs. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator determines that:

(1) The State has adopted and is enforcing a quarantine and regulations that impose restrictions on the intrastate movement of the regulated articles that are substantially the same as those imposed with respect to the interstate movement of these articles; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the artificial interstate spread of the Mexican fruit fly.

Accordingly, we are designating California as a quarantined State and designating as a regulated area the following portion of Los Angeles County:

California

Los Angeles County

That portion of the county near the Maywood area bounded by a line drawn as follows: Beginning at the intersection of San Pedro Street and Interstate 10; then east on Interstate 10 to where it becomes Interstate 60; east on Interstate 60 to its intersection with Garfield Avenue; then south on Garfield to its intersection with Whittier Boulevard; then east on Whitter Boulevard to its intersection with Rosemead Boulevard; then south on Rosemead Boulevard to where it becomes Lakewood Boulevard; then south on Lakewood Boulevard to its intersection with Imperial Highway; then west on Imperial Highway to its intersection with Central Avenue; then north on Central Avenue to its intersection with Adams Boulevard; then northwest on Adams Boulevard to its intersection with San Pedro Street; then north on San Pedro to the point of beginning.

There does not appear to be any reason to designate any other regulated areas in California. California has

adopted and is enforcing regulations imposing restrictions on the intrastate movement of the regulated articles that are substantially the same as those imposed on the interstate movement of regulated articles under this subpart.

In a document published in the **Federal Register** on August 20, 1991 (56 FR 41311–41313, Docket No. 88–148), we proposed to list American Samoa, the Northern Mariana Islands, and the portion of the State of Louisiana not previously listed, as areas into or through which the movement of regulated articles is restricted. We also proposed to add two alternative treatments, one for premises and one for grapefruit and oranges, to the list of approved treatments that may be used to qualify regulated articles for interstate movement with a certificate.

Comments on the proposed rule were required to be received on or before September 19, 1991. We received one comment in favor of the rule as proposed by the close of the comment period. With the exception of the treatment for premises, we are incorporating those proposed changes into this document, as explained below.

Interstate Movement

In accordance with the regulations, regulated articles moved interstate from a regulated area are subject to certain restrictions if moved into or through areas listed in paragraph (b) of § 301.64. These areas are susceptible to infestations by the Mexican fruit fly due to a combination of climatic conditions and available host material, primarily citrus. Until the effective date of this interim rule, the listed areas were Arizona, California, Florida, Guam, Hawaii, Puerto Rico, Texas, the Virgin Islands of the United States, and the parishes of Iberia, Jefferson, Lafayette, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. Mary, and Terrebonne in Louisiana.

As explained in the proposed rule of August 20, we have determined that climate and citrus plantings in American Samoa, Louisiana, and the Northern Mariana Islands create a favorable environment for the Mexican fruit fly. We are therefore adding the remainder of the State of Louisiana, as well as American Samoa and the Northern Mariana Islands, to the list of areas into or through which the movement of regulated articles is restricted. This action is necessary to prevent these areas from becoming infested with the Mexican fruit fly.

Treatments

We are amending § 301.64–10 of the regulations, which sets forth treatments for regulated articles. Under the regulations, a regulated article from a regulated area is eligible for interstate movement pursuant to a certificate if, among other things, it has been treated in accordance with § 301.64–10 of the regulations. In addition, a regulated article from a regulated area is eligible for interstate movement pursuant to a limited permit if it is moving under certain conditions to a specified destination for treatment. As explained in the proposed rule of August 20, it has been determined that there are two additional treatments for regulated articles that are adequate to destroy the Mexican fruit fly in fruit or maintain the premises of origin free from the Mexican fruit fly.[1]

The first treatment is a fumigation treatment for grapefuit and oranges, as follows:

Grapefruit and oranges: Methyl bromide at normal atmospheric pressure—chamber only: 40g/m^3 (2-1/2 lb/1000 ft^3) for 2 hours at 21-29 °C (70-85 °F).

The other treatment, when applied to premises on which any of the regulated articles listed in paragraph (a) of § 301.64-2 are growing, would qualify these articles for interstate movement. The August 20 proposed rule stated that any and all articles listed in § 301.64-2(a), and that are growing within the regulated areas, must receive three or more applications of malathion bait spray at 6- to 10-day intervals, starting at least 30 days before harvest and continuing through the harvest period. The malathion bait spray treatment must be applied at a rate of 2.4 ounces of active ingredient of malathion and 9.6 ounces of protein hydrolysate per acre. However, in this document we are changing the procedure from what was proposed to the following:

A field, grove, or area that is located within the quarantined area but outside the core area, and that produces regulated articles, must receive regular treatments with malathion bait spray. These treatments must take place at 6- to 10-day intervals, starting a sufficient time before harvest (but not less than 30 days before harvest) to allow for completion of egg and larvae development of the Mexican fruit fly. Determination of the time period must be based on the day degrees model for Mexican fruit fly. Once treatment has begun, it must continue through the harvest period. The malathion bait spray treatment must be applied by aircraft or ground equipment at a rate of 2.4 ounces of technical grade malathion and 9.6 ounces of protein hydrolysate per acre.

Definitions of two terms used above, core area and day degrees, are added to § 301.64-1 to read as follows:

Core area. The 1 square mile area surrounding each property where Mexican fruit fly has been detected.

Day degrees. A mathematical construct combining average temperature over time that is used to calculate the length of a Mexican fruit fly life cycle. Day degrees are the product of the following formula, with all temperatures measured in °F:

(Minimum Daily Temp + Maximum Daily Temp)/2) − 54° = Day Degrees.

The 30-day malathion bait spray treatment is an effective treatment for fruit (e.g. stone fruit) that matures within an approximate 30-day period and is then harvested. However, a 30-day treatment is not as valid for use on fruit, such as citrus, that can remain on a tree in a mature state for a long period of time. Mexican fruit fly larvae can be present within citrus for up to 50–60 days, depending upon the average daily temperatures. To ensure the treatment is effective for citrus, the time period for treatments must be based on the day degrees model for Mexican fruit fly.

We have also decided that fruit within the core area of an infestation should not qualify for interstate movement with this treatment because of the increased risk that fruit from this area may be infested.

Emergency Action

Robert Melland, Administrator of the Animal and Plant Health Inspection Service, has determined that an emergency situation exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the Mexican fruit fly from spreading to noninfested areas of the United States.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under U.S.C. 553 to make it effective upon signature. We will consider comments received within 60 days of publication of this interim rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**, including a discussion of any comments we receive and any

[1] A copy of the research upon which the determination is based may be obtained by writing to the Administrator, c/o Domestic and Emergency Operations, Plant Protection and Quarantine, APHIS, USDA, room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of the Management and Budget has waived the review process required by Executive Order 12291.

This interim rule restricts the interstate movement of regulated articles from a portion of Los Angeles County in California. Within the regulated area there are approximately 376 small entities that may be affected by this rule. These include 150 fruit/produce markets, 38 nurseries, 180 mobile vendors, 6 flea markets, and 2 processors. There are no growers in the regulated area who would be affected. These 376 entities comprise less than one percent of the total number of similar entities operating in the State of California. Most of the sales for these entities involve local intrastate movements. Also many of these entities sell other items in addition to the regulated articles so that the effect, if any, of this rule on these entities appears to be minimal. The effect on those few entities that do move regulated articles interstate will be minimized by the availability of various treatments that, in most cases, will allow these small entities to move regulated articles interstate with very little additional cost.

This interim rule also adds American Samoa, the Northern Mariana Islands, and additional parts of Louisiana not previously listed to the list of areas into or through which the movement of regulated articles is restricted.

Based on a review of available records, there appears to be very little movement of regulated articles from regulated areas in California and Texas directly to American Samoa and the Northern Mariana Islands. We have determined that American Samoa and the Northern Mariana Islands do not provide a substantial market for regulated articles from regulated areas in California and Texas.

Available records also indicate that most shipments of citrus fruit or other regulated articles from regulated areas in Texas, into the portion of Louisiana previously not listed, are channeled there by brokers in New Orleans, Louisiana. New Orleans is within the area of Louisiana that has been listed as an area into or through which the movement of regulated articles is restricted. Therefore, all regulated articles shipped from regulated areas in Texas into this city have been accompanied by a certificate. The certificate indicates that the regulated articles have been inspected by an Animal and Plant Health Inspection Service (APHIS) inspector and determined to be free of Mexican fruit fly, or have been treated under the direction of an APHIS inspector in accordance with § 301.64–10 of the regulations.

Further, this rule allows entities to continue shipping regulated articles from regulated areas in California and Texas to American Samoa, all parts of Louisiana, and the Northern Mariana Islands provided certain conditions—ranging from inspection to treatment—are met.

Adding two alternative treatments to the list of approved treatments is unlikely to affect the amount of regulated articles that are moved to restricted areas from regulated areas in Texas, since most citrus and other regulated articles moved interstate by these entities are certified for such movement without the need for treatment. (The regulations in § 301.64–5 state, in part, that a regulated article may be moved interstate, with a certificate, if an inspector determines that the regulated article is free from the Mexican fruit fly, or if the inspector determines that the premises of origin is free from the Mexican fruit fly and the regulated article has not been exposed to the Mexican fruit fly. Treatment, therefore, becomes necessary only if the above conditions cannot be met.)

A cold treatment is currently available for regulated articles. Two additional treatments will simply provide more treatment options during those instances in which treatment is required.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Mexican fruit fly, Plant diseases, Plant pests, Plant (agriculture), Quarantine, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

§ 301.64 [Amended]

2. In § 301.64, paragraph (a), the phrase "the State of Texas" is removed and the phrase "the States of California and Texas" is added in its place.

§ 301.64 [Amended]

3. In § 301.64, paragraph (b), the phrase "Arizona; California; Florida; Guam; Hawaii; Puerto Rico; Texas; the Virgin Islands of the United States; and Iberia, Jefferson, Lafayette, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. Mary and Terrebonne Parishes in Louisiana," is removed, and "American Samoa, Arizona, California, Florida, Guam, Hawaii, Louisiana, the Northern Mariana Islands, Puerto Rico, Texas, and the Virgin Islands of the United States," is added in its place.

4. In § 301.64–1, all the paragraph designations are removed and the definitions for "Core area" and "Day degrees" are added, all definitions are placed in alphabetical order to read as follows:

§ 301.64–1 Definitions.

* * * * *

Core area. The 1 square mile area surrounding each property where Mexican fruit fly has been detected.

Day degrees. A mathematical construct combining average temperature over time that is used to

calculate the length of a Mexican fruit fly life cycle. Day degrees are the product of the following formula, with all temperatures measured in °F:

(Minimum Daily Temp + Maximum Daily Temp)/2)−54°=Day Degrees.

* * * * *

5. In § 301.64–3, paragraph (c) is amended by adding the following entry for California immediately before the entry for Texas:

§ 301.64–3 Regulated areas.

* * * * *

California

Los Angeles County

The portion of the county near the Maywood area bounded by a line drawn as follows: Beginning at the intersection of San Pedro Street and Interstate 10; then east on Interstate 10 to where it becomes Interstate 60; east on Interstate 60 to its intersection with Garfield Avenue; then south on Garfield to its intersection with Whittier Boulevard; then east on Whittier Boulevard to its intersection with Rosemead Boulevard; then south on Rosemead Boulevard to where it becomes Lakewood Boulevard; then south on Lakewood Boulevard to its intersection with Imperial Highway; then west on Imperial Highway to its intersection with Central Avenue; then north on Central Avenue to its intersection with Adams Boulevard; then northwest on Adams Boulevard to its intersection with San Pedro Street; then north on San Pedro to the point of beginning.

* * * * *

6. In § 301.64–4, the heading and the introductory paragraph are revised to read as follows:

§ 301.64–4 Conditions governing the interstate movement of regulated articles from regulated areas in quarantined States.

Any regulated article may be moved interstate from any regulated area in a quarantined State into or through those areas listed in § 301.64(b) of this subpart only if moved under the following conditions: [3]

* * * * *

7. In § 301.64–10, the introductory text is revised and new paragraphs (c) and (d) are added to read as follows:

§ 301.64–10 Treatments.

Treatments for regulated articles shall be one of the following:

* * * * *

(c) *Premises.* A field, grove, or area that is located within the quarantined area but outside the infested core area, and that produces regulated articles, must receive regular treatments with malathion bait spray. These treatments must take place at 6- to 10-day intervals, starting a sufficient time before harvest (but not less than 30 days before harvest) to allow for completion of egg and larvae development of the Mexican fruit fly. Determination of the time period must be based on the day degrees model for Mexican fruit fly. Once treatment has begun, it must continue through the harvest period. The malathion bait spray treatment must be applied by aircraft or ground equipment at a rate of 2.4 ounces of technical grade malathion and 9.6 ounces of protein hydrolysate per acre.

(d) *Grapefruit and oranges. MB at NAP—Chamber only:* 40 g/m^3 (2½ lb/1000 ft^3) for 2 hours at 21–29 °C (70–85 °F).

Load not to exceed 80% of the chamber volume.

Done in Washington, DC, this 31st day of December 1991.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–260 Filed 1–6–92; 8:45 am]

BILLING CODE 3410–34–M

[3] Requirements under all other applicable Federal domestic plant quarantines and regulations must also be met.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 747

[Docket No. 91–06–C]

Administrative Actions, Adjudicative Hearings, Rules of Practice and Procedure, and Investigations

AGENCY: National Credit Union Administration.

ACTION: Correction to final rule.

SUMMARY: This document contains typographical and technical corrections to the final rule which was published on Thursday, August 8, 1991 (56 FR 37762). The rule sets forth uniform rules of practice and procedure to govern formal administrative proceedings conducted pursuant to the Federal Credit Union Act, 12 U.S.C. 1751 *et seq.*, and complementary local rules which address formal enforcement actions not within the scope of the uniform rules of practice and procedure; informal actions which are not subject to the Administrative Procedure Act; and procedures which supplement or facilitate investigations and the processing of administrative enforcement actions by the National Credit Union Administration ("NCUA").

EFFECTIVE DATE: August 9, 1991.

FOR FURTHER INFORMATION CONTACT: Steven W. Widerman, Trial Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street, NW., Washington, DC 20456. Telephone: 202/682–9630.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 916 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), 18 U.S.C. 1818 note, the NCUA, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision (collectively "the Agencies") jointly developed a set of uniform rules of practice and procedure ("Uniform Rules") to govern formal administrative proceedings brought by each of the Agencies, including a Uniform Rule providing for summary judgment in cases where there is no dispute as to the material facts.

In addition to the Uniform Rules, the NCUA adopted complementary "Local Rules" to supplement the Uniform Rules. These Local Rules address formal enforcement actions not within the scope of the Uniform Rules; informal actions which are not subject to the Administrative Procedure Act; and procedures which supplement or facilitate investigations and the processing of administrative enforcement by the NCUA.

The final rule which establishes both the Uniform Rules and the NCUA's Local Rules is the subject of the typographical and technical corrections set forth below.

Need for Correction

As published, the final rule contains typographical and technical errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication on Thursday, August 8, 1991, of the final rule, which was the subject of FR Doc. 91–18579, is corrected as follows:

PART 747—[CORRECTED]

1. On page 37767, in the table of contents to part 747, in the second column, in the heading for subpart E, in line 4 of the heading, the words "Under Title I" are added following the words "to Involuntary Liquidations".

§ 747.0 [Corrected]

1. On page 37767, in the third column, in § 747.0, paragraph (a), line 12 of that paragraph, which reads "Recovery, and Enforcement Act of 1989", is corrected to read "Recovery, and Enforcement Act of 1989 ('FIRREA')".

2. On page 37767, in the third column, in § 747.0, paragraph (a), in lines 29 and 30 of that paragraph, the words "202(a)(3), 206 and 304(c)(3) of the FCUA." are corrected to read "202(a)(3) and 206 of the Federal Credit Union Act ('the Act'), 12 U.S.C. 1766(b), 1782(a)(3), 1786.".

3. On page 37767, in the third column, in § 747.0, paragraph (a), in line 33 of that paragraph, "FCUA" is corrected in both places to read "Act".

4. On page 37767, in the third column, in § 747.0, paragraph (a), in line 37 of that paragraph, "FCUA" is corrected to read "Act".

5. On page 37768, in the first column, in § 747.0, in paragraph (b), in line 5 of that paragraph, "FCUA" is corrected to read "Act".

§ 747.1 [Corrected]

1. On page 37768, in the first column, in § 747.1, in paragraph (a), in lines 2 and 3 of that paragraph, the words "Federal Credit Union Act ('FCUA')" are corrected to read "Act".

2. On page 37768, in the first column, in § 747.1, in paragraph (b), in line 3 of that paragraph, "FCUA" is corrected to read "Act".

3. On page 37768, in the first column, in § 747.1, in paragraph (c) introductory text, lines 2 and 3, which read "penalties by the National Credit Union Administration Board ('NCUA Board')", are corrected to read "penalties by the NCUA Board".

4. On page 37768, in the first column, in § 747.1, in paragraph (c)(1), in lines 1 and 2 of that paragraph, the words "FCUA, pursuant to 12 U.S.C. 1782(a);" are corrected to read "Act (12 U.S.C. 1782);".

5. On page 37768, in the first column, in § 747.1, in paragraph (c)(3), in line 3 of that paragraph, "FCUA" is corrected to read "Act (12 U.S.C. 1782)".

§ 747.3 [Corrected]

1. On page 37768, in the second column, in § 747.3, in paragraph (f)(1), in line 3 of that paragraph, "FCUA" is corrected to read "Act".

2. On page 37768, in the second column, in § 747.3, in paragraph (g), in line 4 of that paragraph, "FCUA" is corrected to read "Act".

§ 747.9 [Corrected]

1. On page 37770, in the first column, in § 747.9, in paragraph (d), in lines 7 and 8 of that paragraph, the word "or" is inserted between "Board" at the end of line 7 and "the" at the beginning of line 8.

§ 747.16 [Corrected]

1. On page 37771, in the first column, in § 747.16, in line 6 of that section, "Agency" is corrected to read "NCUA".

§ 747.33 [Corrected]

1. On page 37775, in the second column, in § 747.33, in paragraph (a), in lines 6 through 10 of that paragraph, the words "or, in the case of change-of-control proceedings under section 7(j)(4) of the FDIA (12 U.S.C. 1817(j)(4)), within 20 days from service of the hearing order" are removed.

§ 747.201 [Corrected]

1. On page 37777, in the third column, in § 747.201, in line 2 of that section, "FCUA" is corrected to read "Act".

§ 747.207 [Corrected]

1. On page 37778, in the second column, in § 747.207, in line 4 of that section, "FCUA" is corrected to read "Act".

§ 747.208 [Corrected]

1. On page 37778, in the second column, in § 747.208, in paragraph (a), in line 3 of that paragraph, "FCUA" is corrected to read "Act".

§ 747.301 [Corrected]

1. On page 37778, in the third column, in § 747.301, in the introductory text, in line 6, "FCUA" is corrected to read "Act".

§ 747.304 [Corrected]

1. On page 37779, in the third column, in § 747.304, in line 25 of that section, "FCUA" is corrected to read "Act".

§ 747.305 [Corrected]

1. On page 37779, in the third column, in § 747.305, in line 9 of that section, "FCUA" is corrected to read "Act".

§ 747.306 [Corrected]

1. On page 37780, in the first column, in § 747.306, in paragraph (a), in line 2, the citation "§ 747.404" is corrected to read "§ 747.304".

Heading for Subpart E [Corrected]

1. On page 37781, in the first column, in the heading for subpart E, in line 5, the words "Under Title I" are added following the words "Involuntary Liquidations".

§ 747.401 [Corrected]

1. On page 37781, in the first column, in § 747.401, in line 5 of that section, "FCUA" is corrected to read "Act".

§ 747.405 [Corrected]

1. On page 37782, in the first column, in § 747.405, in paragraph (c), in the last line of that paragraph, "FCUA" is corrected to read "Act".

§ 747.606 [Corrected]

1. On page 37783, in the second column, in § 747.606, in paragraph (c), in line 5 of that paragraph, "Equal Access to Justice Act" is corrected to read "EAJA".

§ 747.703 [Corrected]

1. On page 37785, in the first column, in § 747.703, in paragraph (a), in line 10 of that paragraph, "FCUA" is corrected to read "Act".

§ 747.803 [Corrected]

1. On page 37785, in the third column, in § 747.803, in paragraph (b)(1)(iv), in line 2 of that paragraph, the words "or her" are inserted between the words "him" and "at".

2. On page 37785, in the third column, in § 747.803, in paragraph (b)(1)(iv), in line 6 of that paragraph, the words "where by" are corrected to read "whereby".

Heading for Subpart J [Corrected]

1. On page 37786, in the third column, in the heading for subpart J, in line 5 of the heading, "FCUA" is corrected to read "Act".

§ 747.901 [Corrected]

1. On page 37786, in the third column, in § 747.901, in line 4 of that section, "FCUA" is corrected to read "Act".

2. On page 37786, in the third column, in § 747.901, in line 10 of that section, the word "office" is corrected to read "officer".

§ 747.902 [Corrected]

1. On page 37786, in the third column, in § 747.902, in line 5 of that section, "FCUA" is corrected to read "Act".

§ 747.903 [Corrected]

1. On page 37787, in the first column, in § 747.903, in paragraph (a)(3), in line 2 of that paragraph, the word "constant" is corrected to read "considered".

§ 747.904 [Corrected]

1. On page 37787, in the second column, in § 747.904, in paragraph (b)(1), lines 1 and 2 of that paragraph, which read "The reasons why NCUA should review its disapproval; and", is corrected to read "The reasons why the NCUA Board should review the disapproval; and".

2. On page 37787, in the second column, in § 747.904, in paragraph (b)(2),

in line 5 of that paragraph, "FCUA" is corrected to read "Act".

3. On page 37787, in the third column, in § 747.904, in paragraph (d)(2), in line 3, the word "designed" is corrected to read "designee".

§ 747.905 [Corrected]

1. On page 37787, in the third column, in § 747.905, in paragraph (a), in line 3 of that paragraph, the word "on" is inserted between the words "decision" and "a".

Dated: January 2, 1992.

Robert M. Fenner,

General Counsel, National Credit Union Administration.

[FR Doc. 92-272 Filed 1-6-92; 8:45 am]

BILLING CODE 7535-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

Administration

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is hereby amending its delegation of authority to grant general approval authority to various field offices for guaranteeing sureties against a portion of losses resulting from the breach of bid, payment, or performance bonds on contracts. The amendment further provides that the SBA, through notice to the public published in the **Federal Register** will increase, decrease, or establish the authority of individual SBA field employees to guarantee sureties on a case by case basis.

EFFECTIVE DATE: This rule is effective January 7, 1992.

FOR FURTHER INFORMATION CONTACT: Dorothy D. Kleeschulte, Assistant Administrator for Surety Guarantees, (202) 205-6540.

SUPPLEMENTARY INFORMATION: SBA sets forth the delegation of authority, in 13 CFR 101.3-2, for approval of guaranties of sureties against a portion of losses resulting from the breach of bid, payment, or performance bonds on contracts by officials in SBA regional offices. SBA is amending this delegation of authority for the purpose of simplification and clarification.

This action delineates the standard delegation of authority by SBA officials to guarantee sureties against a portion of losses resulting from the breach of bid, payment, or performance bonds on contracts. The standard delegation of such authority for a Regional Administrator, Deputy Regional Administrator, and Supervisory Surety Bond Guarantee Specialist is $1,250,000. The standard delegation to guarantee sureties against a portion of losses resulting from the breach of bid, payment, or performance bonds on contracts for a Surety Bond Coordinator and Senior Surety Bond Guarantee Specialist is $750,000. The standard delegation of authority to guarantee sureties against a portion of losses resulting from the breach of bid, payment, or performance bonds on contracts for a Surety Bond Guarantee Specialist is $500,000. SBA reserves the right to publish, by notice in the **Federal Register**, the level of guaranty approval authority in this area for SBA employees in a regional, district, or branch office, based upon their education, training, and experience.

Because this final rule governs matters of agency organization, management, and personnel and makes no substantive change to the current regulation, SBA is not required to determine if these changes constitute a major rule for purposes of Executive Order 12291, to determine if they have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to do a Federalism Assessment pursuant to Executive Order 12612. Finally, SBA certifies that these changes will not impose an annual recordkeeping or reporting requirement on 10 or more persons under the Paperwork Reduction Act (44 U.S.C. ch. 35).

SBA is publishing this regulation governing agency organization, procedure, and practice as a final rule without opportunity for public comment pursuant to 5 U.S.C. 553(b)(A).

List of Subjects in 13 CFR Part 101

Administrative practice and procedure, Authority delegations (Government Agencies), Investigations, Organization and functions (Government Agencies), Reporting and recordkeeping requirements.

For the reasons set out in the preamble, Part 101 of Title 13, Code of Federal Regulations is amended as follows:

PART 101—ADMINISTRATION

1. The authority citation for part 101 continues to read as follows:

Authority: Secs. 4 and 5, Pub. L. 85-536, 72 Stat. 384 and 385 (15 U.S.C. 633 and 634, as amended); sec. 308, Pub. L. 85-699, 72 Stat. 694 (15 U.S.C. 687, as amended); sec. 5(b)(11), Pub. L. 93-386 (Aug. 23, 1974); and 5 U.S.C. 552.

2. Section 101.3-2, Delegations of Authority to conduct program activities in field offices, is amended by revising Part III, Section C thereof to read as follows:

§ 101.3-2 Delegations of authority to conduct program activities in field offices.

* * * * *

Part III—Other Financial and Guaranty Programs

* * * * *

Section C—Surety Guarantee

1. To guarantee sureties against a portion of losses resulting from the breach of bid, payment, or performance bonds on contracts, not to exceed the following amounts:

a. Regional Administrator	$1,250,000
b. Deputy Regional Administrator	1,250,000
c. Supervisory Surety Bond Guarantee Specialist	1,250,000
d. Surety Bond Coordinator	750,000
e. Senior Surety Bond Guarantee Specialist	750,000
f. Surety Bond Guarantee Specialist	500,000

SBA may, as it deems appropriate, grant to or remove from any individual SBA employee in a regional, district, or branch office, based on education, training, or experience, the authority to guarantee sureties against a portion of losses resulting from the breach of bid, payment, or performance bonds on contracts, by notice published in the **Federal Register.**

* * * * *

Dated: January 2, 1992.

Patricia Saiki,

Administrator.

[FR Doc. 92-256 Filed 1-6-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Butynorate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove those portions reflecting approval of a new

animal drug application (NADA) held by Solvay Animal Health, Inc. The NADA provides for use of Tinostat Type A medicated article containing butynorate to make Type B and Type C medicated feeds. In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of the NADA.

EFFECTIVE DATE: December 31, 1991.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8749.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of NADA 8–741 held by Solvay Animal Health, Inc., 2000 Rockford Rd., Charles City, IA 50616–9989. The NADA provides for the use of Tinostat Type A medicated article containing 25 percent butynorate to make Type B and Type C medicated feeds for use as turkey coccidiostats. This document removes that part of 21 CFR 558.4(d) which provides for medicated feed applications for feed containing butynorate as the sole ingredient and § 558.108 (see 56 FR 19263 at 19269, April 26, 1991), which reflects this approval.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

§ 558.4 [Amended]

2. Section 558.4 *Medicated feed applications* is amended in paragraph (d) in the table "Category II" by removing the first entry for "Butynorate."

§ 558.108 [Removed]

3. Section 558.108 *Butynorate (dibutyltin dilaurate)* is removed.

Dated: December 24, 1991.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 92–235 Filed 1–6–92; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 550

Libya Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Correction to final regulation.

SUMMARY: This document contains a correction to the Summary of the final regulation published Friday, December 20, 1991, (56 FR 66334). The regulation related to the revocation of a general license that permitted transfers to the Government of Libya between offshore third-country banks to be cleared through domestic banks in the United States.

EFFECTIVE DATE: 10 p.m., EST, December 19, 1991.

FOR FURTHER INFORMATION CONTACT: William B. Hoffman, Chief Counsel, tel.: (202) 535–6020, or Steven I. Pinter, Chief of Licensing, tel.: (202) 535–9449, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION: As published, the final regulation omitted a portion of the third sentence of the Summary. Accordingly, this omitted text is restored so that the third sentence reads, in its entirety: "All funds in which a direct or indirect Libyan government interest is indicated and which come into the possession or control of any U.S. person, including a domestic bank, are blocked by operation of law regardless of their origin or destination unless licensed by the Office of Foreign Assets Control."

Dated: December 31, 1991.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

[FR Doc. 92–324 Filed 1–3–92; 10:23 am]

BILLING CODE 4810–25–M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 583

Appearances by Former Personnel Before Department of the Army

AGENCY: Office of the Army Judge Advocate General, DoD.

ACTION: Withdrawal of rule.

SUMMARY: The purpose of this document is to withdraw § 583.1, which concerns appearances by former personnel before the Department of the Army. The reason for this removal is that Army Regulation 632–35, Appearances Before Command or Agency of the Department of the Army, which § 583.1 implements, was rescinded in March 1985. Therefore, § 583.1 is no longer valid.

EFFECTIVE DATE: January 7, 1992.

FOR FURTHER INFORMATION CONTACT: Ms. Fran Anderson, Paralegal Specialist, Standards of Conduct Office, Office of the Army Judge Advocate General, Washington, DC 20310–2200, (703) 695–0921.

List of Subjects in 32 CFR Part 583

Legal services, Law, Administrative practices and procedures.

PART 583—FORMER PERSONNEL

1. The authority for part 583 continues to read:

Authority: 10 U.S.C. 3013.

§ 583.1 [Removed]

2. Section 583.1 is removed.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92–220 Filed 1–6–92; 8:45 am]

BILLING CODE 3710–08–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Federal Insurance Administration; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are determined for the communities listed below.

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

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency

Management Agency, Washington, DC 20472, (202) 646–2754.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the **Federal Register** for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR part 67. An opportunity for the community or individuals to appeal proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been prepared. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

PART 67 [AMENDED]

The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the ninety-day period and the proposed base flood elevations have not been changed.

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ARKANSAS	
Paragould (city), Greene County (FEMA Docket No. 7030)	
Eight Mile Creek:	
Approximately 1.2 river miles downstream of U.S. Route 412	*261
Approximately 500 feet upstream of South Spring Grove Street	*324
Loggy Creek:	
Approximately 100 feet upstream of confluence with Eight Mile Creek	*285
Approximately .7 mile upstream of confluence with Eight Mile Creek	*287
Tributary No. 1:	
At confluence with Eight Mile Creek	*293
At downstream side of Honeysuckle Road	*322
Tributary No. 2:	
At confluence with Eight Mile Creek	*314
Upstream side of Maxwell Street	*335
Tributary No. 3:	
At confluence with Eight Mile Creek	*295
Approximately 1.2 river miles upstream of Bo Gill Road	*332
Maps available for inspection at the City Hall, 221 West Court Street, Paragould, Arkansas.	
IOWA	
Griswold (city), Cass County (FEMA Docket No. 7032)	
Baughmans Creek:	
Shallow flooding upstream of Scott Street	*1,092
Approximately 650 feet upstream of State Route 92	*1,106
Maps available for inspection at the City Hall, 201 Cass, Griswold, Iowa.	
MAINE	
Lubec (town), Washington County (FEMA Docket No. 7006)	
Atlantic Ocean:	
Grand Manan Channel:	
Along southwest shoreline of Baileys Mistake	*15
Along east shoreline of Jims Head	*44
Cobscook Bay:	
Entire shoreline of Dudley Island	*15
Along shoreline at Youngs Point	*20
Maps available for inspection at the Town Office, 40 School Street, Lubec, Maine.	
MARYLAND	
Secretary (town), Dorchester County (FEMA Docket No. 7024)	
Warwick River North Branch: Along northern corporate limits	*6
Warwick River South Branch: Along southern corporate limits	*6
Maps available for inspection at the Town Hall, Main Street, Secretary, Maryland.	
MICHIGAN	
Clinton (township), Macomb County (FEMA Docket No. 7024)	
Clinton River:	
Just downstream of confluence of Clinton River North Branch	*593
About 2,100 feet upstream of confluence of Red Run Drain	*601
Red Run Drain:	
At mouth	*601
About 2,650 feet upstream of Metropolitan Parkway	*604
Maps available for inspection at the Planning Department, 40700 Romeo Plank Road, Mt. Clemens, Michigan.	
MISSOURI	
Cass County (unincorporated areas) (FEMA Docket No. 7032)	
East Creek:	
About 2.2 miles downstream of County Highway YY	*875
About 3.54 miles upstream of 195th Street	*1,021
West Fork East Creek:	
At mouth	*902
About 1.1 miles upstream of 187th Street	*981
Tributary B:	
At mouth	*878
Just downstream of County Highway YY	*885
Just upstream of County Highway YY	*891
About 3,400 feet upstream of 215th Street	*984
Big Creek:	
About 1.0 mile upstream of County Road	*850
About 1.2 miles upstream of abandoned railroad	*869
North Overflow Big Creek:	
About 1,300 feet downstream of State Highway 7	*850
About 1,400 feet upstream of State Highway 7	*852
Maps available for inspection at the Zoning Office, County Courthouse, Harrisonville, Missouri.	
MISSISSIPPI	
Pearl River County (unincorporated areas) (FEMA Docket No. 7022)	
Mill Creek:	
Approximately 3,550 feet upstream of the confluence with the Pearl River	*29
At the City of Picayune corporate limits	*49
Maps available for inspection at the County Courthouse, 200 Main Street, Courthouse Square, Poplarville, Mississippi.	
Picayune (city), Pearl River County (FEMA Docket No. 7022)	
Mill Creek:	
At the downstream corporate limits	*49
Approximately 100 feet upstream of Rosa Street	*59
Maps available for inspection at the City Hall, 203 Goodyear Boulevard, Picayune, Mississippi.	
NEBRASKA	
Yutan (village), Saunders County (FEMA Docket No. 7017)	
Upper Clear Creek:	
About 200 feet downstream of State Highway 92	*1,144
Just downstream of County Road	*1,172
Maps available for inspection at the Village Clerk's Office, 112 Vine Street, Yutan, Nebraska.	
NEVADA	
Elko County (unincorporated areas) (FEMA Docket Nos. 7000 and 7024)	
Woodhills Drain:	
At the City of Wells corporate limits, approximately 5,500 feet upstream of Tenth Street Extension	*5,646
Approximately 7,000 feet upstream of Tenth Street Extension, just upstream of the intersection of U.S. Highway 93 and an unnamed road	*5,655
Approximately 8,500 feet upstream of Tenth Street Extension, at the intersection of U.S. Highway 93 and an unnamed road	*5,664
Susie Creek:	
Just below Western Pacific Railroad	*4,907
At U.S. Highway 40	*4,913
Approximately 300 feet upstream of westbound lane of Interstate 80	*4,917
Unnamed Wash:	
Approximately 1,500 feet downstream of Lamoille Highway	*5,070
Approximately 1,200 feet downstream of Lamoille Highway	*5,075
Approximately 800 feet downstream of Lamoille Highway	*5,081
Approximately 40 feet downstream of Lamoille Highway	*5,087
Approximately 40 feet upstream of Lamoille Highway	*5,094

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 300 feet upstream of Lamoille Highway	*5,094
Maps are available for review at the Elko County Engineering Department, 569 Court Street, Elko, Nevada.	
NEW HAMPSHIRE	
Bath (town), Grafton County (FEMA Docket No. 7006)	
Ammonoosuc River:	
At confluence with Connecticut River	*428
Approximately 2.1 miles upstream of confluence of Pettyboro Brook	555
Maps available for inspection at the Town Office, Bath, New Hampshire.	
Bradford (town), Merrimack County (FEMA Docket No. 7006)	
Warner River:	
At downstream corporate limits	*642
Approximately 175 feet upstream of State Route 114	*644
Lake Massasecum: Entire shoreline within community	*644
Todd Lake: Entire shoreline within community	*676
Maps available for inspection at the Town Office, Bradford, New Hampshire.	
Charlestown (town), Sullivan County (FEMA Docket No. 7026)	
Ox Brook:	
Approximately 1,150 feet upstream of confluence with the Connecticut River	*306
Just upstream of State Routes 11 and 12	*431
Beaver Brook:	
At confluence with the Connecticut River	*304
At David Street	*475
Maps available for inspection at the Town Offices, Charlestown, New Hampshire.	
Gilford (town), Belknap County (FEMA Docket No. 7006)	
Gunstock Brook:	
Approximately 250 feet upstream of State Route 11B	*507
Approximately .4 mile upstream of Alvah Wilson Road	*750
Gunstock Brook Tributary:	
At confluence with Gunstock Brook	*517
At upstream side of State Route 11B	*537
Maps available for inspection at the Selectmen's Office, 47 Cherry Valley Road, Gilford, New Hampshire, and Department of Public Works, 55 Cherry Valley Road, Gilford, New Hampshire.	
Kingston (town), Rockingham County (FEMA Docket No. 7003)	
Great Pond: Entire shoreline within community	*122
Powwow Pond: Entire shoreline within community	*119
Powwow River:	
At upstream side of New Boston Road	*121
At downstream side of Ball Road	*122
Country Pond: Entire shoreline within community	*121
Maps available for inspection at the Town Clerk's Office, 163 Main Street, Kingston, New Hamsphire.	
Lyme (town), Grafton County (FEMA Docket No. 7006)	
Connecticut River:	
At the downstream corporate limits	*397
At the upstream corporate limits	*408
Hewes Brook:	
At the downstream side of State Route 10	*663
Approximately 275 feet upstream of Bliss Road	*847
Grant Brook:	
At State Route 10	*484
Approximately 50 feet upstream of Dorchester Road	*794
Clay Brook:	
At North Thetford Road	*426
Approximately .6 miles upstream of North Thetford Road	*436
Trout Brook:	
Approximately .3 mile downstream of State Route 10	*436
Approximately 125 feet upstream of Pinnacle Road	*690
Maps available for inspection at the Town Clerk's Vault, Town Office, Lyme, New Hampshire.	
Orford (town), Grafton County (FEMA Docket No. 7010)	
Connecticut River:	
At the downstream corporate limit	*407
At the upstream corporate limits	*411
Maps available for inspection at the Town Office, Orford, New Hampshire.	
Raymond (town), Rockingham County (FEMA Docket No. 7010)	
Lamprey River:	
Approximately 0.5 mile downstream of Prescott Road	*161
At the downstream side of Epping Road	*186
Exeter River:	
At the downstream corporate limits	*158
At the upstream corporate limits	*165
Maps available for inspection at the Building Inspector's Office, Epping Street, Raymond, New Hampshire.	
NEW JERSEY	
Carteret (borough), Middlesex County (FEMA Docket No. 7022)	
Arthur Kill:	
At Noe Street extended near CONRAIL	*9
At Salem Avenue extended	*10
At intersection of Beverly Street and Lefferts Street	*9
At the downstream corporate limits	*10
Rahway River: Entire length within community	*9
Maps available for inspection at the Borough Hall, 61 Cooke Avenue, Carteret, New Jersey.	
Edgewater Park (township), Burlington County (FEMA Docket No. 7026)	
Delaware River:	
At downstream corporate limits	*11
At upstream corporate limits	*11
Maps available for inspection at the City Hall, 400 Delanco Road, Edgewater Park, New Jersey.	
Ridgefield (borough), Bergen County (FEMA Docket No. 7032)	
Overpeck Creek:	
Upstream side of Hendricks Causeway	*7
Upstream corporate limits	*7
Wolf Creek:	
Upstream side of CONRAIL	*9
Approximately 50 feet downstream of dam downstream of Broad Avenue	*9
Maps available for inspection at the Borough Hall, 604 Broad Avenue, Ridgefield, New Jersey.	
Tabernacle (township), Burlington County (FEMA Docket No. 7026)	
Friendship Creek:	
Approximately 150 feet downstream of downstream corporate limits	*53
At confluence of Bread and Cheese Run	*67
Bread and Cheese Run:	
At confluence with Friendship Creek	*67
Just downstream of Red Lion Road	*88
Maps available for inspection at the Township Building, Tabernacle, New Jersey.	
Teaneck (township), Bergen County (FEMA Docket No. 7024)	
Overpeck Creek:	
At the downstream corporate limits	*7
Approximately 1,000 feet upstream of State Route 4	*8
Teaneck Creek:	
At confluence with Overpeck	*7
Approximately 1,800 feet upstream of Degraw Avenue	*8
Tributary to Overpeck Creek:	
At confluence with Overpeck Creek	*8
At Overpeck Avenue	*8
Maps available for inspection at the Municipal Building, 818 Teaneck Road, Teaneck, New Jersey.	
NEW YORK	
Allegany (village), Cattaraugus County (FEMA Docket No. 7024)	
Five Mile Creek:	
At downstream corporate limits	*1,415
Approximately 100 feet upstream of upstream corporate limits	*1,416
Maps available for inspection at the Village Hall, 188 West Main Street, Allegany, New York.	
Newstead (town), Erie County (FEMA Docket No. 7032)	
Murder Creek:	
Approximately 1,325 feet downstream of Brucker Kirby Road	*605
Approximately .68 mile downstream of State Route 93	*622
Ledge Creek:	
Approximately .7 mile downstream of Cedar Street	*605
Approximately 125 feet upstream of Martin Road	*634
Maps available for inspection at the Town Hall, Church & Johns Streets, Akron, New York.	
Perinton (town), Monroe County (FEMA Docket No. 7019)	
Thomas Creek:	
Approximately 750 feet downstream of County Route 44 (Lyndon Road)	*463
Approximately 25 feet upstream of Whitney Road	*469
White Brook:	
Approximately 1.0 mile downstream of Lyndon Road	*463
At County boundary	*508
Maps available for inspection at the Town Hall, 1350 Turk Hill Road, Fairport, New York.	
Willsboro (town), Essex County (FEMA Docket No. 7023)	
Bouquet River:	
Approximately 1.4 miles upstream of the confluence with Lake Champlain	*103
At the corporate limit (approximately 7,300 feet of State Route 14A)	*196
Maps available for inspection at the Willsboro Town Hall, Point Road, Willsboro, New York.	
NORTH CAROLINA	
Apex (town), Wake County (FEMA Docket No. 7023)	
Middle Creek (Basin 22—Stream 1):	
About 1.64 miles upstream of SR 1301	*372
About 2.35 miles upstream of SR 1301	*380
Beaver Creek (Basin 27—Stream 2):	
At confluence of Basin 27—Stream 4	*283
Just downstream of U.S. Route 64	*314
Just upstream of U.S. Route 64	*319
Just downstream of State Route 55	*320
Just upstream of State Route 55	*325
Just downstream of SR 1611	*354
Basin 27—Stream 4:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
At mouth	*283
About 2,130 feet upstream of mouth	*295
Maps available for inspection at the Town Hall, Apex, North Carolina.	
Cary (town), Wake County (FEMA Docket No. 7023)	
Crabtree Creek (Basin 18—Stream 9):	
Just upstream of Interstate 40	*268
Just downstream of SCS Dam No. 23	*269
Just upstream of SCS Dam No. 23	*284
Just downstream of dam near SR 1615	*322
Just upstream of dam near SR 1615	*353
Haleys Branch (Basin 18—Stream 10):	
At mouth	*284
Black Creek Tributary A (Basin 18—Stream 11):	
At mouth	*284
Just downstream of SR 1652	*353
Stirrup Iron Creek (Basin 18—Stream 12):	
At mouth	*284
At county boundary	*321
Basin 18—Stream 13:	
At mouth	*287
Brier Creek (Basin 18—Stream 14):	
At mouth	*284
About 2,280 feet upstream of dam	*319
Crabtree Creek Tributary No. 6 (Basin 18—Stream 20):	
At mouth	*284
About 0.98 mile upstream of mouth	*311
Turkey Creek (Basin 18—Stream 23):	
At mouth	*304
Just downstream of SR 1615	*319
Coles Branch (Basin 18—Stream 24):	
At mouth	*303
Just downstream of dam	*307
Just upstream of dam	*329
Hatchet Grove Tributary (Basin 18—Stream 25):	
About 350 feet downstream of SR 1613	*309
About 250 feet downstream of dam	*314
Swift Creek (Basin 20—Stream 1):	
Just upstream of SR 1152	*306
Just downstream of U.S. Route 64	*352
Lens Branch (Basin 20—Stream 22):	
At mouth	*309
Just downstream of dam	*316
Just upstream of dam	*342
Just downstream of U.S. routes 1 and 64	*367
Straight Branch (Basin 20—Stream 23):	
At mouth	*351
Just downstream of U.S. Routes 1 and 64	*372
Swift Creek Tributary No. 7 (Basin 20—Stream 24):	
At mouth	*326
Just downstream of dam at Glasgow Road	*342
Just upstream of dam at Glasgow Road	*356
Just downstream of dam near Pebble Creek Drive	*373
Just upstream of dam near Pebble Creek Drive	*383
Just downstream of Maynard Road	*401
Swift Creek Tributary No. 7A (Basin 20—Stream 25):	
At mouth	*356
About. 2,800 feet upstream of mouth	*358
Panther Creek (Basin 29—Stream 1):	
At county boundary	*245
About 0.96 mile upstream of SR 1625	*282
Morris Branch (Basin 29—Stream 5):	
At county boundary	*250
Just downstream of SR 1625	*271
Kit Creek (Basin 29—Stream 7):	
At county boundary	*244
Just downstream of State Road 55	*254
Kit Creek Tributary B (Basin 29—Stream 8):	
About 0.87 mile upstream of mouth	*266
About 0.97 mile upstream of mouth	*268
Walnut Creek (Basin 30—Stream 1):	
Just upstream of Interstate 40	*286
Just downstream of Western Boulevard Extension	*406
Just upstream of Western Boulevard Extension	*411
Just downstream of Maynard Road	*437
Maps available for inspection at the Town Hall, Cary, North Carolina.	
Cary (town), Wake County (FEMA Docket No. 7023)	
Carbtree Creek (Basin 18—Stream 9):	
Just upstream of Interstate 40	*268
Just downstream of SCS Dam No. 23	*269
Just upstream of SCS Dam No. 23	*284
Just downstream of dam near SR 1615	*322
Just upstream of dam near SR 1615	*353
Haleys Branch (Basin 18—Stream 10):	
At mouth	*284
Black Creek Tributary A (Basin 18—Stream 11):	
At mouth	*284
Just downstream of SR 1652	*353
Stirrup Iron Creek (Basin 18—Stream 12):	
At mouth	*284
At county boundary	*321
Basin 18—Stream 13:	
At mouth	*287
Brier Creek (Basin 18—Stream 14):	
At mouth	*284
About 2,280 feet upstream of dam	*319
Crabtree Creek Tributary No. 6 (Basin 18—Stream 20):	
At mouth	*284
About 0.98 mile upstream of month	*311
Turkey Creek (Basin 18—Stream 23):	
At mouth	*304
Just downstream of SR 1615	*319
Coles Branch (Basin 18—Stream 24):	
At mouth	*303
Just downstream of dam	*307
Just upstream of dam	*329
Hatchet Grove Tributary (Basin 18—Stream 25):	
About 350 feet downstream of SR 1613	*309
About 250 feet downstream of dam	*314
Swift Creek (Basin 20—Stream 1):	
Just upstream of SR 1152	*306
Just downstream of U.S. Route 64	*352
Lens Branch (Basin 20—Stream 22):	
At mouth	*309
Just downstream of dam	*316
Just upstream of dam	*342
Just downstream of U.S. Routes 1 and 64	*367
Straight Branch (Basin 20—Stream 23):	
At mouth	*351
Just downstream of U.S. Routes 1 and 64	*372
Swift Creek Tributary No. 7 (Basin 20—Stream 24):	
At mouth	*326
Just downstream of dam at Glasgow Road	*342
Just upstream of dam at Glasgow Road	*356
Just downstream of dam near Pebble Creek Drive	*373
Just upstream of dam near Pebble Creek Drive	*383
Just downstream of Maynard Road	*401
Swift Creek Tributary No. 7A (Basin 20—Stream 25):	
At mouth	*356
About 2,800 feet upstream of mouth	*358
Panther Creek (Basin 29—Stream 1):	
At county boundary	*245
About 0.96 mile upstream of SR 1625	*282
Morris Branch (Basin 29—Stream 5):	
At county boundary	*250
Just downstream of SR 1625	*271
Kit Creek (Basin 29—Stream 7):	
At county boundary	*244
Just downstream of State Road 55	*254
Kit Creek Tributary B (Basin 29—Stream 8):	
About 0.87 mile upstream of mouth	*266
About 0.97 mile upstream of month	*268
Walnut Creek (Basin 30—Stream 1):	
Just upstream of Interstate 40	*286
Just downstream of Western Boulevard Extension	*406
Just upstream of Western Boulevard Extension	*411
Just downstream of Maynard Road	*437
Maps available for inspection at the Town Hall, Cary, North Carolina.	
Fuquay-Varina (town), Wake County (FEMA Docket No. 7023)	
Basal Creek (Basin 22—Stream 16):	
About 0.82 mile upstream of dam	*330
About 900 feet upstream of State Road 55	*360
Terrible Creek (Basin 22—Stream 19):	
About 2,600 feet downstream of Sunset Lake Road (SR 1301)	*330
Just downstream of SR 1401	*385
Kenneth Creek (Basin 24—Stream 2):	
About 2,700 feet downstream of confluence of Bradley Creek	*263
Just downstream of U.S. Route 401	*286
Just upstream of U.S. Route 401	*291
Just downstream of State Road 42	*375
Bradley Creek (Basin 24—Stream 3):	
At mouth	*272
Just downstream of U.S. Route 401	*281
Angier Creek (Basin 24—Stream 4):	
About 200 feet upstream of mouth	*259
Just downstream of dam	*319
Just upstream of dam	*333
Just downstream of abandoned railroad	*356
Rocky Ford Branch (Basin 24—Stream 5):	
At mouth	*311
About 1,1500 feet upstream of Norfolk Southern Railway	*357
Kenneth Branch (Basin 24—Stream 6):	
At mouth	*366
Just downstream of Norfolk Southern Railway	*377
Neil Creek (Basin 24—Stream 7):	
At mouth	*308
About 500 feet upstream of Angier Road	*317
Just downstream of Holland Road	*323
Neil Branch (Basin 24—Stream 8):	
At mouth	*320
Just downstream of East Spring Avenue	*342
Maps available for inspection at the Town Hall, 1300 East Academy Street, Fuquay-Varina, North Carolina.	
Garner (town), Wake County (FEMA Docket No. 7023)	
White Oak Creek (Basin 19—Stream 1):	
Just downstream of confluence of Basin 19—Stream 3	*243
About 2.0 miles upstream of SR 2555	*288
Unnamed Stream (Basin 19—Stream 3):	
At mouth	*243
Just downstream of U.S. Route 70	*280
Just upstream of U.S. Route 70	*295
Just downstream of Norfolk Southern Railway	*303
Unnamed Stream (Basin 19—Stream 4):	
At mouth	*262
Just downstream of Norfolk Southern Railway	*287
Swift Creek (Basin 20-Stream 1):	
About 1.55 miles downstream of State Road 50	*220
Just downstream of dam	*227
Just upstream of dam	*24[illegible]
Just downstream of SR 1006	*245
Mahlers Creek (Basin 20—Stream 6):	
At mouth	*225
About 2.47 miles upstream of SR 2703	*288
Mahlers Creek Tributary (Basin 20—Stream 7):	
At mouth	*232
Just downstream of SR 2707	*246
Unnamed Stream (Basin 20—Stream 8):	
At mouth	*246
Just downstream of SR 2707	*257
Reedy Branch Tributary (Basin 20—Stream 9):	
At mouth	*246
About 3,000 feet upstream of mouth	*260
Just downstream of Claymore Drive	*264
Bagwell Branch (Basin 20—Stream 10):	
At mouth	*240
Just downstream of State Road 50	*293
Reedy Branch (Basin 20—Stream 11):	
At mouth	240
Just downstream of Seventh Avenue	*319
Buck Branch (Basin 20—Stream 12):	
At mouth	*240
About 3,950 feet upstream of Vandora Springs Road	*288
Yates Branch (Basin 20—Stream 13):	
At mouth	*247
Just downstream of Lake Wheeler Road	*288
Echo Branch (Basin 20—Stream 14):	
Just upstream of Old Stage Road	*265
About 1,500 feet upstream of Old Stage Road	*272
Just downstream of Winterlochen Road	*302
Just upstream of Winterlochen Road	*309
Just downstream of Vesta Drive	*311

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Big Branch (Basin 30—Stream 2):	
Just upstream of SR 2548	*232
Just downstream of dam	*242
Just upstream of dam	*260
Unnamed Stream (Basin 30—Stream 3):	
At mouth	*199
About 1.08 miles upstream of SR 2548	*262
Big Branch Tributary No. 1 (Basin 30—Stream 5):	
About 2,100 feet downstream of Creech Road	*218
At confluence of Adams Branch (Basin 30—Stream 9)	*253
Hillard Creek (Basin 30—Stream 7):	
At mouth	*220
About 3,600 feet upstream of mouth	*244
Unnamed Stream (Basin 30—Stream 8):	
At mouth	*230
About 2,900 feet upstream of mouth	*260
Adams Branch (Basin 30—Stream 9):	
At mouth	*253
Just downstream of SR 2569	*276
Maps available for inspection at the Town Hall, Garner, North Carolina.	
Holly Springs (town), Wake County (FEMA Docket No. 7023)	
Middle Creek (Basin 22—Stream 1):	
Just upstream of SR 1301 (near dam)	*306
Just upstream of dam	*312
About 300 feet downstream of SR 1301	*348
Basal Creek (Basin 22—Stream 16):	
Along shoreline of Sunset Lake	*312
Maps available for inspection at the Town Hall, Holly Springs, North Carolina.	
Knightdale (town), Wake County (FEMA Docket No. 7023)	
Mingo Creek (Basin 12—Stream 2):	
Just upstream of dam (about 1.0 mile upstream of mouth)	*257
Just downstream of SR 2233	*270
Poplar Creek (Basin 13—Stream 1):	
About 700 feet downstream of confluence of Poplar Branch (Basin 13—Stream 2)	*211
About 500 feet upstream of SR 2233	*224
Just downstream of SR 2513	*245
Just upstream of SR 2513	*251
About 900 feet upstream of SR 2513	*251
Poplar Branch (Basin 13—Stream 2):	
At mouth	*215
Just downstream of Farm Road	*240
Mango Creek (Basin 15—Stream 11):	
About 1.55 miles upstream of Norfolk Southern Railway	*224
About 2.23 miles upstream of Norfolk Southern Railway	*251
Maps available for inspection at the Town Hall, Knightdale, North Carolina.	
Morrisville (town), Wake County (FEMA Docket No. 7023)	
Crabtree Creek (Basin 18—Stream 9):	
At the confluence of Stirrup Iron Creek (Basin 18—Stream 12)	*284
About 2,500 feet downstream of confluence of Coles Branch (Basin 18—Stream 24)	*298
Stirrup Iron Creek (Basin 18—Stream 12):	
At mouth	*284
Just downstream of Interstate 40	*293
Basin 18—Stream 13:	
At mouth	*287
Just downstream of SR 1640	*291
Coles Branch (Basin 18—Stream 24):	
About 250 feet downstream of dam	*306
Just downstream of dam	*307
Just upstream of dam	*329
About 3,150 feet upstream of dam	*329
Hatchet Grove Tributary (Basin 18—Stream 25):	
At mouth	*293
About 1,100 feet upstream of SR 1613	*313
Morrisville Tributary (Basin 18—Stream 26:	
At mouth	*288
Just downstream of State Road 54	*293
Just upstream of State Road 54	*300
About 1,450 feet upstream of Norfolk Southern Railway	*304
Kit Creek (Basin 29—Stream 7):	
About 1.5 miles upstream of confluence of Kit Creek Tributary No. 1 (Basin 29—Stream 11)	*283
Maps available for inspection at the Town Hall, Morrisville, North Carolina.	
Raleigh (city), Wake County (FEMA Docket No. 7023)	
Neuse River (Basin 15—Stream 1):	
About 1,300 feet upstream of confluence of Basin 15—Stream 9	*171
Just downstream of SR 2000	*206
Beaverdam Creek (Basin 15—Stream 21):	
At mouth	*188
Just downstream of Buffalo Road	*195
Just upstream of Buffalo Road	*200
Just downstream of Aithcock Loop Road	*236
Perry Creek (Basin 15—Stream 26):	
At mouth	*197
Just downstream of U.S. Route 1	*242
Just upstream of SR 2179	*250
Just downstream of abandoned road (about 2,200 feet upstream of CSX Railroad	*259
Just upstream of abandoned road	*264
Just downstream of dam at Hunting Ridge Road	*283
Just upstream of dam at Hunting Ridge Road	*298
About 4.73 miles above mouth	*305
Just downstream of footbridge (about 2,000 feet upstream of Rainwater Road)	*329
Just upstream of footbridge (about 2,000 feet upstream of Rainwater Road)	*334
Just downstream of dam (about 5.28 miles upstream of mouth)	*339
Perry Creek East Branch (Basin 15—Stream 27):	
At mouth	*197
Just downstream of Fox Road	*206
Just upstream of Fox Road	*211
About 0.93 mile upstream of Fox Road	*260
Basin 15—Stream 28:	
At mouth	*197
About 0.86 mile upstream of mouth	*205
Hare Snipe Creek (Basin 18—Stream 1):	
At mouth	*240
Just downstream of Rembert Drive	*262
Just upstream of Rembert Drive	*267
About 2.37 miles upstream of mouth	*308
About 1,950 feet upstream of Leesville Road	*312
Richland Creek (Basin 18—Stream 3):	
At mouth	*254
Just downstream of dam	*283
Just upstream of dam	*320
Just downstream of Wade Avenue	*344
Just upstream of Wade Avenue	*349
About 4.36 miles upstream of mouth	*356
Just downstream of Trinity Road	*366
Basin 18—Stream 4:	
At mouth	*281
About 0.47 mile upstream of mouth	*295
Just downstream of U.S. Route 70	*300
Just upstream of U.S. Route 70	*305
About 2,500 feet upstream of U.S. Route 70	*319
Turkey Creek (Basin 18—Stream 5):	
About 0.90 mile downstream of dam	*260
Just downstream of dam	*310
Just upstream of dam	*339
Just downstream of U.S. Route 70	*342
Sycamore Creek (Basin 18—Stream 6):	
About 2,050 feet downstream of confluence of Basin 18—Stream 8	*357
About 2,700 feet upstream of ACC Boulevard	*396
Basin 18—Stream 8:	
At mouth	*359
Just downstream of U.S. Route 70	*368
Just upstream of U.S. Route 70	*375
About 1.14 miles above mouth	*392
Just downstream of Westgate Road	*400
Just upstream of Westgate Road	*411
About 0.63 mile upstream of Westgate Road	*433
Crabtree Creek (Basin 18—Stream 9):	
At mouth	*176
About 1.60 miles downstream of SCS Dam No. 23	*261
Little Brier Creek (Basin 18—Stream 15):	
Just upstream of SR 1644	*319
At county boundary	*348
Basin 18—Stream 16:	
At mouth	*321
Just downstream of U.S. Route 70	*348
Marsh Creek (Basin 18—Stream 17):	
At mouth	*213
Just downstream of Ingram Drive	*223
Just upstream of Ingram Drive	*229
Just downstream of CSX Railroad	*270
Just upstream of CSX Railroad	*284
Just downstream of Quail Ridge Road	*290
Just upstream of Quail Ridge Road	*296
About 1,800 feet upstream of Quail Ridge Road	*310
Millbrook Tributary (Basin 18—Stream 19):	
At mouth	*237
Just downstream of Brockton Drive	*242
Just upstream of Brockton Drive	*250
Just downstream of Millbrook Road	*263
New Hope Tributary (Basin 18—Stream 18):	
At mouth	*216
Just downstream of dam (upstream of Huntleigh Road)	*240
Just upstream of dam (upstream of Huntleigh Road)	*250
Just downstream of dam near New Hope Church Road	*254
Just upstream of dam near New Hope Church Road	*271
Just downstream of dam near Waterbury Drive	*281
Big Branch (Basin 18—Stream 21):	
At mouth	*215
Just downstream of U.S. Routes 64 and 70 Bypass	*222
Just downstream of U.S. Routes 64 and 70 Bypass	*227
Just downstream of Compton Drive	*249
Just upstream of Compton Drive	*254
About 1,300 feet upstream of Compton Drive	*260
Just downstream of Purdue Street	*275
Just upstream of Purdue Street	*281
Just downstream of Mill Brook Road	*281
Just upstream of Mill Brook Road	*287
About 900 feet upstream of Mill Brook Road	*298
Lakemont Tributary (Basin 18—Stream 22):	
At mouth	*254
About 1,000 feet upstream of mouth	*269
Just downstream of Latimer Road	*283
Just upstream of Latimer Road	*290
About 1,300 feet upstream of Latimer Road	*314
Pigeon House Branch (Basin 18—Stream 27):	
At mouth	*205
Just downstream of CSX Railroad	*219
Just upstream of CSX Railroad	*224
Just downstream of Downtown Boulevard	*243
Just upstream of Downtown Boulevard	*249
Just downstream of Dortch Street	*255
Just upstream of Dortch Street	*262
Just downstream of Peace Street	*275
Beaverdam Creek (Basin 18—Stream 28):	
At mouth	*220
About 4,500 feet upstream of mouth	*232
Just downstream of Glenwood Avenue	*242
Just upstream of Glenwood Avenue	*247
Southwest Prong Beaverdam Creek (Basin 18—Stream 29):	
At mouth	*247
Just downstream of Cambridge Road	*260
Just upstream of Cambridge Road	*266
Just upstream of Brooks Avenue	*283
Just downstream of Dixie Trail	*328
Just upstream of Dixie Trail	*334
Just downstream of Wade Avenue	*338
Southeast Prong Beaverdam Creek (Basin 18—Stream 30):	
At mouth	*247
Just downstream of Fairview Road	*265
Just upstream of Fairview Road	*271
About 500 feet downstream of Churchill Road	*284
Just downstream of Churchill Road	*290
Just upstream of Churchill Road	*296
Just downstream of Grant Avenue	*305
Just upstream of Grant Avenue	*315
Just downstream of Wade Avenue	*316
Mine Creek (Basin 18—Stream 31):	
At mouth	*232
Just downstream of Shelly Lake Dam	*238
Just upstream of Shelly Lake Dam	*275
Lynn Road Tributary (Basin 18—Stream 32):	
At mouth	*275
About 2,400 feet upstream of mouth	*289

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Just downstream of Lead Mine Road	*305
Just upstream of Lead Mine Road	*310
West Fork Mine Creek (Basin 18—Stream 33):	
At mouth	*275
About 1,500 feet upstream of mouth	*280
About 2,800 feet upstream of mouth	*287
East Fork Mine Creek (Basin 18—Stream 34):	
At mouth	*275
About 1,400 feet upstream of mouth	*283
Just downstream of Long Street	*291
Just upstream of Long Street	*307
Just upstream of Six Forks Road	*313
Just downstream of Newton Road	*318
Just upstream of Newton Road	*329
About 2,450 feet upstream of Newton Road	*338
East Fork Mine Creek Tributary (Basin 18—Stream 35):	
At mouth	*317
Just downstream of Woodbend Drive	*336
Just upstream of Woodbend Drive	*342
About 1,900 feet upstream of Woodbend Drive	*354
House Creek (Basin 18—Stream 36):	
At mouth	*236
About 3,700 feet upstream of mouth	*249
Just downstream of Beltline	*243
Just upstream of Beltline	*248
Just downstream of Glen Eden Road	*254
Just upstream of Glen Eden Road	*260
Just downstream of Horton Street	*299
Just upstream of Horton Street	*307
About 2.46 miles above mouth	*325
Just downstream of U.S. Route 64	*334
Armory Tributary (Basin 18—Stream 38):	
At mouth	*343
About 2,700 feet upstream of mouth	*367
Medfield Tributary (Basin 18—Stream 39):	
At mouth	*328
Just upstream of Wade Avenue	*335
Just downstream of Trinity Road	*364
Just upstream of Trinity Road	*369
About 1,600 feet upstream of Trinity Road	*378
Yates Branch (Basin 20—Stream 13):	
Just upstream of Lake Wheeler Road	*268
Just upstream of dam	*296
About 3.56 miles upstream of dam	*409
Walnut Creek (Basin 30—Stream 1):	
At mouth	*174
Just downstream of Interstate 40	*196
Just upstream of Interstate 40	*201
Just downstream of Lake Raleigh Dam	*270
Just upstream of Lake Raleigh Dam	*285
Just downstream of Lake Johnson Dam	*315
Just upstream of Lake Johnson Dam	*351
Just downsiream of Maynard Road	*437
Big Branch (Basin 30—Stream 2):	
At mouth	*184
Just downstream of SR 2548	*226
Just upstream of SR 2548	*232
About 300 feet upstream of SR 2548	*235
Basin 30—Stream 3:	
At mouth	*199
About 1.42 miles upstream of mouth	*262
Wildcat Branch (Basin 30—Stream 4):	
At mouth	*232
Just upstream of Interstate 40 offramp	*238
Just upstream of Norfolk Southern Railway	*243
Just upstream of dam	*250
About 1.27 miles upstream of mouth	*252
Rocky Branch (Basin 30—Stream 5):	
At mouth	*234
Just downstream of West Cabarrus Street	*272
Just upstream of West Cabarrus Street	*279
Just downstream of Western Boulevard (downstream crossing)	*282
Just upstream of Western Boulevard (downstream crossing)	*291
Just downstream of Western Boulevard (upstream crossing)	*298
Just upstream of Western Boulevard (upstream crossing)	*305
Just downstream of Pullen Road	*319

Maps available for inspection at the Inspection Department, City Hall, Raleigh, North Carolina.

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Wake Forest (town), Wake County (FEMA Docket No. 7023)	
Horse Creek (Basin 4—Stream 1):	
Just upstream of SR 2916	*322
About 1,800 feet upstream of confluence of Basin 4—Stream 3	*323
Unnamed Stream (Basin 4—Stream 3):	
About 2,450 feet upstream of mouth	*335
About 1,800 feet downstream of dam	*352
Richland Creek (Basin 5—Stream 1):	
About 3,450 feet downstream of U.S. Route 1	*221
About 1,650 feet upstream of U.S. Route 1	*237
About 3,200 feet upstream of West Oak Avenue	*295
Smith Creek (Basin 6—Stream 1):	
At mouth	*200
Just downstream of State Road 98	*270
Just upstream of State Road 98	*275
Just upstream of dam	*302
Dunn Creek (Basin 6—Stream 5):	
At mouth	*234
About 0.99 mile upstream of SR 1942	*368
Spring Branch (Basin 6—Stream 6):	
At mouth	*240
Just downstream of Franklin Street	*333
Just upstream of Franklin Street	*342
Austin Creek (Basin 6—Stream 10):	
At mouth	*251
About 2,550 feet upstream of SR 2053	*267
Neuse River (Basin 15—Stream 1):	
Just downstream of confluence of Smith Creek (Basin 6—Stream 1)	*200

Maps available for inspection at the Town Hall, 401 East Elm Street, Wake Forest, North Carolina.

Wake County (unincorporated areas) (FEMA Docket No. 7023)

Little Beaverdam Creek (Basin 2—Stream 2):	
About 2.07 miles upstream of mouth	*299
At county boundary	*323
Newlight Creek (Basin 3—Stream 1):	
At mouth	*263
At confluence of Basin 3—Stream 8	*279
Basin 3—Stream 6:	
At mouth	*263
About 1.30 miles upstream of mouth	*306
Basin 3—Stream 8:	
At mouth	*279
About 1.52 miles upstream of mouth	*372
Buckhorn Branch (Basin 3—Stream 9):	
At mouth	*263
About 1.35 miles upstream of mouth	*299
Horse Creek (Basin 4—Stream 1):	
Just upstream of State Road 98	*264
About 2,400 feet upstream of SR 1909	*338
Basin 4—Stream 3:	
At mouth	*322
Just downstream of dam	*361
Just upstream of dam	*373
Just downstream of SR 1909	*378
Lowery Creek (Basin 4—Stream 10):	
About 3,000 feet upstream of mouth	*263
Just downstream of dam	*350
Just upstream of dam	*366
Just downstream of SR 1909	*371
Basin 4—Stream 13:	
At mouth	*279
About 1.08 miles upstream of mouth	*342
Mud Branch (Basin 4—Stream 15):	
At mouth	*264
Just downstream of first dam upstream of mouth	*321
Just upstream of first dam upstream of mouth	*341
Just upstream of second dam upstream of mouth	*353
Just downstream of third dam upstream of mouth	*412
Just upstream of third dam upstream of mouth	*423
Just downstream of dam just upstream of SR 1909	*439
Just upstream of dam just upstream of SR 1909	*448
Richland Creek (Basin 5—Stream 1):	
At mouth	*205

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
About 0.60 mile upstream of West Oak Avenue	*295
Smith Creek (Basin 6—Stream 1):	
At mouth	*200
At county boundary	*326
Dunn Creek (Basin 6—Stream 5):	
At mouth	*234
About 0.99 mile upstream of SR 1942	*368
Spring Branch (Basin 6—Stream 6):	
At mouth	*240
About 830 feet upstream of mouth	*246
Sanford Creek (Basin 6—Stream 7):	
At mouth	*218
About 1.23 miles upstream of SR 2049	*240
Reedy Creek (Basin 6—Stream 8):	
At mouth	*237
About 1,000 feet upstream of mouth	*240
Just downstream of SR 2052	*254
Basin 6—Stream 9:	
At mouth	*239
Just downstream of SR 2052	*301
Austin Creek (Basin 6—Stream 10):	
At 2,600 feet upstream of mouth	*263
Just downstream of SR 1945	*324
Just upstream of SR 1945	*332
Toms Creek (Basin 7—Stream 1):	
At mouth	*200
Just downstream of first dam upstream of mouth	*224
Just upstream of first dam upstream of mouth	*235
Just downstream of second dam upstream of mouth	*235
Just upstream of second dam upstream of mouth	*249
About 0.87 mile upstream of SR 2049	*277
Hodges Creek (Basin 8—Stream 1):	
At mouth	*191
About 1.14 miles upstream of mouth	*196
About 1,000 feet downstream of SR 2228	*214
Just downstream of SR 2228	*216
Just upstream of SR 2228	*222
About 1,100 feet upstream of SR 2228	*223
Powell Creek (Basin 8—Stream 7):	
At mouth	*194
Just downstream of first dam upstream of mouth	*205
Just upstream of first dam upstream of mouth	*210
Just downstream of second dam upstream of mouth	*221
Just upstream of second dam upstream of mouth	*228
About 2.69 miles upstream of SR 2226	*261
Buffalo Creek (Basin 9—Stream 1):	
At county boundary	*247
Just downstream of SR 2324	*286
Little River (Basin 10—Stream 1):	
At county boundary	*219
Just downstream of dam at SR 2224	*275
Just upstream of dam at SR 2224	*283
Just downstream of State Road 96	*301
Just upstream of State Road 96	*306
About 0.93 mile upstream of State Road 96	*319
Basin 10—Stream 2:	
At mouth	*221
At county boundary	*246
Basin 10—Stream 3:	
At mouth	*221
Just upstream of dam 1,300 feet upstream of mouth	*227
Just upstream of dam 2,600 feet upstream of mouth	*231
Hominy Branch (Basin 10—Stream 4):	
At mouth	*229
About 1.56 miles upstream of mouth	*261
Basin 10—Stream 5:	
At mouth	*246
Just downstream of SR 2329	*274
Basin 10—Stream 6:	
At mouth	*253
Just downstream of SR 2329	*253
Hominy Creek (Basin 10—Stream 7):	
At mouth	*254
Just downstream of SR 2329	*254
Big Branch (Basin 10—Stream 8):	
At mouth	*257
About 3,000 feet upstream of mouth	*264
Just downstream of State Road 96	*282
Basin 10—Stream 9:	
At mouth	*258

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Just upstream of State Road 96	*289
Basin 10—Stream 10:	
At mouth	*260
Just downstream of dam	*266
Just upstream of dam	*271
Buffalo Branch (Basin 10—Stream 22):	
At mouth	*222
About 2,000 feet upstream of mouth	*226
Moccasin Creek (Basin 11—Stream 1):	
At county boundary	*212
Just upstream of U.S. Route 264	*219
Just downstream of State Road 39	*231
Just upstream of dam at State Road 39	*241
Just upstream of SR 2308	*284
About 400 feet upstream of SR 2308	*296
About 2,850 feet upstream of SR 2308	*302
Little Creek (Basin 11—Stream 2):	
At county boundary	*218
Just downstream of State Road 39	*223
Just upstream of State Road 39	*229
About 1.33 miles upstream of mouth	*229
About 1.23 miles upstream of State Road 39	*240
Beaverdam Creek (Basin 11—Stream 3):	
At mouth	*227
Just downstream of dam	*320
Beaverdam Creek (Basin 12—Stream 1):	
At mouth	*184
Just downstream of dam at SR 2217	*189
Just upstream of dam at SR 2217	*195
About 1.89 miles above mouth	*201
Just downstream of SR 2049	*207
Just upstream of SR 2049	*213
Just downstream of SR 2228	*232
Basin 12—Stream 3:	
At mouth	*214
About 2,500 feet upstream of mouth	*228
Just downstream of SR 228	*245
Poplar Creek (Basin 13—Stream 1):	
At mouth	*166
About 1.55 miles upstream of SR 1007	*211
Marks Creek (Basin 14—Stream 1):	
About 0.75 mile downstream of SR 2501	*209
About 7.39 miles upstream of mouth	*213
About 8.52 miles upstream of mouth	*230
Just downstream of SR 2500	*256
Neuse River (Basin 15—Stream 1):	
At county boundary	*161
Just downstream of SR 2000	*206
Basin 15—Stream 7:	
At mouth	*170
About 1.52 miles upstream of mouth	*188
Just downstream of SR 1007	*194
Just upstream of SR 1007	*199
About 2.84 miles upstream of mouth	*208
Just downstream of SR 2601	*228
Basin 15—Stream 8:	
At mouth	*175
Just downstream of SR 2511	*209
Basin 15—Stream 9:	
At mouth	*171
Just downstream of SR 2552	*197
Mango Creek (Basin 15—Stream 11):	
At mouth	*176
About 1.55 miles upstream of Norfolk Southern Railway	*224
Beaverdam Creek (Basin 15—Stream 21):	
At mouth	*188
Just downstream of Buffalo Road	*195
Just upstream of Buffalo Road	*200
Just downstream of Aithcock Loop Road	*236
Basin 15—Stream 22:	
At mouth	*189
About 3,500 feet upstream of mouth	*201
Just downstream of SR 2049	*219
Basin 15—Stream 25:	
At mouth	*194
About 4,500 feet upstream of mouth	*212
Just downstream of SR 2049	*249
Honeycutt Creek (Basin 15—Stream 31):	
About 2.49 miles upstream of mouth	*263
Just downstream of SR 2005	*300
Basin 15—Stream 32:	
At mouth	*263
Just downstream of SR 2010	*279
Basin 15—Stream 33:	
At mouth	*265
Just downstream of dam	*276
Just upstream of dam	*292
Just downstream of SR 2005	*293
Just upstream of SR 2005	*306
Cedar Creek (Basin 15—Stream 34):	
About 1.33 miles upstream of mouth	263
Just downstream of dam	*311
Just upstream of dam	*332
About 1,900 feet upstream of dam	*336
Upper Barton Creek (Basin 16—Stream 1):	
At mouth	*263
Just downstream of SR 1841	*357
Basin 16—Stream 2:	
At mouth	*263
Just downstream of State Road 50	*324
Basin 16—Stream 5:	
At mouth	*268
Just upstream of dam	*284
About 3,000 feet upstream of mouth	*284
Just downstream of State Road 50	*286
Just upstream of State Road 50	*292
About 1,250 feet upstream of State Road 50	*297
Lower Barton Creek (Basin 17—Stream 1):	
At mouth	*263
Just downstream of State Road 50	*316
Just upstream of State Road 50	*321
Just downstream of SR 1826	*381
Basin 17—Stream 4:	
At mouth	*294
About 3,000 feet upstream of mouth	*304
Just downstream of State Road 50	*352
Just upstream of State Road 50	*361
Just downstream of SR 1831	*364
Sycamore Creek (Basin 18—Stream 6):	
About 5.68 miles upstream of mouth	*347
Just downstream of unnamed road about 6.01 miles upstream of mouth	*351
Just upstream of unnamed road about 6.01 miles upstream of mouth	*357
Basin 18—Stream 8:	
At mouth	*359
Just downstream of U.S. Route 70	*369
Just upstream of U.S. Route 70	*375
Just downstream of Westgate Road	*400
Just upstream of Westgate Road	*411
About 3,400 feet upstream of Westgate Road	*428
Crabtree Creek (Basin 18—Stream 9):	
About 1.80 miles downstream of Interstate 40	*259
About 1.10 miles upstream of SCS Dam 23	*284
Haleys Branch (Basin 18—Stream 10):	
At mouth	*284
About 0.6 mile upstream of Interstate 40	*292
Stirrup Iron Creek (Basin 18—Stream 12):	
Just upstream of Interstate 40	*321
Brier Creek (Basin 18—Stream 14):	
Just downstream of dam	*289
Just upstream of dam	*319
White Oak Creek (Basin 19—Stream 1):	
At county boundary	*223
About 5.30 miles upstream of mouth	*235
About 1,750 feet upstream of SR 2955	*251
Basin 19—Stream 4:	
At mouth	*262
Just downstream of Norfolk Southern Railway	*287
Swift Creek (Basin 20—Stream 1):	
At county boundary	*203
Just downstream of dam near State Road 50	*227
Just upstream of dam near State Road 50	*241
Just downstream of Old Stage Road	*245
Just downstream of Norfolk Southern Railway	*251
Just downstream of Lake Wheeler Dam	*269
Just upstream of Lake Wheeler Dam	*292
About 2,000 feet downstream of SR 1300	*315
Bagwell Branch (Basin 20—Stream 10):	
At mouth	*241
Reedy Branch (Basin 20—Stream 11):	
At mouth	*241
Yates branch (Basin 20—Stream 13):	
At mouth	*247
Just downstream of Norfolk Southern Railway	*257
Just downstream of dam	*288
Just upstream of dam	*296
About 3.56 miles upstream of dam	*409
Echo Branch (Basin 20—Stream 14):	
At mouth	*257
Just downstream of Old State Road	*265
Dutchmans Branch (Basin 20—Stream 17):	
At mouth	*292
Just upstream of dam	*298
About 3,100 feet upstream of Dutchman Downs Road	*389
Basin 20—Stream 20:	
At mouth	*294
About 0.83 mile upstream of mouth	*318
Middle Creek (Basin 22—Stream 1):	
At county boundary	*214
Just downstream of Norfolk Southern Railway	*256
Just upstream of Norfolk Southern Railway	*261
About 1.7 miles upstream of SR 1301	*373
Panther Branch (Basin 22—Stream 2):	
At mouth	*237
About 2,850 feet upstream of SR 2724	*305
Mills Branch (Basin 22—Stream 5):	
At confluence with Middle Creek (Basin 22—Stream 1)	*251
Just downstream of SR 2724	*262
Just upstream of SR 2724	*271
Just downstream of Norfolk Southern Railway	*274
Basin 22—Stream 6:	
At mouth	*271
About 2,550 feet upstream of Old Smithfield Road	*348
Camp Branch (Basin 22—Stream 7):	
At mouth	*291
About 1.1 miles upstream of unnamed road	*360
Rocky Branch (Basin 22—Stream 8):	
At confluence with Middle Creek (Basin 22—Stream 1)	*301
Just downstream of SR 1152	*370
Basin 22—Stream 9:	
At mouth	*301
About 3,600 feet upstream of SR 1390	*355
Basal Creek (Basin 22—Stream 16):	
At mouth	*312
Just downstream of dam	*316
Just upstream of dam	*328
About 0.75 mile upstream of State Road 55	*381
Terrible Creek (Basin 22—Stream 19):	
At mouth	*243
Just downstream of dam	*308
Just upstream of dam	*324
Just downstream of SR 1301	*343
Basin 22—Stream 20:	
At confluence with Terrible Creek (Basin 22—Stream 19)	*269
About 1.0 mile upstream of confluence with Terrible Creek (Basin 22—Stream 19)	*312
Rocky Ford Branch (Branch 24—Stream 5):	
About 500 feet upstream of Norfolk Southern Railway	*351
About 1,700 feet upstream of Norfolk Southern Railway	*362
Little Beaver Creek (Basin 27—Stream 1):	
At county boundary	*239
About 1.0 mile upstream of SR 1141	*278
Beaver Creek (Basin 27—Stream 2):	
At county boundary	*239
Just downstream of SR 1611	*354
Beaver Creek Tributary (Basin 27—Stream 3):	
At mouth	*264
About 0.78 mile upstream of mouth	*277
Basin 27—Stream 4:	
At mouth	*283
About 1,250 feet upstream of mouth	*290
Reedy Branch (Basin 27—Stream 5):	
At mouth	*239
Just upstream of confluence of Reedy Branch Tributary	*266
Reedy Branch Tributary (Basin 27—Stream 6):	
At mouth	*266
Just downstream of SR 1163	*306
Kit Creek (Basin 29—Stream 7):	
Just upstream of State Road 55	*256
About 2.21 miles upstream of CSX Railroad	*286
Kit Creek Tributary No. 2 (Basin 29—Stream 8):	
At mouth	*258
About 0.97 mile upstream of mouth	*268
Kit Creek Tributary No. 1 (Basin 29—Stream 11):	
At mouth	*260
About 1.21 miles upstream of SR 1639	*280

Maps available for inspection at the Community Development Department, County Courthouse, Raleigh, North Carolina.

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Wendell (town), Wake County (FEMA Docket No. 7023)	
Buffalo Creek (Basin 9—Stream 1):	
About 400 feet upstream of county boundary	*247
About 2,200 feet upstream of Norfolk Southern Railway	*274
Little River (Basin 10—Stream 1):	
At confluence of Buffalo Branch (Basin 10—Stream 22)	*222
About 2,200 feet upstream of U.S. Business Route 64	*228
Hominy Branch (Basin 10—Stream 4):	
About 2,700 feet downstream of SR 2329	*256
Just downstream of SR 2329	*270
Buffalo Branch (Basin 10—Stream 22):	
At mouth	*222
About 1,500 feet above mouth	*222
Just downstream of dam	*229
Just upstream of dam	*241
Just upstream of private road (about 4,000 feet upstream of mouth)	*257
About 6,000 feet above mouth	*257
Just downstream of SR 2353	*270
Lizard Lick Creek (Basin 10—Stream 23):	
At mouth	*226
About 5,000 feet upstream of mouth	*242
Just downstream of SR 2359	*250
Just upstream of SR 2359	*256
Just downstream of dam	*262
Maps available for inspection at the Town Hall, Wendell, North Carolina.	
Zebulon (town), Wake County (FEMA Docket No. 7023)	
Little River (Basin 10—Stream 1):	
About 3,150 feet upstream of U.S. Business Route 64	*228
Just downstream of State Road 97	*236
Wheeles Creek (Basin 10—Stream 25):	
At mouth	*233
Just downstream of Worth Hinton Road	*281
Little Creek (Basin 11—Stream 2):	
About 1.16 miles downstream of Norfolk Southern Railway	*240
About 3,000 feet downstream of Norfolk Southern Railway	*249
Just downstream of State Road 97	*265
Just upstream of State Road 97	*272
Just downstream of Cemetery Street	*279
Beaverdam Creek (Basin 11—Stream 3):	
About 1,450 feet downstream of SR 2406	*275
Just downstream of SR 1001	*297
Maps available for inspection at the Town Hall, 111 East Vance Street, Zebulon, North Carolina.	
OKLAHOMA	
Glenpool (city), Tulsa County (FEMA Docket No. 7024)	
Nichols Creek:	
At the downstream side of U.S. Routes 75 & 169	*685
33rd West Avenue (upstream corporate limits)	*757
Rolling Meadows Creek:	
At U.S. Routes 75 & 169	*695
At the upstream corporate limits	*727
Maps available for inspection at the City Manager's Office, 14522 Broadway, Glenpool, Oklahoma.	
Owasso (city), Tulsa County (FEMA Docket No. 7024)	
Bird Creek Tributary 5A:	
Approximately 350 feet upstream of U.S. Highway 169	*604
Approximately 3,150 feet upstream of North 123rd Street	*654
Maps available for inspection at the Community Development Office, 207 South Cedar, Owasso, Oklahoma	
Pink (town) Pottawatomie County (FEMA Docket No. 7026)	
Little River:	
Approximately 1 mile downstream of confluence with Pecan Creek	*960
Approximately .42 mile upstream of confluence with Spring Creek	*970
Pecan Creek:	
At confluence with Little River	*966
Approximately 1.8 miles upstream of confluence of Bullfrog Creek	*988
Bullfrog Creek:	
At confluence with Pecan Creek	*969
Approximately 3.7 miles upstream of confluence with Pecan Creek	*1,039
Maps available for inspection at the Town Hall, Ok Road, 1 mile south of Highway 9, Pink, Oklahoma, by contacting the Town Clerk for appointment at (405) 598-3815.	
Sallisaw (city), Sequoyah County (FEMA Docket No. 7026)	
West Shiloh Branch:	
At West Shiloh Avenue	*490
At County Road	*539
Little Sallisaw Creek:	
Just downstream of Kansas City Southern Railway	*488
Just downstream of U.S. Route 64 (Cherokee Avenue)	*492
Hog Creek:	
Just upstream of Interstate Route 40	*492
Approximately 0.9 mile downstream of U.S. Route 59	*522
Maps available for inspection at the City Engineer's Office, 111 N. Elm Street, Sallisaw, Oklahoma	
Sequoyah County (unincorporated areas) (FEMA Docket No. 7024)	
West Shiloh Branch:	
Approximately 0.6 mile downstream of West Shiloh Avenue	*482
Approximately 130 feet upstream of County Road	*540
Little Sallisaw Creek:	
Just upstream of Dogwood Street	*481
Approximately 0.5 mile upstream of Interstate Route 40	*501
Hog Creek:	
At confluence with Little Sallisaw Creek	*491
Approximately 0.9 mile downstream of U.S. Route 59	*522
Maps available for inspection at the Sequoyah County Conservation District, 101 McGee Drive, Sallisaw, Oklahoma.	
Tulsa County (unincorporated areas) (FEMA Docket No. 7030)	
Nichols Creek:	
At downstream corporate limits	*717
At upstream corporate limits	*726
Rolling Meadows Creek:	
At corporate limits	*727
Approximately 1,625 feet upstream of corporate limits	*739
Maps available for inspection at the County Engineer's Office, 500 South Denver, Tulsa, Oklahoma	
PENNSYLVANIA	
Dreher (township), Wayne County (FEMA Docket No. 7026)	
Wallenpaupack Creek:	
Approximately 100 feet downstream of the confluence of East Branch Wallenpaupack Creek	*1,301
Approximately 425 feet downstream of Pine Grove Road	*1,459
Maps available for inspection at the Township Building, Route 191, Newfoundland, Pennsylvania.	
Girardville (borough), Schuylkill County (FEMA Docket No. 7026)	
Mahanoy Creek:	
At Julia Street	*939
At confluence of Shenandoah Creek	*961
Shenandoah Creek:	
At confluence with Mahanoy Creek	*961
Approximately 980 feet upstream from confluence with Mahanoy Creek	*966
Maps available for inspection at the Borough Hall, 4th and B Streets, Girardville, Pennsylvania.	
PUERTO RICO	
Rio Mameyes Basin, Rio Grande de, Patillas and Rio Guamani Basin (FEMA Docket No. 7032)	
Atlantic Ocean:	
At Atlantic Ocean shoreline just west of the mouth of Rio Mameyes	**4.3
Rio Guamani:	
Just downstream of Camino Pozo Hondo	**49.0
Approximately 410 meters upstream of Camino Pozo Hondo	**54.5
Rio Nigua:	
Approximately 40 meters above confluence with Caribbean Sea	**2.0
Approximately 1,185 meters upstream of Puerto Rico Highway 753	**60.2
** Elevation in meters (Mean Sea Level)	
Maps available for inspection at the Miniflas Governmental Center, De Diego Avenue, 13th Floor, North Building, Stop 22, San Juan, Puerto Rico.	
SOUTH CAROLINA	
Barnwell County (unincorporated areas) (FEMA Docket No. 7026)	
Salkehatchie River:	
About 700 feet downstream of CSX railroad	*165
Just upstream of State Route 64	*171
Turkey Creek:	
About 1600 feet upstream of mouth	*155
About 0.89 mile upstream of Wellington Drive	*176
Jordan Branch:	
Just upstream of Galilee Road	*199
Just downstream of dam	*200
Just upstream of dam	*210
About 3100 feet upstream of Main Street	*217
Maps available for inspection at the County Courthouse, Barnwell, South Carolina.	
TEXAS	
Denison (city), Grayson County (FEMA Docket No. 6989)	
Iron Ore Creek:	
Approximately 2.8 miles upstream of U.S. Route 69	*583
Just upstream of Fanin Avenue	*604
Approximately 400 feet upstream of the confluence with Ellsworth Branch	*626
Approximately .8 mile downstream of Loy Lake Road	*640
Loy Creek:	
Approximately 100 feet upstream of the confluence with Iron Ore Creek	*625
Approximately 675 feet upstream of Low Lake Road	*659
Waterloo Creek:	
Approximately 600 feet upstream of the confluence with Iron Ore Creek	*620
At Flowers Drive	*620
Red River:	
Approximately 2.7 miles downstream of Burlington Northern Railroad	*530
Approximately .8 mile upstream of U.S. Routes 69 and 75	*534
Maps available for inspection at the City Hall, 108 Main, Denison, Texas.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Grayson County (unincorporated areas) (FEMA Docket No. 6997)	
Iron Ore Creek:	
Approximately 200 feet upstream of confluence with Choctaw Creek	*538
Approximately 1.9 miles upstream of Preston Road	*712
Choctaw Creek:	
Approximately 500 feet upstream of confluence with Iron Ore Creek	*538
Approximately 2.5 miles upstream of Moore Road	*731
Red River:	
Approximately 2.2 miles downstream of State Route 120	*511
Approximately 2 miles upstream of U.S. Routes 69 and 75	*536
West Prong Whites Creek:	
At County boundary	*660
Approximately 1.7 miles upstream of State Route 121	*712
Ellsworth Branch:	
At the confluence with Iron Ore Creek	*626
Approximately 1.9 miles upstream of State 691	*708
Loy Creek:	
At the confluence with Iron Ore Creek	*625
Approximately 825 feet upstream of Loy Lake Road	*660
Post Oak Creek:	
At the confluence with Choctaw Creek	*625
Approximately 800 feet downstream of U.S. Route 82	*741
Sand Creek:	
Approximately 500 feet upstream of State Route 1417	*708
Approximately 1.6 miles upstream of Washington Avenue	*748
Stream B:	
Approximately 2,200 feet downstream of U.S. Route 82	*666
At the City of Sherman corporate limits	*726
Waterloo Creek: Entire length of stream within county	*620
Stream G:	
At the confluence with Choctaw Creek	*693
Approximately 2.6 miles upstream of confluence with Choctaw Creek	*761
Calf Creek:	
Approximately 6.5 miles upstream of confluence with Choctaw Creek	*653
Approximately 7.8 miles upstream of confluence with Choctaw Creek	*678
Bois d'Arc Creek:	
Approximately 690 feet downstream of Missouri-Kansas-Texas Railroad	*705
Approximately 0.8 miles upstream of Missouri-Kansas-Texas Railroad	*723
Maps available for inspection at the County Courthouse, Sherman, Texas.	
Jasper (city), Jasper County (FEMA Docket No. 7030)	
Trotti Brook:	
At downstream corporate limits	*207
Approximately 900 feet upstream of Munson Street on west side river	*241
Maps available for inspection at the City Hall, 272 East Lamar, Jasper, Texas.	
Nueces County (unincorporated areas) (FEMA Docket No. 7032)	
Gulf of Mexico:	
Viento Del Mar (extended)	*14
East-west access road to Nueces County Park No. 1	*10
Laguna Madre:	
Packery channel east of Packery Channel Park	*12
Approximately 1,000 feet southwest of bayside mouth of Corpus Christi Pass	*12
Palo Seco Drive	*10
Maps available for inspection at the Nueces County Courthouse, Corpus Christi, Texas.	
Sherman (city), Grayson County (FEMA Docket No. 6989)	
Stream B:	
Approximately 50 feet upstream of Union Pacific Railroad	*726
Approximately 1,800 feet upstream of Tuck Street	*745
East Fork Post Oak Creek:	
Approximately 100 feet upstream of U.S. Route 82	*769
Approximately 75 feet upstream of Pecan Grove Road	*771
Choctaw Creek:	
Approximately 1 mile downstream of Burlington Northern Railroad	*679
At Moore Road	*689
Maps available for inspection at the City Hall, 400 North Rusk, Sherman, Texas.	
Whitewright (town), Grayson County (FEMA Docket No. 6996)	
Bois d'Arc Creek:	
Approximately 690 feet downstream of Missouri-Kansas-Texas Railroad	*705
Approximately 0.8 mile upstream of Missouri-Kansas-Texas Railroad	*723
Maps available for inspection at the City Hall, Whitewright, Texas.	
VIRGINIA	
Bedford (city), Independent City (FEMA Docket No. 7024)	
Unnamed Tributary to Little Otter River:	
At confluence with Little Otter River	*841
Approximately 850 feet upstream of Crenshaw Street	*920
West Branch:	
Approximately 400 feet upstream of confluence with Unnamed Tributary to Little Otter River	*892
At U.S. Route 460	*892
Little Otter River:	
Approximately 500 feet downstream of State Route 43	*836
At confluence of Unnamed Tributary to Little Otter River	*841
Maps available for inspection at the City Hall, 215 E. Main Street, Bedford, Virginia.	
WEST VIRGINIA	
White Sulphur Springs (city), Greenbrier County (FEMA Docket No. 7017)	
Howard Creek:	
Approximately 1,000 feet downstream of Greenbrier Street	*1,838
At upstream corporate limits	*1,879
Dry Creek:	
At confluence with Howard Creek	*1,850
At upstream corporate limits	*1,888
Wades Creek:	
At confluence with Howard Creek	*1,855
Approximately 240 feet upstream of State Route 92	*1,902
Maps available for inspection at the City Hall, 34 W. Main Street, White Sulphur Springs, West Virginia.	

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 92–167 Filed 1–6–92; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF DEFENSE

48 CFR Part 249

Default for Failure To Submit Revised Delivery Schedule

AGENCY: Department of the Army, DoD.

ACTION: Interim rule with request for comments.

SUMMARY: A class deviation from FAR 52.249–8 Default (Fixed Price Supply and Service), has been requested by the U.S. Army Communications-Electronics Command (CECOM). Under this deviation, CECOM Contracting Officers (COs) will insert, in addition to the FAR 52.249.8 clause, a clause entitled Default for Failure to Submit Revised Delivery Schedule, which broadens the scope of the 52.249–8 clause by placing additional obligations on contractors. COs will insert the Default for Failure to Submit Revised Delivery Schedule clause in production contracts for a three-year period.

EFFECTIVE DATE: Interim rule effective January 7, 1992; comments must be submitted on or before February 6, 1992.

ADDRESSES: Mail comments to: Headquarters, U.S. Army Communications-Electronics Command, Attn: AMSEL-LG-AB (Mr. James Scuro), Fort Monmouth, NJ 07703–5010 or they may be delivered to: Headquarters, U.S. Army Communications-Electronics Command, Attn: Legal Office, Mr. James Scuro, 2nd floor, CECOM Office Building, Tinton Falls, NJ.

FOR FURTHER INFORMATION CONTACT: Mr. James Scuro (908) 532–1143.

SUPPLEMENTARY INFORMATION: This proposed clause will give COs the contractual rights to require contractors to submit a proposal for a revised delivery schedule, along with documentation to support the reasonableness of the proposed schedule, within 30 days of the COs notification. If the CO approves the revised delivery schedule, it will be incorporated into the contract as a bilateral modification. A failure by a contractor to submit such a proposal and supporting documentation within 30 days as required, or within any extension of time granted in writing by the CO, will be considered a failure to make delivery within the meaning of the Default clause and will be grounds for terminating the contract for default.

The need for this clause arises when a contractor fails to meet the contract delivery schedule, the schedule is subsequently waived by the Government and the contractor then refuses to cooperate in the

establishment of a revised contract schedule. In the absence of the proposed clause the CO is forced to unilaterally impose a delivery schedule on an uncooperative contractor and then has the burden of proof to show the reasonableness of that schedule if the contract is subsequently terminated for default. The proposed clause will place the burden of developing a revised schedule on the contractor who is in a better position to evaluate its capability and thereby proposed a reasonable schedule.

This deviation will allow the use of the new clause for three years. At the end of the three year period, CECOM will submit a report showing (1) the number of contracts in which the clause was included; (2) the number of times the clause was used; and (3) CECOM's assessment of the clause's benefit.

List of Subjects in 48 CFR Part 249

Termination of contracts.

For the reasons set forth in the preamble, CECOM amends 48 CFR part 249 as follows:

1. The authority citation for part 249 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, DoD FAR Supplement 201.301.

2. Section 249.402–4 is added to read as follows:

249.402–4 Default for failure to submit revised delivery schedule.

(a) If at any time it appears that the contractor has not or will not meet the contract delivery schedule, or any extension thereof, the Contracting Officer shall have the right to require the contractor to submit a revised delivery schedule together with adequate documentation to support the reasonableness of the revised schedule. The revised schedule shall provide a specific date for the delivery of each deliverable item under the contract and shall not be submitted subject to any contingencies.

(b) Unless the Contracting Officer has extended the time in writing, the contractor shall submit the revised delivery schedule within thirty (30) days after receipt of the Contracting Officer's written request for it. Such request shall not be deemed a waiver of any existing delivery schedule. The Contracting Officer shall have thirty (30) days after receipt of the contractor's response within which to approve or disapprove the contractor's revised schedule. If it is approved, the parties shall incorporate it into the contract using a bilateral modification.

(c) If the contractor fails to submit a revised delivery schedule as specified in subparagraph (a) above, or any extension thereof granted by the Contracting Officer, the contractor shall be deemed to have failed to make delivery within the meaning of the "Default" clause of this contract and this contract shall be subject to termination.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92–218 Filed 1–6–92; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 655

[Docket No. 910926–1304]

RIN 0648–AE19

Atlantic Mackerel, Squid, and Butterfish Fisheries

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 4 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP). The final rule will: (1) Allow annual catch specifications to be established for up to 3 years; (2) eliminate the existing foreign fishing "windows" and allow the Director, Northeast Region, NMFS (Regional Director), to limit times and areas in which foreign directed fishing may occur; and (3) allow the Assistant Administrator for Fisheries, NOAA (Assistant Administrator) to impose special conditions on joint ventures and directed foreign fishing, including the requirement that owners and operators of foreign vessels purchase domestic harvested and processed fish in relation to the allocation of the total allowable level of foreign fishing (TALFF) to the Nation of the flag vessel. Amendment 4 revises the definition of overfishing for Atlantic mackerel; while not codified, the definition is referenced in this rule.

EFFECTIVE DATE: February 6, 1992.

ADDRESSES: Copies of the amendment, environmental assessment (EA), and regulatory impact review (RIR), and other supporting documents are available upon request from John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Resource Policy Analyst, 508–281–9104.

SUPPLEMENTARY INFORMATION: Amendment 4 makes refinements to the Atlantic mackerel, squid, and butterfish fisheries management regime. The current regime sets a biologically based allowable biological catch (ABC) for each year, from which specifications of optimum yield (OY) are derived. The OY takes economic, social, and ecological factors into consideration under the constraint of the ABC. Domestic annual processing (DAP), domestic annual harvest (DAH), joint venture processing (JVP), and TALFF are based on the OY specifications. These specifications are recommended annually by the Mid-Atlantic Fishery Management Council (Council). The Regional Director makes preliminary and final specification determinations for the fishery based on consultations with the Council and comments from the public. For the purpose of annual specifications, the FMP uses a fishing year of January 1 through December 31. The actual fishing season is prosecuted from November through March. The OY may be adjusted upward to the ABC during the fishing year to accommodate DAH needs. Any adjustments to the OY are published in the **Federal Register** following a public comment period.

In recent years, the Council has recommended that special conditions be imposed on foreign fishing through the foreign fishing permits. These conditions have included the imposition of ratios of directed catch to joint venture and purchased domestic production. Ratios are a method to distribute allocations in exchange for over-the-side purchases and purchases of domestically processed product.

Although boundaries, or windows, in which directed foreign fishing may occur are specified in 50 CFR part 611, the foreign vessels have been granted exceptions by the Regional Director under § 611.50(b)(7) to fish outside of them for several years.

Amendment 4 contains a revised definition of overfishing for Atlantic mackerel that is implemented by approval of the amendment. This rule implements three management measures of Amendment 4: (1) Changes the period in which specifications apply from 1 year (annual) to 3 years; (2) removes the foreign fishing windows but allows the Regional Director to limit the areas in which foreign fishing can occur; and (3) allows the Assistant Administrator to impose special conditions on foreign fishing permits, including ratios.

A description of the management measures of Amendment 4 and their background and rationale were discussed in the proposed rule (56 FR 47439; September 19, 1991) and are not repeated here. The proposed rule invited public comments through October 28, 1991. The comments received are summarized and responded to below.

Comments and Responses

Two sets of public comments were received and are summarized as follows:

Comment: One commenter believes that the measure removing foreign fishing windows is unjustified, since it gives the Regional Director discretionary power to determine where foreign fishing may occur.

Response: The removal of foreign fishing windows signals a response to the dynamic nature of these fisheries and enhances the ability of NMFS to manage these stocks of fish on a timely basis.

Comment: Both commenters felt that the measure allowing the Assistant Administrator to impose ratios and special conditions may cause distress to foreign nations applying for TALFF or JVP by eliminating flexibility of their operations.

Response: This measure will allow the Assistant Administrator to promote the growth of the U.S. domestic fishery while applying strict conservation measures to the management regime in terms of allocations and bycatch limitations.

Classification

The Assistant Administrator determined that Amendment 4 is necessary for the conservation and management of the Atlantic mackerel, squid, and butterfish fisheries.

The Council prepared an EA that discusses the impact on the environment as a result of this rule. Based on the EA, the Assistant Administrator concluded that there will be no significant impact on the human environment as a result of this rule. You may obtain a copy of the EA from the Council (see **ADDRESSES**).

The Assistant Administrator has determined that this rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291. The rule is not expected to have an annual impact of $100 million or more, or to lead to an increase in costs or prices to consumers, individual industries, Federal, state, or local government agencies, or geographic regions. No significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets are anticipated. You may obtain a copy of the RIR from the Council (see **ADDRESSES**).

This rule contains no collection-of-information requirements subject to the Paperwork Reduction Act.

The General Counsel of the Department of Commerce certified to the Small Business Administration that the implementing rule will not have a significant economic impact on a substantial number of small entities. While this rule lays the groundwork for the prosecution of joint venture fisheries in Atlantic mackerel, the rule itself does not impact United States vessels. The special conditions of restricted bycatch and the use of ratios have been used in the management of this fishery for several years. However, NOAA believes that these conditions, by which the fishery is managed, should be explicitly stated as options in this FMP.

The Council determined that this rule will be implemented in a manner that is consistent, to the maximum extent practicable, with the Federally-approved coastal management programs of New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. Massachusetts, Connecticut, New York, New Hampshire, Pennsylvania and Virginia concur with the determinations. Delaware, Rhode Island, Maryland, did not respond within the statutory time period; therefore, their agreement is presumed. The State of Maine has responded previously that fishery management is not a listed activity under Maine's coastal management program and that no consistency review was required.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects

50 CFR Part 611

Fishing, Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 655

Fishing, Fisheries, Vessel permits and fees.

Dated: December 31, 1991.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR chapter VI is amended as follows:

PART 611—FOREIGN FISHING

1. The authority citation for 50 CFR part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 1971 *et seq.*, 22 U.S.C. 1971 *et seq.*, and 16 U.S.C. 1361 *et seq.*

2. Section 611.50 is amended by deleting Figure 1, and Table 1, and revising paragraph 611.50(b)(2) to read as follows:

§ 611.50 Northwest Atlantic Ocean fishery.

* * * * *

(b) * * *

(2) *Time and area restrictions.* (i) Fishing, including processing, scouting, and support of foreign or U.S. vessels, is prohibited south of 35° 00′ N. latitude, and north and east of a line beginning at the shore at 44°22′ N. latitude, 67°52′ W. longitude and intersecting the boundary of the EEZ at 44°11′12″ N. latitude, 67°16′46″ W. longitude.

(ii) Foreign directed fishing under provisions of this section, other than joint venture support by foreign vessels, may not be conducted in the EEZ shoreward of 20 nautical miles from the baseline from which the territorial sea is measured.

(iii) The Assistant Administrator may modify the 20 nautical mile buffer zone or northern or southern boundaries or establish other area restrictions on foreign fishing if necessary.

(iv) The Regional Director may modify the 20 nautical mile buffer zone or northern or southern boundaries or establish other time and area restrictions if he determines that:

(A) The restriction will enhance the availability of fish to domestic fishermen;

(B) The restriction will reduce the amount of the bycatch of certain nontarget species;

(C) The restriction will reduce gear conflicts between domestic and foreign fishermen; or

(D) The restriction will enhance the conservation and management of the fishery.

(v) The Regional Director shall consult with the Council prior to giving notice of any area or time restriction. The Secretary shall also consult with the Coast Guard if the restriction is proposed to reduce gear conflicts. If the Secretary determines after such

consultation that the restriction appears to be appropriate, he shall publish a notice of the proposed restriction in the **Federal Register** together with a summary of the information on which the restriction is based. Following a 30-day comment period, he shall publish a final notice.

(vi) The Regional Director may rescind any restriction if he determines that the basis for the restriction no longer exists.

(vii) Any notice of restriction shall operate as a condition imposed on the permit issued to the foreign vessels involved in the fishery.

* * * * *

PART 655—ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES

3. The authority citation for 50 CFR part 655 continues to read as follows:

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

4. Section 655.22 is amended by revising paragraphs (a), (b), (c), and (d), redesignating paragraph (f) as paragraph (g), and adding a new paragraph (f) to read as follows:

§ 655.22 Procedures for determining initial annual amounts and adjustments.

(a) On or about October 15 of each year, the Council will prepare and submit recommendations to the Regional Director of the initial annual amounts for the fishing year beginning January 1, or the continuing validity of annual specifications for the upcoming fishing year established under paragraph (f) of this section, based on information gathered from sources specified in paragraph (e) of this section. The Council may also recommend, in order to facilitate development of the U.S. fishery, special conditions on joint ventures and foreign directed fishing activities. Such conditions may include certain ratios of TALFF to purchases of domestic-harvested fish and/or domestic-processed fish in relation to the initial annual amounts.

(b) On or about November 1 of each year, unless annual specifications have been established under paragraph (f)(1) of this section, the Secretary will publish a notice in the **Federal Register** that specifies preliminary initial amounts of OY, DAH, DAP, JVP, TALFF, and reserve (if any) for each species. The amounts will be based on information submitted by the Council and from the sources specified in paragraph (e) of this section. In the absence of a Council report, the amounts will be based on information gathered from sources specified in paragraph (e) of this section and other information considered appropriate by the Regional Director. If the preliminary initial amounts differ from those recommended by the Council, the notice must clearly state the reason(s) for the difference(s) and specify how the revised specifications satisfy the 9 criteria set forth above for the species affected. The **Federal Register** notice will provide for a 30-day comment period.

(c) The Council's recommendation and the information listed in paragraph (e) of this section will be available in aggregate form for inspection at the office of the Regional Director during the public comment period. The Council's report on specifications established under paragraph (f)(1) of this section will also be available for inspection at the office of the Regional Director upon receipt from the Council.

(d) On or about December 15 of each year, unless annual specifications have been established under paragraph (f)(1) of this section, the Secretary will make a final determination of the initial amounts for each species, considering all relevant data and any public comments, and will publish a notice of the final determination and response to public comments in the **Federal Register**. If the final amounts differ from those recommended by the Council, the notice must clearly state the reason(s) for the difference(s) and specify how the revised specifications satisfy the 9 criteria set forth above for the species affected.

* * * * *

(f)(1) In accordance with the procedures set forth in this section, the Council may prepare recommendations for initial annual amounts for 3 consecutive fishing years.

(2) The Secretary may adjust these annual amounts upward or downward to produce the greatest overall benefit to the United States at any time prior to or during the fishing years for which the annual specifications were set, by publishing a notice and providing for a 30-day comment period, followed by publication of a final notice.

[FR Doc. 92–265 Filed 1–6–92; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 57, No. 4
Tuesday, January 7, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 52

RIN 3150-AD80

Training and Qualification of Nuclear Power Plant Personnel

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations to require each applicant for and each holder of a license to operate a nuclear power plant to establish, implement, and maintain a training program for nuclear power plant personnel based on a systems approach to training. The proposed rule would require that the training program provide qualified personnel to operate and maintain the facility in a safe manner in all modes of operation. The rule is being proposed to meet the directives of section 306 of the Nuclear Waste Policy Act of 1982. The proposed rule generally reflects current industry practice.

DATES: The comment period expires March 9, 1992. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Mail written comments to: The Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN; Docketing and Service Branch. Deliver comments to: One White Flint North, 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays. Copies of the draft regulatory analysis, as well as copies of the comments received on the proposed rule, may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Morton Fleishman, Office of Nuclear Regulatory Research, telephone: (301) 492-3794 or Mary Ann Biamonte, Office of Nuclear Reactor Regulation, telephone: (301) 504-1073, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

SUPPLEMENTARY INFORMATION:

Background

Nuclear Waste Policy Act of 1982

In section 306 of the Nuclear Waste Policy Act of 1982 (NWPA), Public Law 97-425, the NRC was "directed to promulgate regulations, or other appropriate Commission regulatory guidance for the training and qualifications of civilian nuclear power plant operators, supervisors, technicians and other operating personnel. Such regulations or guidance shall establish * * * instructional requirements for civilian nuclear power plant licensee personnel training programs." In order to meet this directive, on March 20, 1985 (50 FR 11147), the Commission published a Policy Statement on Training and Qualification of Nuclear Power Plant Personnel. The policy statement endorsed a training accreditation program managed by the Institute of Nuclear Power Operations (INPO) in that it encompassed the elements of effective performance-based training and provided the basis to ensure that personnel have qualifications commensurate with the performance requirements of their jobs.

In addition to endorsing the INPO-managed training accreditation program, the 1985 Policy Statement also recognized the INPO-managed accreditation of utility training for the following training programs:

(1) Non-licensed operator.
(2) Control room operator.
(3) Senior control room operator/shift supervisor.
(4) Shift technical advisor.
(5) instrument and control technician.
(6) Electrical maintenance personnel.
(7) Mechanical maintenance personnel.
(8) Radiological protection technician.
(9) Chemistry technician.
(10) On-site technical staff and managers.

While issuing the policy statement, the Commission decided to defer rulemaking in this area for a minimum of two years in order to allow the industry to continue its initatives to upgrade training programs through the INPO-managed training accreditation program. Following issuance of the policy statement, the NRC evaluated the INPO-managed training accreditation program over a two-year period and concluded that it was an effective program. On November 18, 1988, the NRC published an amended policy statement in order to (1) provide additional information regarding the NRC's experience with industry accreditation, (2) change the policy regarding enforcement to eliminate discretion in inspection and enforcement in the areas covered by the 1985 Policy Statement, and (3) reflect current Commission and industry guidance. The NRC staff continues to perform training inspections at different utilities with accredited training programs to ensure that these programs remain effective.

U.S. Court of Appeals Decision

On April 17, 1990, the U.S. Court of Appeals for the District of Columbia Circuit concluded that the Commission's Policy Statement did not meet the intent of the Congressional directive to create mandatory requirements for personnel training programs at civilian nuclear power plants. The Court remanded the issue back to the NRC for action consistent with the Court's findings. *Public Citizen* v. *NRC*, 901 F.2d 147 (D.C. Cir.). The Commission requested a rehearing by the full court of the decision. The request was denied on June 19, 1990. On November 26, 1990, the Supreme Court denied a petition for certiorari by the Nuclear Utility Management and Resource Council. 59 U.S.L.W. 3392 (November 26, 1990).

Actions Proposed in Response to the Court Decision

The NRC is proposing to amend 10 CFR part 50 to require each applicant for and each holder of a license to operate a nuclear power plant to establish, implement, and maintain a training program for nuclear power plant personnel that provides qualified personnel to operate and maintain the facility in a safe manner in all modes of operation. The rule is being proposed to meet the directives contained in section 306 of the Nuclear Waste Policy Act of 1982 (NWPA), Pub. L. 97-425, as interpreted by the U.S. Court of Appeals for the District of Columbia Circuit.

The proposed rule would amend 10 CFR part 50 to require training programs to be derived from a systematic analysis of job performance requirements. Current industry programs have been developed consistent with this approach. From the NRC's monitoring of industry training programs since the 1985 policy statement went into effect, the NRC has concluded that these programs have been generally effective in ensuring that personnel have qualifications commensurate with the performance requirements of their jobs.

Discussion

The safety of nuclear power plant operations and the assurance of general public health and safety depend on personnel performing at adequate performance levels. The systematic determination of qualifications and the provision of effective initial training and periodic retraining will enhance confidence that workers can perform at adequate performance levels. Qualifications in the context of this rule means that nuclear power plant personnel have completed the training program, or parts thereof, as evidenced by meeting the job performance requirements, and are permitted to independently perform specific activities. The Commission has taken an approach in this proposed rule that would specify the process to be implemented by applicants and licensees by which job performance criteria and associated personnel training would be derived. This approach provides for flexibility and site-specific adaptations in the training programs. No additional cost is anticipated with this approach for licensees with accredited programs because the proposed rule is believed to be consistent with existing industry practice for personnel training.

Approaches to the rulemaking other than that proposed, which establishes requirements consistent with the programs already largely developed and implemented by the industry, were not evaluated in detail. There is no evidence that any other approach would provide greater protection of the public's health and safety than the site-specific training programs called for in the proposed rule. At the same time, other approaches would involve greater costs to the industry and the NRC.

Summary of Proposed Rule

Each applicant for and each holder of an operating license for a nuclear power plant would be required to—

(1) Establish a training program for certain nuclear power plant personnel who perform operating, maintenance, and technical support activities;

(2) Use a systems approach to training;

(3) Incorporate instructional requirements to provide qualified personnel who can safely operate the facility in all modes of operation;

(4) Periodically review, evaluate and revise the training program; and

(5) Maintain and keep available for NRC inspection sufficient records to verify the adequacy of the training program.

Although no written response would be required, licensees would be expected to review their license and other commitments for consistency with the new rule.

The Commission has also developed conforming amendments to 10 CFR parts 50 and 52 to accompany the proposed rule. Two changes, to parts 50 and 52, would update information collection requirements for OMB approval and are considered minor. The other change to part 52 is more substantive and has been developed to ensure that applicants for a combined license (construction and operation) will establish, implement, and maintain a training program in accordance with the requirements in 10 CFR 50.120. The proposed rule is not intended to preclude vendor training programs developed in conjunction with standardization of design.

Discussion of Proposed Rule

A new section, § 50.120, would be added to 10 CFR part 50, entitled "Training and qualification of nuclear power plant personnel."

The proposed rule would establish the requirements for and the essential elements of the process to be used by applicants and licensees to—

(1) Determine training and qualification requirements for all appropriate personnel; (2) develop corresponding personnel training programs to ensure that qualified personnel are available to operate and maintain the facility in a safe manner; and (3) implement and maintain these programs effectively on a continuing basis.

Paragraph (a), "Applicability," indicates that the proposed rule would apply to each applicant for and each holder of an operating license for a nuclear power plant.

Paragraph (b), "Requirements," would require that each applicant and licensee establish, implement, and maintain a program for training nuclear power plant personnel which addresses all modes of operation and is derived from a systems approach to training (SAT). The SAT was selected because it has the following characteristics:

(1) Training content and design are derived from job performance requirements;

(2) Training is evaluated and revised in terms of the job performance requirements and observed results on the job;

(3) Trainee success in training can predict satisfactory on-the-job performance; and

(4) Training and associated programs can be readily audited because they involve clearly delineated process steps and documentation.

The SAT process contains five major elements and is intended to require a training system that will ensure successful performance on the job by trained individuals. The elements are—

(1) Analysis of job performance requirements and training needs;

(2) Derivation of learning objectives;

(3) Design and implementation of the training programs;

(4) Trainee evaluation;

(5) Program evaluation and revision.

The SAT process also provides a sequential method of generating the type of documentation needed for training review. Use of SAT will obviate the need for additional documentation for NRC review.

The SAT process is a generic process, and its application is not limited to a certain subject matter or to specific licensee personnel. Training programs based on job performance requirements have been successfully used by the military for over 20 years, and by the nuclear industry for much of the past decade. Furthermore, the Commission has recognized the appropriateness of using this approach to training in its requirements for operator licensing prescribed in § 55.31(a)(4), and for operator requalification prescribed in § 55.59(c).

The rule would provide for the training and qualification of the following nuclear power plant personnel:

(1) Non-licensed operator.

(2) Shift supervisor or equivalent.

(3) Shift technical advisor.

(4) Instrument and control technician.

(5) Electrical maintenance personnel.

(6) Mechanical maintenance personnel.

(7) Radiological protection technician.

(8) Chemistry technician.

(9) On-site technical staff and managers. Licensed operators, such as control room operators and senior control room operators, are not covered by this rule. They will continue to be covered by 10 CFR part 55 for both

initial and requalification training. Because some senior control room operators may also be shift supervisors, only those aspects of training related to their shift supervisor function would be covered by the proposed rule.

The rule would require that training programs be periodically evaluated and revised as appropriate, and also be periodically reviewed by management for effectiveness. Current industry criteria in this regard involve the evaluation by management of individual training programs on a continuing or periodic basis to identify program strengths, weaknesses, and effectiveness. These evaluations are normally completed within a three to six month period following completion of the training programs. The sum of these evaluations results in a comprehensive review. Periodic evaluations of the overall training programs are being done within the four-year industry accreditation cycle. The Commission expects the above practices to continue in conformance with this rule.

Determination of job performance requirements and training needs is part of analysis in the SAT process and is reflected in qualification requirements. It will be the responsibility of the facility applicant or licensee to ensure that all personnel, licensee and contractor, within the scope of the proposed rule have qualifications commensurate with job performance requirements for those tasks for which they are assigned. Initial and continuing training, as appropriate, is expected to be provided to job incumbents in positions covered by the proposed rule.

Each applicant and licensee would be required to maintain and keep available for NRC review and inspection the materials used to establish and implement required training programs for the affected personnel. Current industry criteria in this regard involve retention of those records necessary to support management information needs and to provide required historical data. In general, these include records of program development, evaluation, and revision related to the existing training program. The NRC inspection of training programs has found that sufficient records are being retained for periods that are adequate for regulatory purposes. The Commission believes that no additional guidance for recordkeeping is necessary.

No written response is required by the proposed rule. However, applicants and licensees would be expected to compare their current training commitments and licensing bases with the requirements of the proposed rule. Licensees should use the results of this comparison to evaluate and revise, as appropriate, existing technical specifications (e.g. perhaps deleting Standard Technical Specification Section 6.4—Training) and/or previous commitments. This approach will ensure a common understanding of training commitments (between applicants and licensees and the NRC staff) when future inspections are conducted.

Impact of the Rule on Existing Industry Training Programs

The rule, if adopted, would supersede the Policy Statement on Training and Qualification of Nuclear Power Plant Personnel. The Commission believes that the rule would not result in any change to accredited training programs. Inspections by the NRC have found the programs to be generally acceptable. The Commission concludes that those training programs accredited and implemented consistent with the industry program objectives and criteria would be in compliance with the requirement of this regulation. This conclusion is based both on inspections by the staff which have found the programs to be generally acceptable, and the staff's review of documents which provide the industry program objectives and criteria. An applicant or licensee could also comply with the requirements of the proposed rule without being accredited.

An existing Memorandum of Agreement between INPO and the NRC assures that the NRC will be aware of any modifications or updates to the industry's program objectives and criteria documents which would warrant any modification in the NRC's position expressed above. The NRC will continue to monitor the industry accreditation process by—

(a) Nominating individuals who are not on the NRC staff to serve as members of the National Nuclear Accrediting Board with full voting privileges;

(b) Having an NRC staff member attend and observe selected National Nuclear Accrediting Board meetings with the INPO staff and/or the utility representatives;

(c) Having NRC employees observe INPO accreditation team site visits;

(d) Reviewing any modifications in the program objectives and criteria as currently described in the National Academy for Nuclear Training document "The Objectives and Criteria for Accreditation of Training in the Nuclear Power Industry" (ACAD 91–015); and.

(e) Verifying licensee programs through the NRC inspection process.

As noted above, the NRC has the ability to verify compliance with this regulation through the inspection program and will do so as appropriate. In their inspections the NRC staff will use Inspection Procedure 41500, "Training and Qualification Effectiveness," which references the guidance in NUREG–1220,[1] "Training Review Criteria and Procedures." Based on NRC inspections conducted to date, the Commission believes that the criteria and procedures in NUREG–1220 provide sufficiently clear guidance to allow applicants and licensees to implement effective training programs in compliance with the rule. Therefore, the Commission does not believe it is necessary to issue a regulatory guide to provide additional guidance for complying with the rule.

Vendor-Developed Programs

In 10 CFR part 52, the Commission articulated the goal of safety through standardization of design. The Commission believes that the benefits of standardization could involve the standardization of some types of training associated with the 10 CFR part 52 design certification. Therefore, nothing in the proposed rule is intended to preclude standard training programs being developed or implemented by a vendor. For example, the initial training for instrument and control technicians related to a particular standard design may be conducted by a vendor. As a result, there could be a pool of technicians trained by the vendor on the certified design available for hire at a nuclear power plant site. The personnel, however, would need to complete site-specific training related to the administrative and operating philosophy of the site as well as any other specific requirements of the licensee.

Thus, the requirements for personnel training programs prescribed by § 50.120 do not prevent a vendor from training personnel or from developing a training process. However, it is important to note that vendor training programs are not governed by the proposed rule and that the licensee is ultimately responsible for ensuring that personnel are qualified.

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[1] Copies of NUREG–1220 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for public inspection and/or copying at the NRC Public Document Room, 2120 L. Street, NW., Lower Level of the Gelman Building, Washington, DC.

Applicants for a Combined License

Part 52 is being amended to require that applicants for combined licenses establish, implement, and maintain training programs in accordance with the requirements in 10 CFR 50.120.

Invitation To Comment

Comments concerning the scope and content and the implementation of the proposed amendments are encouraged. Comments are especially solicited on (1) the personnel to be covered, (2) the impact of the proposed amendments on industry training programs, (3) the relationship of the industry's accreditation process to the proposed rule, and (4) the time periods chosen for implementation of the requirements. Suggestions for alternatives to those rulemaking methods described in this notice and estimates of cost for implementation are encouraged.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule, if adopted, would not be major Federal action significantly affecting the quality of the human environmental and therefore an environmental impact statement is not required. Numerous studies have shown that in complex, man-machine systems, human error has often been the overriding contributor to actual or potential system failures that may be precursors to accidents. With this rulemaking, the NRC is emphasizing the need to ensure that industry personnel training programs are based upon job performance requirements. Personnel who are subjected to training based on job performance requirements should be able to perform their job more effectively, and with few errors. Therefore, the environmental effect of implementing this rule would, if anything, be positive because of the reduction in human error. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street. NW. (Lower Level), Washington, DC. Single copies of the environmental assessment and finding of no significant impact are available from Morton Fleishman, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 492–3794.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

Public reporting burden for this collection of information is estimated to average 780 hours per response, including the time of reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (MNBB–7714), U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–3019, (3150–0011), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the values (benefits) and impacts (costs) of implementing the proposed regulation for personnel training and qualification. The draft analysis is available for inspection in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Single copies of the analysis may be obtained from Morton Fleishman (see **ADDRESSES** heading).

The Commission requests public comment on the draft regulatory analysis. Comments on the analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1989, 5 U.S.C. 605(b), the Commission certifies that this rule, if adopted, will not have a significant economic impact upon a substantial number of small entities. This proposed rule primarily affects the companies that own and operate light-water nuclear power reactors and the vendors of those reactors. The companies that own and operate these reactors do not fall within the scope of the definition of "small entity" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration in 13 CFR part 121. Because these companies are dominant in their service areas, this proposed rule does not fall within the purview of the Act.

However, because there may be now or in the future small entities that will provide personnel to nuclear power plants on a contractual basis, the NRC is specifically seeking comment as to how the regulation will affect them and how the regulation may be tiered or otherwise modified to impose less stringent requirements on them while still adequately protecting the public health and safety. Those small entities who offer comments on how the regulation could be modified to take into account the differing needs of small entities should specifically discuss the following items:

(a) The size of their business and how the proposed regulation would result in a significant economic burden upon them as compared to larger organizations in the same business community.

(b) How the proposed regulation could be modified to take into account their differing needs or capabilities.

(c) The benefits that would accrue, or the detriments that would be avoided, if the proposed regulation was modified as suggested by the commenter.

(d) How the proposed regulation, as modified, would more closely equalize the impact of NRC regulations or create more equal access to the benefits of Federal programs as opposed to providing special advantages to any individuals or groups.

(e) How the proposed regulation, as modified, would still adequately protect the public health and safety.

The comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attn: Docketing and Service Branch.

Backfit Analysis

The Commission has determined that the backfit rule, 10 CFR 59.109, does not apply to this proposed rule because these amendments are mandated by section 306 of the Nuclear Waste Policy Act of 1982, 42 U.S.C. 10226. Therefore, a backfit analysis is not required for this proposed rule.

List of Subjects

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria,

Reporting and recordkeeping requirements.

10 CFR Part 52

Administrative practice and procedure, Antitrust, Backfitting, Combined license, Early site permit, Emergency planning, Fees, Inspection, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Reporting and recordkeeping requirements, Standard design, Standard design certification.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the Nuclear Waste Policy Act of 1982, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 50 and 52 as follows:

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for 10 CFR part 50 is revised to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a, and appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 50.120 is also issued under section 306 of the NWPA of 1982, 42 U.S.C. 10226. Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 50.46 (a) and (b), 50.54(c) and 50.120 are issued under sec. 161b, 161i and 161o, 68 Stat. 948, as amended (42 U.S.C. 2201(b); §§ 50.7(a), 50.10(a)–(c), 50.34 (a) and (e), 50.44(a)–(c), 50.46 (a) and (b), 50.47(b), 50.48(a), (c), (d), and (e), 50.49(a), 50.54 1 (a), (i), (i)(1), (l)–(n), (p), (q), (t), (v), and (y), 50.55(f), 50.55a (a), (c)–(e), (g), and (h), 50.59(c), 50.60(a), 50.62(c), 50.64(b), and 50.80 (a) and (b) are issued under sec. 161i, 68 Stat. 949, is amended (42 U.S.C. 2201(i)); and §§ 50.49 (d), (h), and (j), 50.54(w), (z), (bb), (cc), and (dd), 50.55(e), 50.59(b), 50.61(b), 50.62(b), 50.70(a), 50.71 (a)–(c) and (e), 50.72 (a), 50.73 (a) and (b), 50.74, 50.78, and 50.90 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 50.8, paragraph (b) is revised to read as follows:

§ 50.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 50.30, 50.33, 50.33a, 50.34, 50.34a, 50.35, 50.36, 50.36a, 50.48, 50.49, 50.54, 50.55, 50.55a, 50.59, 50.60, 50.61, 50.63, 50.64, 50.71, 50.72, 50.80, 50.82, 50.90, 50.91, 50.120, and appendixes A, B, E, G, H, I, J, K, M, N, O, Q, and R.

* * * * *

3. Section 50.120 is added to read as follows:

§ 50.120 Training and qualification of nuclear power plant personnel.

(a) Applicability. The requirements of this section apply to each applicant for (applicant) and each holder of an operating license (licensee) for a nuclear power plant of the type specified in § 50.21(b) or § 50.22.

(b) Requirements. Each nuclear power plant applicant, by (180 days after the effective date of the rule) or 18 months prior to fuel load, whichever is later, and each nuclear power plant licensee, by (180 days after the effective date of the rule), shall establish, implement, and maintain a training program derived from a systems approach to training as defined in 10 CFR 55.4. The training program must provide for the training and qualification of the following nuclear power plant personnel:

(1) Non-licensed operator.
(2) Shift supervisor.
(3) Shift technical advisor.
(4) Instrument and control technician.
(5) Electrical maintenance personnel.
(6) Mechanical maintenance personnel.
(7) Radiological protection technician.
(8) Chemistry technician.
(9) On-site technical staff and managers.

The training program must incorporate the instructional requirements necessary to provide qualified personnel to operate and maintain the facility in a safe manner in all modes of operation. The training program must be developed so as to be in compliance with the facility license, including all technical specifications and applicable regulations. The training program must be periodically evaluated and revised as appropriate to reflect industry experience as well as changes to the facility, procedures, regulations, and quality assurance requirements. The training program must be periodically reviewed by licensee management for effectiveness. Sufficient records must be maintained and kept available for NRC inspection to verify the adequacy of the program.

PART 52—EARLY SITE PERMITS; STANDARD DESIGN CERTIFICATIONS; AND COMBINED LICENSES FOR NUCLEAR POWER PLANTS

4. The authority citation for 10 CFR part 52 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846).

5. In § 52.8, paragraph (b) is revised to read as follows:

§ 52.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 52.15, 52.17, 52.29, 52.45, 52.47, 52.57, 52.75, 52.77, 52.78, and 52.79.

6. Section 52.78 is added to read as follows:

§ 52.78 Contents of applications; training and qualification of nuclear power plant personnel.

(a) Applicability. The requirements of this section apply only to the personnel associated with the operating phase of the combined licenses.

(b) The application must demonstrate compliance with the requirements for training programs established in § 50.120 of this chapter.

Dated at Rockville, MD, this 31st day of December, 1991.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 92–247 Filed 1–6–92; 8:45 am]

BILLING CODE 7590–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Petroleum Refining Industry

AGENCY: Small Business Administration.

ACTION: Notice of intent to revise the size standard for the Petroleum Refining Industry.

SUMMARY: This notice advises the public that the Small Business Administration (SBA) is considering a revision to a

proposed rule establishing the size standard for a small business in the Petroleum Refining Industry. The size standard is currently no more than 1,500 employees and no more than a 50,000 barrels per day (BPD) refining capacity. On May 3, 1991 the SBA published a notice of proposed rulemaking in the **Federal Register** (56 FR 20382) to eliminate the current 50,000 BPD component of the size standard and retain the 1,500 employee size limit. The comments received from that proposal indicated the need to retain or increase the capacity component to the petroleum refiners size standard. The SBA is considering an increase of that component to 75,000 BPD and the public is invited to comment on the merits of such a revision.

DATES: Comments must be submitted on or before February 6, 1992.

ADDRESSES: Written comments should be sent to: Gary M. Jackson, Director, Size Standards Staff, U.S. Small Business, Administration, 409 3rd Street SW.—suite 8150, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Norman S. Salenger, Economist, Size Standards Staff, Tel: (202) 205–6618.

SUPPLEMENTARY INFORMATION: On May 3, 1991 the SBA published in the **Federal Register** (56 FR 20382) a notice of proposed rulemaking to change the size standard for the Petroleum Refining Industry (Standard Industrial Classification code 2911) from no more than 1,500 employees and no more than 50,000 barrels per day (BPD) refining capacity to no more than 1,500 employees. By eliminating the refining capacity component of the size standard the SBA intended to simplify the size standard and make it compatible with the single size criterion used for all other industries. In addition, this change would allow refining firms now slightly below the capacity limit to expand their refining facilities without losing their small business status.

As explained in the proposed rule, SBA believes small refiners should be allowed to expand beyond 50,000 BPD. Since the current size standard was established in 1975, the number small refiners as well as their share of the industry's refining capacity have steadily diminished. Since 1975, most refineries with less than a 10,000 BPD refining capacity and almost half of the refineries with between 10,000 and 50,000 BPD capacity are no longer operating. During this 16-year period the trend has been an increase in refineries with over 100,000 BPD refining capacity. In 1975, small refiners accounted for 7.8 percent of the U.S. refining capacity while by 1989, this share had decreased to 6.7 percent. New environmental compliance requirements may further diminish the small business share of industry capacity. A heavy investment is expected to be needed to change refining processing equipment and some small firms may not be able to meet the investment requirements.

The public had 30 days to comment on the May 3, 1991 proposal. This comment period was extended an additional 30 days to July 3, 1991 at the request of eight commenters, including three industry associations. The SBA also invited comments on alternatives to the current and proposed size standard. In response, SBA received 24 comments. Two comments supported the proposal as presented. However, one of two commenters also suggested that SBA consider increasing the BPD capacity limit to 175,000. The remaining 22 comments opposed the proposed change with 8 comments recommending alternatives. The major issues raised by the commenters and the SBA's position are discussed below.

Twenty-two commenters recommended that SBA retain the barrel per day capacity component of the size standard. Eight commenters felt that there was no meaningful relationship between barrel capacity and the number of refinery employees. Thus, eliminating the BPD requirement would not accurately reflect a small petroleum refiner. This was due to a widely varying degree of automation among refineries as well as the extent to which firms are engaged in nonrefining activities, such as operating petroleum retail outlets. In conjunction with these comments, the capacity level was cited as a better measure of refinery size than employees. The SBA is persuaded that there is a tenuous relationship between employees and capacity and the previous position to eliminate the barrel per day component of the size standard for petroleum refining should not be adopted.

Ten comments from firms recommended no change to the current size standards without offering or discussing alternatives. The five large firms taking this position argued that employees do not measure true size of a refining firm and that bona fide small refiners would be hurt if large firms were included as small business. The small firms desiring to maintain the current size standard argued that a barrel limitation in necessary to reflect the capital intensive structure of the industry. The small firms commented that they would be placed at a competitive disadvantage with refiners which would be considered small under the proposal because eliminating the BPD requirement would qualify firms with capacity as much as three times the current size limit. Further, integrated refiners, as opposed to businesses which are primarily refiners, would derive substantial benefits. The Defense Fuel Supply Center commented that the proposal would not benefit small firms as intended. The SBA agrees that the change proposed on May 3, 1991 could have had a negative impact on small firms. However, a change to 75,000 BPD is expected not to impact negatively on the small business sector of the Petroleum Refining Industry. The structural changes in the industry warrant an upward adjustment of the capacity component of the size standard. The reasons for this are explained in greater detail after the discussion of the comments.

Five firms recommended that SBA increase the employee component of the size standard for petroleum refiners to 2,000 employees along with an increase in the capacity level. Their position was that this would permit small refiners with widespread retail operations to be small business. The SBA does not believe an increase in the employee component is supportable. Refining firms with 1,500 to 2,000 employees are substantially engaged in nonrefining activities. This observation indicates that refiners with more than 1,500 employees are strong enough to expand beyond their primary business base and do not need assistance from small business programs.

The SBA's concept of what is considered a small petroleum refiner within the industry evolved from the comments. An association representing small refiners said it does not consider a refiner with a capacity in excess of 100,000 BPD a small refiner. A large refiner said that a refiner in the 100,000 BPD to 150,000 BPD range would not be a small refiner. A small refiner said that under the May 3, 1991 proposal a 175,000 BPD refiner could qualify, but no firm with that capacity could be deemed small. A larger refiner that would become small under the proposed change said that at 175,000 BPD the change from small to large occurs. Although these views differ, the general indication is that a firm with over 100,000 BPD refining capacity is not viewed by the industry as a small refiner.

Several alternative capacity levels were recommended by the commenters. They ranged from retaining the 50,000 BPD limit to raising it to 175,000 BPD. The most frequently mentioned alternative (six comments) was 75,000 BPD. Four small firms, below a 50,000

BPD capacity, commented that a 75,000 BPD size standard was acceptable to them.

Several commenters suggested that a capacity level in excess of 100,000 BPD may be appropriate. Two firms and an industry association recommended that SBA consider a capacity size standard of 75,000 BPD per refinery with a limit of 137,500 BPD for multirefinery firms. This alternative introduces complications to the size standard. It also could raise the capacity element to almost three times its present level for a multirefinery firm. (It should be noted that a capacity level of 50,000 BPD per refinery and 137,500 BPD per firm was set by legislation for the purpose of defining a small refinery firm in meeting certain environmental requirements.)

The smallest capacity increase suggested was to 65,000 BPD. SBA believes a limited increase of this amount is not desirable because it would not permit mergers or acquisitions among some small refiners without loss of their small business status.

The SBA has decided that the capacity component to the Petroleum Refinery Industry size standard should be retained and be increased from its current 50,000 BPD level. Such a change should permit small refiners that are now close to the current limit to expand their plants or combine with other small refiners without losing their small business status. The change in the industry structure since the last size standard revision in 1975 supports an adjustment. Such a change should be based on selecting a size standard that reflects the need for assistance by firms designated as small.

SBA is, therefore, considering a revision of the barrel per day component to 75,000 BPD from 50,000 BPD and retaining the 1,500 employee component. Besides being within the industry's concept of a small refiner and facilitating a moderate expansion or combination by currently small refiners, this level is supported by the industry's structure. Firms within this standard are primarily operating as refiners rather than substantially as retail marketers or as petroleum explorers owning a refining operation. Firms with over 75,000 BPD refining capacity are integrated into petroleum activities other than refining. A 75,000 BPD level would allow a number of acquisition or merger opportunities among now small refiners without loss of their small business status. Such a combination may help to alleviate cost pressures of environmental compliance on small refining firms.

SBA is publishing this notice to elicit further information from the public prior to the issuance of a final rule. In order to facilitate such public comments SBA has provided this notice outlining its present thinking based upon comments received from the May 3, 1991 proposed rule, as well as the Agency's own study. However, SBA is not suggesting that the size standard outlined in this notice, or that set forth in the May 3, 1991 proposal, will be adopted as the final size standard for the Petroleum Refining Industry. Rather, SBA is seeking additional input from the public in the formulation of a final size standard which will reflect a more suitable definition of a small business in the Petroleum Refining Industry. As such, any final rule on this issue adopted by SBA will be logical outgrowth of Agency research in conjunction with public comment from both the proposed rule and this notice.

Dated: December 29, 1991.

Patricia Saiki,

Administrator, U.S. Small Business Administration.

[FR Doc. 92–257 Filed 1–6–92; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Indiana Abandoned Mine Land Reclamation Program

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Indiana Abandoned Mine Land Reclamation Program (hereinafter referred to as the Indiana Program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1231 *et seq.*, as amended.

The proposed amendment pertains to changes to SMCRA made by the AML Reclamation Act of 1990 which became effective October 1, 1991. The proposed amendment is intended to revise the Indiana Program to address the changes to SMCRA effected by the amendments.

This notice sets forth the times and locations that the Indiana Program and the proposed amendment to that program will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed for a public hearing, if one is requested.

DATES: Written comments must be received on or before 4 p.m., e.s.t. on February 6, 1992; if requested, a public hearing on the proposed amendment is scheduled for 1 p.m., e.s.t. on February 3, 1992; and requests to present oral testimony at the hearing must be received on or before 4 p.m., e.s.t. on January 22, 1992.

ADDRESSES: Written comments and requests to testify at the hearing should be directed to Mr. Richard D. Rieke, Director, Indianapolis Field Office, at the address listed below. If a hearing is requested, it will be held at the same address.

Copies of the Indiana program, the amendment, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the following locations, during normal business hours, Monday through Friday, excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Indianapolis Field Office, Minton-Capehart Federal Building, 575 North Pennsylvania Street, room 301, Indianapolis, IN 46204. Telephone: (317) 226–6166.

Indiana Department of Natural Resources, 402 West Washington Street, room 295, Indianapolis, IN 46204. Telephone: (317) 232–1547.

Each requester may receive, free of charge, one copy of the proposed amendment by contacting the OSM Indianapolis Field Office.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. Rieke, Director, Telephone (317) 226–6166; (FTS) 331–6166.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program

On July 29, 1982, the Indiana program was made effective by approval of the Secretary of the Interior. Information pertinent to the general background on the Indiana program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982, **Federal Register** (47 FR 321110). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 914.20, and 914.25.

II. Discussion of the Proposed Amendment

By letter received by the OSM on December 6, 1991 (Administrative Record No. IND–1010), the Indiana Department of Natural Resources (IDNR) submitted a proposed amendment to the Indiana Program on its own initiative. The proposed amendment consists of revised narratives to modify several sections of the approved Indiana Plan as provided for by 30 CFR 884.13. Specifically, the following areas of the plan are being revised.

(1) Goals and Objectives (30 CFR 884.13(c)(1))

Indiana is revising this part of the plan to include those post-1977 abandoned mine lands and water made eligible for reclamation by the AML Reclamation Act of 1990 which amended SMCRA, and to reflect the State's use of the Set Aside Reclamation Fund for restoring eligible lands and water after expiration of the Federal Program, or implementation of an Acid Mine Drainage abatement program.

(2) Project Ranking and Selection Procedures (30 CFR 884.13(c)(2))

Indiana is changing this part of the plan so that the State's project priority system directly corresponds to SMCRA, and revises the Site Evaluation Matrix used to rank potential sites. This narrative also incorporates language to reflect SMCRA amendments.

(3) Reclamation on Private Land (30 CFR 884.13(c)(5))

Indiana modified this narrative to include a policy to utilize the services of an independent appraiser when a lien evaluation indicates a $2,500.00 or greater increase in property value due to reclamation.

(4) Public Participation Policies (30 CFR 884.13(c)(7))

Indiana has modified this part of the plan to reflect organizational changes in the State agency, and provide clarification concerning these changes.

(5) Organization of Designated Agency (30 CFR 884.13(d)(1))

This portion of the plan is being changed to reflect State agency organizational changes in the Departmental and Division levels, and the AML agency's changes relating to project management.

(6) Description of Eligible Lands and Water (30 CFR 884.13(e)(1)(2))

Indiana revised this part of the plan to address post-1977 sites eligible for reclamation under SMCRA as amended, as to description and reclamation objectives.

Minor wording changes may occur in other sections of the plan, but do not substantively change the plan.

The full text of the proposed program amendment submitted by Indiana is available for public inspection at the addresses listed above. The Director now seeks public comment on whether the proposed amendment is no less effective than the Federal regulations. If approved, the amendment will become part of the Indiana program.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 884.14, OSM is now seeking comment on whether the amendment proposes by Indiana satisfies the applicable requirements of 30 CFR 732.15 for the approval of State program amendments. If the amendment is deemed adequate, it will become part of the Indiana program.

Written Comments

Written comments should be specific, pertain only to issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Indianapolis Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by the close of business on January 22, 1992. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons who desire to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the Indianapolis Field Office by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**" All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance at the locations listed above under "**ADDRESSES**". A summary of the meeting will be included in the Administrative Record.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface Mining, Underground mining.

Dated: December 20, 1991.

Carl C. Close,

Assistant Director, Eastern Support Center.

[FR Doc. 92–240 Filed 1–6–92, 8:45 am]

BILLING CODE 4310–05–M

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Initiation of Status Review and Request for Information on the Northern Goshawk

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of status review on the northern goshawk.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is reviewing the status of the northern goshawk (*Accipiter gentilis*) in the United States. The northern goshawk is currently being elevated to Category 2 status throughout its range in the United States in response to information indicating possible population declines and loss and modification of habitat. The Service requests data on taxonomy, distribution, population trends, habitat use, and loss or modification of habitat.

DATES: Comments and materials may be submitted to the Field Supervisor at the address listed below until further notice.

ADDRESSES: Information, comments, or questions concerning the northern goshawk status review may be submitted to the Field Supervisor, Phoenix Field Office, U.S. Fish and Wildlife Service, 3616 West Thomas Road, suite 6, Phoenix, Arizona 85019. The information, data and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Timothy Tibbitts at the above Phoenix,

Arizona, Field Office address (telephone 602/379–4720 or FTS 261–4720).

SUPPLEMENTARY INFORMATION:

Background

The northern goshawk (*Accipiter gentilis*) occurs in forested regions throughout the higher latitudes of the northern hemisphere. Approximately 11 subspecies are variously recognized, with 7 occurring across northern Eurasia (Palmer 1988). Three subspecies are variously recognized in North America: *A. g. atricapillus* occurs throughout northern North America, and south through the western states to southern Arizona and New Mexico; *A. g. langi* in coastal British Columbia and southeastern Alaska; and *A. g. apache* in the mountains of southern Arizona and New Mexico, and south through the Sierra Madre of Mexico (Johnsgard 1990, Monson and Phillips 1981, Palmer 1988, Wattel 1973, Webster 1988). The Queen Charlotte Islands goshawk (*A. g. langi*) is more widely recognized than the Apache goshawk (*A. g. apache*) (Palmer 1988), and both are likely sympatric to some degree with *A. g. atricapillus*. Neither the Queen Charlotte nor Apache goshawks were included in the 1983 American Ornithologists' Union Checklist of North American Birds (AOU 1983).

Summary of Status

The northern goshawk is known to experience fluctuations in population size, density, and nesting success, presumably in response to natural factors such as prey availability (Kenward 1982, McGowan 1975, Wikman and Linden 1981). A number of studies have found population declines and loss and modification of habitat are also occurring, especially in western North America (Crocker-Bedford 1986, Crocker-Bedford 1990a and 1990b, Kennedy 1989, Patla 1991, Zinn and Tibbitts 1990). Also, reestablishment of the goshawk is suspected in northeastern North America, where forest habitat is recovering from extensive clearing following European settlement.

In recent decades, the northern goshawk has been the subject of numerous studies, particularly on habitat and food requirements, as well as habitat partitioning among the *Accipiter* hawks (e.g. Anderson 1979, Bartelt 1974, Reynolds 1983, Reynolds 1988, Saunders 1982). Many studies have attempted to investigate the implications of forest management on goshawk populations. The concern has been that various human activities (timber extraction, conversion to agriculture, suppression of fire) may significantly alter forest structure and ecology.

The goshawk is a high trophic level predator dependent upon a variety of avian and mammalian species. The goshawk has been considered a valuable "indicator species," reflecting changes in overall forest ecology. More recently, however, concern has been expressed for the goshawk (USFS 1991), including a petition filed with the Service to list goshawks in the southwestern United States under the Endangered Species Act of 1973, as amended (ESA) (Silver et al. 1991).

In evaluating the petition, the Service concluded that goshawks in the southwestern United States did not comprise a distinct population and therefore do not constitute a listable entity. However, the Service also determined substantial information exists which indicates northern goshawk population declines, and loss and/or modification of its habitat may be occurring, not only in the Southwest but elsewhere in the United States.

A number of studies have reported declining trends in goshawk populations (Crocker-Bedford 1990a, Kennedy 1989, Patla 1991, Zinn and Tibbitts 1990). In response to concern for goshawk populations, several programs have been developed to manage habitat to promote goshawk population viability (Crocker-Bedford 1991, Fowler 1988, Merrill 1989, USFS 1991). Thus, concern now exists for both the overall forest ecology and for goshawks themselves.

The Service has determined that substantial scientific and commercial information exists to indicate goshawk numbers may be declining and present and future threats of habitat destruction or modification may exist. The Service is therefore classifying the northern goshawk (*Accipiter gentilis*) as a Candidate species (Category 2) throughout its range in the United States. Category 2 includes those taxa for which there is some evidence of vulnerability, but for which there are not enough data to support a listing proposal at this time. Elevation to Category 2 does not mandate initiation of a status review. However, because of the level of concern for the goshawk, the Service is initiating this status review (50 CFR 424.15) to better understand trends in population size and stability and loss or modification of habitat. The Service's Southwest Region (Albuquerque, New Mexico) will assume lead responsibility in pursuing this status review.

The Service requests information on the northern goshawk (*Accipiter gentilis*) primarily throughout its range in the United States, but also solicits information on the species in Canada, Mexico, and Eurasia. The Service requests information primarily on the following topics:

1. Population trends and dynamics, and documented or suspected influencing factors.
2. Reproduction trends and documented or suspected influencing factors.
3. Trends in loss, modification, and recovery of goshawk habitat.
4. Qualitative and quantitative partitioning of habitat by goshawks for wintering, nesting, and foraging.
5. Taxonomic clarification of North American goshawk subspecies.
6. Migration and dispersal.

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Authors

The primary authors of this notice are Timothy Tibbitts of the Phoenix, Arizona, U.S. Fish and Wildlife Ecological Services Field Office, and Lorena Wada of the Albuquerque, New Mexico, U.S. Fish and Wildlife Service Regional Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Authority: 16 U.S.C. 1381–1487; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub L. 99–625, 100 Stat. 3500; unless otherwise noted.

Dated: December 30, 1991.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 92–254 Filed 1–6–92; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of 90-Day Finding on Petition To List the Northern Goshawk as Endangered or Threatened in the Southwestern United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding; 90-day petition finding for the northern goshawk.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 90-day finding for a petition to add the northern goshawk (*Accipiter gentilis*) in Utah, Colorado, New Mexico, and Arizona to the List of Endangered and Threatened Wildlife. The Service finds that the petition has not presented substantial information indicating that the requested action may be warranted, primarily because the petition has not presented substantial information indicating that the northern goshawk (*Accipiter gentilis*) in Utah, Colorado, New Mexico, and Arizona constitutes a listable entity.

DATES: The finding announced in this notice was made on December 30, 1991. Comments and materials related to this petition finding may be submitted to the Field Supervisor at the address listed below until further notice.

ADDRESSES: Information, comments, or questions concerning the northern goshawk petition may be submitted to the Field Supervisor, Phoenix Field Office, U.S. Fish and Wildlife Service, 3616 West Thomas Road, suite 6, Phoenix, Arizona 85019. The petition, finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Timothy Tibbitts at the above Phoenix, Arizona, Field Office address (telephone 602/379–4720 or FTS 261–4720).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973 (Act) (16 U.S.C. 1531–1544), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register.**

On July 19, 1991, the Service received a petition from Robin D. Silver, M.D., Maricopa Audubon Society, to list the northern goshawk (*Accipiter gentilis*) as an endangered species in Utah, Colorado, New Mexico, and Arizona. Co-sponsors of the petition were the Arizona Audubon Council, Southwest New Mexico Audubon Society, Mesilla Valley Audubon Society, Forest Guardians, Friends of the Owls, Greater Gila Biodiversity Project, HawkWatch International, Inc., Lighthawk, Sierra Club Grand Canyon Chapter, and Sierra Club Rio Grande Chapter. The petition was dated July 12, 1991. A second petition to list the goshawk throughout the forested west was received from Mr. Charles Babbitt of the Maricopa Audubon Society, and co-sponsored by the Arizona Audubon Council, Southwest New Mexico Audubon Society, Mesilla Valley Audubon Society, Forest Guardians, Friends of the Owls, Greater Gila Biodiversity Project, HawkWatch, Rio Grande Chapter Sierra Club, and Southern Utah Wilderness Alliance, on September 26, 1991. The 90-day finding for the second petition is due December 25, 1991.

This finding is based on various documents, including published and unpublished studies, agency documents, literature syntheses, field survey records, and consultation with Service, Bureau of Land Management (BLM) and U.S. Forest Service (FS) personnel. All documents on which this finding is based are on file in the Phoenix, Arizona Fish and Wildlife Service Field Office.

A species that is in danger of extinction throughout all or a significant portion of its range may be declared an endangered species under the Act. A species that is in danger of endangerment (as defined above) throughout all or a significant portion of its range may be declared a threatened species under the Act. The term "species" is defined by the Act to include "subspecies * * * and any distinct population segment of any species which interbreeds when mature." (16 U.S.C. 1532 (16)) Thus, the first issue addressed in evaluating this petition was whether northern goshawks in Utah, Colorado, New Mexico, and Arizona constitutes a listable entity, i.e. a distinct population

segment of the species which interbreeds when mature.

The northern goshawk (*Accipiter gentilis)* occurs in forested regions throughout the higher latitudes of the northern hemisphere. Approximately 11 subspecies are variously recognized, with 7 occurring across northern Eurasia (Palmer 1988). Three subspecies are variously recognized in North America: *A. g. atricapillus* occurs throughout northern North America, and south through the western states to southern Arizona and New Mexico; *A. g. langi* in coastal British Columbia and southeastern Alaska; and *A. g. apache* in the mountains of southern Arizona and New Mexico, and south through the Sierra Madre of Mexico (Johnsgard 1990, Palmer 1988, Monson and Phillips 1981, Wattel 1973, Webster 1968). The petition therefore requested listing geographical sections of both the *A. g. atricapillus* and *A. g. apache* subspecies.

The primary evaluation of the petition sought to determine whether or not the petitioned action involved a listable entity, a population as defined by the Act and current draft population policies. The petition was initially examined to determine whether a distinct population segment which interbreeds when mature, which exhibits genetic or morphological distinctness and/or geographical isolation was identified. Population criteria were applied to the petitioned area of Utah, Colorado, New Mexico, and Arizona (hereafter "petitioned region").

The petitioners state that northern goshawks in the petitioned region constitute "* * * an isolated population, geographically separated from other goshawk populations * * *" (Silver et al. 1991). As evidence of this isolation, they cite various studies that document (and hypothesize) only short-range seasonal dispersal of juveniles (Crocker-Bedford 1991, Widen 1985). The petitioners also submit that genetic mixing with other regions is unlikely to result from migration, citing studies documenting adult northern goshawks resident in breeding habitat throughout the year (McGowan 1975, Widen 1985), and sources stating that goshawks are largely nonmigratory (Brown and Amadon 1968, Hoffman, HawkWatch International, Inc., *in litt.*, 1991, Johnsgard 1990, Palmer 1988).

1. Genetic or Morphological Distinctness

The petition presents no data demonstrating genetic or morphological distinctness of goshawks in the petitioned region. The petition suggests the Southwest is genetically isolated, based on small (30 miles) dispersal ranges documented in Swedish goshawks by Widen (1985). The Service was unable to locate additional data, and determined that the burden of proof for genetic isolation rests with the petitioner and was not satisfactorily accomplished. The Service does anticipate, however, the comparison data will become available in the near future, resulting from ongoing studies by the U.S. Forest Service and private researchers.

2. Geographic Isolation

No known studies have demonstrated that the northern goshawk in the petitioned region constitutes a geographically isolated population. The region defined in the petition is believed to constitute a significant portion of the goshawk's range in North America but is not geographically separated from other regions containing breeding goshawks. Breeding habitat is continuous from within the petitioned region into adjoining regions at several points. The Rocky Mountains provide forested goshawk breeding habitat from Colorado north into Wyoming. Habitat is also continuous from northern Utah north into Idaho and Wyoming. Considerable habitat exists in mountains of the Great Basin west of Utah in Nevada, and south from southern Arizona and New Mexico into northern Mexico.

Evidence shows that goshawks are capable of moving (migration or dispersing) freely into and out of the southwest. Hoffman (*in litt.*, 1991) reported recovery of 3 banded goshawks 105, 160, and 1,050 miles from their respective points of banding. All three were subadult birds; they were banded during autumn Captor migrations. However, the best available evidence also suggests that goshawks tend not to make significant movements for the crucial purpose of seeking new breeding sites. Widen (1985) found adult male goshawks tended to remain on breeding territories through the year. Adult females and subadults did disperse in the nonbreeding season but rarely more than 30 miles. This dispersal was believed to be driven by a reduced prey availability in the nesting habitat through the winter months. Several authorities (Johnsgard 1990, Palmer 1988) believe goshawks mate for life, thus dispersing adult females are expected to return to a traditional nesting territory. The fidelity of goshawks to their natal area for nesting in adulthood is not currently known.

Data suggests goshawks are weakly migratory at best and after adulthood may be year-round residents in their breeding habitat. Goshawks are proportionately uncommon at migration concentration points where congeneric Cooper's hawks and sharp-shinned hawks are common (Hoffman, *in litt.*, 1991). Several authors (McGowan 1975, Widen 1985) have noted adult goshawks in breeding territories through the winter. Without marking individuals these cannot be confirmed as "year-round residents" but are often assumed to be. The alternative is unlikely, that breeding birds would abandon their territories to invading migrants. Regardless, the importance of migration in genetic mixing between geographic regions is not likely to be great. By definition, migration involves individuals moving seasonally between distinct breeding and wintering grounds and does not provide for mixing of individuals from diverse geographical regions for reproductive purposes.

Service biologists considered the above information, assisted by a group of Federal biologists from the FS and BLM. The consensus was that the petition had not presented substantial information indicating that goshawks in Colorado, Utah, New Mexico, and Arizona constitute a distinct vertebrate segment (population). Limited information is available, and exists in two limited and somewhat counterbalancing data sets. On one hand, observations at migration stations do reveal a small number of goshawks in seasonal migration. Several band returns have quantified movements in subadults ranging from 100 to 1,000 miles. Thus goshawks are at least capable of movement into and out of the petitioned geographic area. However, telemetry data suggests goshawks do not tend to move large distances, for purposes that result in interbreeding of individuals from widely separated geographic regions. Evidence suggests adults (especially males) may largely be resident year-round, with females and subadults dispersing for the nonbreeding season, presumably in search of prey. The degree of philopatry is unknown at this time. Thus, the best available information suggests that goshawks are capable of considerable geographic movement, sometimes accomplish these movements, but also tend to remain near their breeding sites.

Given the relative continuity of goshawk habitat through the western United States, the petitioned area cannot be defined as a distinct population. While evidence suggests it is unlikely that goshawk from central Arizona (for example) interbreed with those from outside the petitioned region, it is possible that interbreeding takes

place across the boundaries of the petitioned region. Goshawks in northern Colorado may interbreed with those in southern Wyoming, 30 miles away. The petition, and the best available information, does not support defining goshawks in Utah, Colorado, New Mexico, and Arizona as an exclusive, interbreeding population.

The Service finds that the data contained in the petition, referenced in the petition, and otherwise available to the Service does not present substantial information indicating that the petitioned action may be warranted. This negative 90-day finding results from the failure of the petitioner to present substantial scientific or commercial information indicating that northern goshawks in Utah, Colorado, New Mexico, and Arizona satisfy Service criteria for a distinct vertebrate population. In reviewing the petition and all known relevant information, the Service was also unable to demonstrate that goshawks in the Southwest satisfy current population criteria and, therefore, found that the segment of the goshawk's range identified in the petition is not a listable entity.

The Service did conclude however, that the petition did present substantial information indicating that northern goshawk population declines and loss and/or modification of its habitat may be occurring. Therefore the Service has elevated the Northern goshawk (*A. gentilis*) to Category 2 status in the upcoming Endangered and Threatened Wildlife and Plants; Animal Notice of Review, throughout its range in the United States. Initiation of a status review for the goshawk in its range throughout the United States is announced in this volume of the Federal Register.

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Authors

The primary authors of this notice are Timothy Tibbitts of the Phoenix, Arizona U.S. Fish and Wildlife Ecological Services Field Office, and Lorena Wada of the Albuquerque, New Mexico U.S. Fish and Wildlife Service Regional Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Authority: 16 U.S.C. 1381–1487; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub I. 99–625, 100 Stat. 3500; unless otherwise noted.

Dated: December 30, 1991.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 92–255 Filed 1–6–92; 8:45 am]

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50 CFR Part 17

RIN 1018–AB10

Captive-bred Wildlife Regulation

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to propose rule.

SUMMARY: Under the Endangered Species Act of 1973 (Act), the Fish and Wildlife Service (Service) regulates certain activities involving endangered or threatened wildlife of non-native species that are born in captivity in the United States. This is currently accomplished by requiring persons who wish to conduct otherwise prohibited activities with such wildlife to register with the Service, *i.e.*, to obtain a captive-bred wildlife, or CBW, registration [50 CFR 17.21(g)]. The Service registers persons who meet certain established requirements and specifies the extent of the activities that those persons are authorized to conduct. The system is based in part on the definition of "enhance the propagation or survival" found at 50 CFR 17.3. The Service believes that this system of regulation, as presently implemented, may impose a substantial paperwork burden on the public as well as on the Service without contributing appreciably to the conservation of many affected species. Since the Service's primary goal under the Act is the conservation of wild populations, it wishes to conduct a review of the system to determine whether changes are needed, and if so, what those changes should be. The review is based upon the principle that regulatory actions should have a sound biological basis rather than representing an overly legalistic interpretation of the Act. Several alternatives including continuation of the present system and the current definition of "enhance" are presented. The Service seeks information and comments from the public that will contribute to this review and the subsequent decision by the Service whether to propose revised regulations. Suggestions for other alternatives not presented here are welcome. Information on species that have substantial numbers of individuals that are surplus to breeding programs is also solicited.

DATES: The Service will consider all comments received by March 9, 1992.

ADDRESSES: Send comments to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, room 432, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Marshall P. Jones, or Richard K. Robinson, Office of Management Authority, at the above address (703/358–2093).

SUPPLEMENTARY INFORMATION: The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) prohibits any person subject to the jurisdiction of the United States from conducting certain activities with any endangered or threatened species of fish or wildlife. These activities include, among other things, import, export, take, and interstate or foreign commerce. The Secretary of the Interior (or the Secretary of Commerce in the case of certain marine species) may permit such activities, under such terms and conditions as he shall prescribe, for scientific purposes or to enhance the propagation or survival of the affected species, provided these activities are consistent with the purposes of the Act. The Secretary of the Interior's authority has been delegated through the Directorate of the Service to the Office of Management Authority.

The Fish and Wildlife Service (Service) has been striving to achieve an

appropriate degree of control over prohibited activities involving living wildlife of non-native species born in captivity in the United States. This has been difficult to achieve. Twelve years ago, the Service issued proposed and final rules to address this issue (44 FR 30044, May 23, 1979, and 44 FR 54002, September 17, 1979). In announcing the final rule, the Service stated that:

> The proposal followed from a decision by the Service that activities involving captive wildlife should be regulated, as required by the Endangered Species Act of 1973, but only to the extent necessary to conserve the species. As reported in the proposal, strict regulation has interfered with the captive propagation of wildlife. It has caused persons who would otherwise breed endangered species to cease doing so, or to reduce the number of offspring produced because they could not readily be transferred to other persons.

The preamble to the final rule also pointed out that conservation of wild populations must be the Service's primary goal.

The final rule amended regulations in 50 CFR 17.21 by adding § 17.21(g), which granted general permission to take; import or export; deliver, receive, carry, transport or ship in the course of a commercial activity; or sell or offer for sale in interstate or foreign commerce any non-native endangered or threatened wildlife that is bred in captivity in the United States. In other words, the regulation itself is the permit. In order for persons or institutions to operate under that permit, certain conditions must be met:

(1) The wildlife is not native to the United States or is a native species determined by the Service to be eligible due to low demand for taking from wild populations and the effective protection of wild populations;

(2) The purpose of the activity is to enhance the propagation or survival of the species;

(3) The activity does not involve interstate or foreign commerce with non-living wildlife;

(4) Each specimen being reimported is uniquely identified by means that are reported in writing to the Service prior to export; and

(5) Any person seeking to operate under the permit must register with the Service by showing that their expertise, facilities, or other resources appear adequate to enhance the propagation or survival of the wildlife.

This registration is called a captive-bred wildlife, or CBW, registration.

The final rule also amended the definition of "enhance the propagation or survival" of wildlife in captivity to include a wide range of normal animal husbandry practices needed to maintain self-sustaining and genetically viable populations of wildlife in captivity. Specifically included in those practices were "culling" and "euthanasia." "Culling" was intended to mean the removal (including by destruction) of animals with genetic defects, animals that are over-represented in the gene pool so that further use in a breeding program would result in inbreeding, or animals otherwise unsuitable for breeding. "Euthanasia" was intended to denote the true mercy killing of old or incurably ill or injured animals. Confusion has resulted because many holders of wildlife characterize destruction of healthy animals for any reason as euthanasia if the animal is given a quick and painless death.

Other aspects of the definition of "enhance" that were codified in 1979 and are still in use today include accumulation, holding and transfer of animals not immediately needed or suitable for propagative or scientific purposes, and exhibition in a manner designed to educate the public about the ecological role and conservation needs of the affected species (50 CFR 17.3). Since these definitions appear in part 17, it can be argued that they apply to all types of endangered species permits as well as to CBW registrations. However, the five application requirements for CBW registrations mandate that, among other things, the applicant must describe his/her facilities and experience in maintaining and propagating listed wildlife, and if appropriate, the manner in which the applicant intends to educate the public. The qualifier under the education clause argues that education could be used as additional justification for issuance of registration, but that it must be in combination with propagation activities. This and other questions concerning the inclusion of education in the definition of "enhance" are discussed later in this notice.

"Harass" is another definition that merits discussion and comment. Section 3 of the Act defines "take", a prohibited activity, as including harassment. "Harass" is defined in 50 CFR 17.3 as an act or omission which creates the likelihood of injury by annoying wildlife to such an intent as to significantly disrupt normal behavioral patterns, including breeding, feeding or sheltering. While the applicability of this concept to animals in the wild is obvious, its applicability to captive-born wildlife is not so clear. Some specific circumstances can obviously be defined as harassment. For example, maintenance of unsafe enclosure is an act or omission that creates the likelihood of injury to the animal. The Service, in cooperation with the Animal and Plant Health Inspection Service (Department of Agriculture) constantly strives to ensure that captive facilities for endangered or threatened species meet the requirements of the Animal Welfare Act. The problem in applying this definition generally to captive-born wildlife is in knowing what constitutes "normal behavioral patterns." If the animal has never known anything but a captive environment, then presumably its captive behavior is "normal" for that specimen. Public comment on this point is solicited.

The Service now is evaluating the effectiveness of these regulations in accomplishing the purposes of the Act, which include providing a means whereby the ecosystems upon which endangered and threatened species depend may be conserved and to provide a program for the conservation of those species. In particular, the Service is considering the practical effect of the regulations in furthering conservation programs for listed species. This includes a consideration of whether for many species regulation has had any significant impact upon the species in the wild.

The relaxation of strict permit requirements in 1979 was followed by the development of captive-breeding programs by various organizations for listed species of non-native wildlife. This development was not entirely due to the change in permit requirements; however, the same organizations previously maintained that those requirements were an obstacle to such programs.

The Service welcomes the development of organized, long-term programs for the maintenance of captive-breeding populations of endangered and threatened wildlife, such as the Species Survival Plans of the American Association of Zoological Parks and Aquariums. Such programs, involving great cost and effort, can benefit the species in several ways: (1) By preserving the existence of the species in the event that wild populations are extirpated, (2) by enabling persons who maintain and study the captive wildlife to gain knowledge about the species that can be applied to conservation of wild populations, (3) by supplying a source of animals for research or other uses to relieve demands on wild populations, and (4) by creating a reservoir of animals that can be drawn upon to reestablish or augment wild populations.

In view of these actual or potential benefits, the Service believes that the premise underlying the approach it

adopted in 1979, to regulate activities only to the extent necessary to conserve the species, aided in accomplishing the purposes of the Act. The risks of this approach, which the Service recognized and addressed in its regulations, were as follows: (1) Captive-bred animals of the listed non-native species might be used for purposes that do not contribute to conservation, such as for pets, for research that does not benefit the species, or for entertainment; and (2) persons might conduct prohibited activities with wild-caught animals of these species on the pretext that the animals were captive-bred.

The risk that captive-bred animals might be used for purposes that do not contribute to conservation of the species must be viewed in terms of the scope of the Act. The Act prohibits interstate commerce, *e.g.*, sale or transfer of a leasehold interest in listed wildlife from one person to another across a state line. It does not prohibit intrastate commerce (*e.g.*, commerce within a single State); non-commercial interstate transfers of legally-taken wildlife (*e.g.*, loans, gifts); possession of lawfully acquired endangered species; or, once lawfully possessed without benefit of a permit, use of them in ways that are not encompassed by the prohibition against "take." Given these limits, the Service cannot fully control the use of captive-bred animals, nor mandate compliance with conservation programs by persons holding such animals.

Conservation programs involving captive-bred non-native species are motivated primarily by the initiative of organizations that run them, rather than by the requirements of the Act. The Service's approach to regulating prohibited activities with captive-bred non-native animals has been associated with an increase in responsible captive-breeding programs, but there is no indication that it has led to a significant increase in the use of such animals for purposes that do not contribute to conservation, insofar as those activities are prohibited by the Act. The Service believes that the array of non-prohibited activities cited above, coupled with the breeding of certain species to surplus, has contributed more to the proliferation of uses such as for pets than has any lack of regulatory effort on its part. It is true that some of the less common species have been purchased by entertainers in interstate commerce by virtue of having a CBW registration. However, species in surplus such as Bengal tigers (*Panthera tigris tigris*) and leopards (*Panthera pardus*) that are commonly used in entertainment are available in intrastate commerce in many, if not most, states. Some entertainers also breed animals for their own use.

The risk that persons might conduct prohibited activities with non-native animals taken from the wild on the pretext that they were captive-bred is minimized by controls on importation. This risk is the reason that native species generally are not eligible for treatment under this system. The limits on the Service's authority to control activities with animals discussed above, coupled with the obvious difficulty of distinguishing between captive-bred and wild-caught animals in captivity, make it impractical to deal with this risk by means of internal controls. If the Service were to attempt to address this risk by rigorously controlling activities with animals already in captivity in the United States, captive-breeding programs could be adversely impacted by hindering the exchange of animals, and the costs of such a control program would be prohibitive. Import controls have improved significantly since the Service issued regulations on captive-bred wildlife in 1979. These improvements include an enhanced capability of Service law enforcement personnel at ports of entry, much broader participation by governments around the world in the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and the addition of a second enforcement officer to the staff of the CITES Secretariat.

During 1990, there were about 850 CBW registrations. At least 50 percent of these are for species that appear to have been bred to surplus—animals that are unsuitable for organized breeding programs aimed at preservation of the species because of unknown genealogy, inbreeding, over-representation in the gene pool, or because of interbreeding of different subspecies as is the case with the "Bengal" tiger. While these tigers are suitable for zoological display purposes, they are of little or no value in terms of preserving the taxon for possible reintroduction to the wild because they no longer have the same genetic makeup as the wild population. They are known in the zoo community as "generic tigers."

The Service believes that the CBW system, as currently implemented, may be more burdensome to both the public and the Service than is warranted by its contribution to conservation of wild populations. If so, it diverts limited Service resources from regulation of activities more important to the survival of the species. These include protection of native endangered and threatened species, control of import and export, regulation of activities involving individuals of non-native species that were taken from the wild, and implementation of other laws and treaties such as CITES, the Migratory Bird Treaty Act, the Marine Mammal Protection Act, the Bald and Golden Eagle Protection Act and the Lacey Act (injurious wildlife).

One possible approach to the problems discussed above would be to downlist certain captive populations of non-native species to threatened or threatened due to similarity of appearance, and promulgate special rules easing regulation of them. This would be limited to animals born in captivity in the United States, belonging to species present in large numbers with many individuals that are surplus to organized breeding programs for various reasons. However, this approach is not considered as an alternative within the scope of this notice, which considers possible revisions of 50 CFR part 17. Implementation of this approach would involve listing actions, the procedures for which are found at 50 CFR part 424. Various other alternatives for revision of the CBW system as set forth in 50 CFR 17.21(g) are discussed below. This will be followed by a discussion of a possible amendment of the definition of "enhance" set forth in 50 CFR 17.3.

Alternatives for the CBW System

1. Eliminate Registration Process

Amend 50 CFR 17.21(g) in a manner which would:

(1) Leave the general permit issued by section 17.21(g)(1) in place;

(2) Eliminate the requirement for persons to register with the Service in order to conduct certain activities under the general permission granted in that section; and

(3) Add a rebuttable presumption that any otherwise prohibited activity involving any listed wildlife does not meet the conditions of the general permission, granted in 50 CFR 17.21(g).

The term "rebuttable presumption" means that a presumption that an activity is not properly authorized can be rebutted by evidence that it is. For example, section 9(b)(1) of the Act establishes a rebuttable presumption that a specimen is not entitled to the pre-Act exemption claimed for it absent documentation of pre-Act status.

These changes would not be expected to significantly increase either of the risks to species that are described above. The rebuttable presumption would apply to any persons, firms or institutions now possessing listed

species whether they have CBW registrations or not. The requirements for detailed record-keeping and reasonable access to inspect those records set forth in 50 CFR 13.46 and 13.47 would remain in place. These regulations require all permittees to maintain complete and accurate records of all activities and transactions authorized by permit, and to allow Service agents to enter their premises at any reasonable hour for inspection purposes. Establishment of a rebuttable presumption could be justified on the grounds that activities for which persons might be challenged are those that the Act prohibits. These changes would have the added benefits of reducing the paperwork burden on the public, and of shifting the resources in the Service that are dedicated to administering the registration process toward types of permit administration that are more important in achieving the purposes of the Act.

One drawback of this alternative is the deletion of the requirement for annual reports by persons holding endangered and threatened species. Many of the species covered by the regulation are rare in captivity and/or are difficult to breed. Under the current system, persons and organizations involved in serious breeding programs can obtain copies of annual reports for purposes such as tracking individual animals. While many institutions participate in the International Species Inventory System, a computerized system that keeps track of wildlife in captivity, many holders of listed wildlife do not.

2. Eliminate Registration for Large Captive Populations

Amend 50 CFR 17.21(g) as discussed in Alternative 1, except that only species present in the United States in large numbers, including many individuals that are surplus to organized breeding programs, would be exempted from the registration requirement. As currently implemented, the CBW system virtually mandates that the registrant breed his animals. It is counterproductive to foster breeding of species already present in surplus numbers. This exemption would not prevent those so inclined from breeding their animals; however, the Service should not be in the position of exacerbating the surplus animal problem. The species to be exempted from the registration requirement would be identified in any subsequent rulemaking process, with due consideration given to factual information received from the public. Possible examples would be pheasants, Bengal tigers, leopards, and parakeets of the genus *Neophema*. Currently, out of approximately 850 registrants, about 380 (located in 47 states and Puerto Rico) are registered for pheasants, and about 80 (in 32 states and Puerto Rico) for *Neophema*. There are approximately 135 registrants for members of the cat family (Felidae) located in 41 states. The majority of these hold only Bengal tigers and/or leopards. It should be noted that for tigers, the registration exemption would only apply to the Bengal tiger; other sub-species of tiger for which organized breeding programs exist, and which are not so abundant in captivity, would continue to fall under the current registration requirement.

This alternative would preserve the benefit of a substantial reduction in burden on both the public and the Service, and would also preserve any potential benefits that may accrue to organized breeding programs from the registration system.

3. No Action

Make no change in the CBW system, retaining current registration and annual reporting requirements. No change in current regulatory practice would occur. There would be no change in existing risk of inappropriate use of listed wildlife. Existing burden on the public and the Service would continue. This alternative does not address the question of whether further propagation of species in surplus should continue to be encouraged, if not mandated. It would also continue to ignore the fact that for a number of species, their abundance in captivity and their lack of potential for release to the wild is such that it can be argued that neither increased nor decreased regulation will have any material impact on the species in the wild. As stated earlier, conservation of wild populations must be the Service's primary goal.

Possible Amendment of the Definition of "Enhance"

"Exhibition of living wildlife in a manner designed to educate the public about the ecological role and conservation needs of the affected species" is now deemed to constitute enhancement of survival of the species (50 CFR 17.3). Such exhibition thus qualifies as justification for issuance of a permit and, at least in part, for a CBW registration for endangered species. Theoretically, properly designed and delivered educational materials could serve to enhance the prospects for survival of endangered and threatened species by increasing public awareness and stimulating interest in the plight of listed species. This would be more likely in the case of endangered species native to the United States, where the American public can have much more influence on the fate of species than they can in the case of species in other countries. Possible exceptions would be: (1) Species that provide popular products such as elephant ivory, to the extent that the public would be dissuaded from purchasing the product, and (2) "glamor" species for which the public could be moved to donate significant amounts of money, provided the Service could ensure that the funds were spent to benefit the species in its native country. In most cases, a cause and effect relationship between education of the American public and any significant impact on the survival of non-native species in the wild cannot be determined. This presents a problem in the case of commercial exhibitors seeking to use education as the sole justification for permits or CBW registrations. Even with good material and a good faith effort at delivery by the exhibitor, there may be a limit to the amount of educational content a public which came (and paid) to be entertained will absorb. This is especially true for commercial exhibitors who have a limited amount of time to present their shows, or whose educational message is delivered in social settings where people may not be receptive.

Section 4(d) of the Act provides authority to issue any regulations the Secretary deems necessary and advisable for the conservation of threatened species. The regulations (50 CFR 17.32) give public education as one of the acceptable purposes for issuance of a threatened species permit. However, for endangered species permits and registrations within the scope of this notice, the Act itself specifies scientific purposes or enhancement of propagation or survival as the only acceptable purposes. Therefore, it can be argued that a regulation defining education as constituting enhancement of survival of an endangered species goes beyond the intent of the Congress. Section 2(a) of the Act (findings of the Congress) refers to the educational value of endangered species or threatened species, but this appears to be in the context of "various species of fish, wildlife, and plants *in the United States* * * *" [section 2(a)(1)—emphasis added]. On the other hand, section 3 defines the terms "conserve" and "conservation" as the use of all methods and procedures necessary to aid the recovery of listed species to the point where the protection of the Act is no longer necessary.

The Service suggests several possible alternatives to treating education as part of the definition of "enhance" in 50 CFR 17.3. Comments and/or suggested additional alternatives are solicited.

1. Issue No Permits Based on Public Education

Delete education from the definition of "enhance" for endangered species and from the regulations governing issuance of threatened species permits (50 CFR 17.32). While this alternative might possibly be more consistent with the provisions of the Act, it would assign no value whatsoever to education as a tool for conserving either native or non-native listed species.

2. Limit Permits for Educational Purposes to Native Listed Species Only

Modify 50 CFR 17.3 and 17.32 so that education would be allowed as a purpose for native endangered and threatened species only. Expand appropriate sections of the regulations to provide more specific guidance on types of educational material and activity that are qualifying.

3. No change in Definition of "Enhance"

Allow the current definition to remain in § 17.3, but limit its applicability to only permits and CBW registrations where education is the primary purpose for maintaining the animals.

Public Comments Solicited

The Service intends that any proposed rule will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this notice are hereby solicited. Suggestions for alternatives not discussed in this notice are welcome. Information and statistics are solicited on species that have substantial numbers of individuals that are surplus to, or unsuitable for, breeding programs for any reason. Such information would be useful to the Service in administering the CBW system regardless of whether it remains unchanged, and could be disseminated for use by those interested in captive breeding.

Author

The primary authority of the notice is Richard K. Robinson, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Arlington, VA 22203.

List of subjects in 50 CFR Part 17

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

Authority continues to read: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500.

Dated: December 31, 1991.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 92–276 Filed 1–6–92; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 57, No. 4
Tuesday, January 7, 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.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Meat Import Limitations; First Quarterly Estimate

Public Law 88–482, enacted August 22, 1964, as amended by Public Law 96–177, Public Law 100–418, and Public Law 100–449 (hereinafter referred to as the "Act"), provides for limiting the quantity of fresh, chilled, or frozen meat of bovine, sheep except lamb, and goats; and processed meat of beef or veal (Harmonized Tariff Schedule of the United States subheadings 0201.10.00. 0201.20.20, 0201.20.40, 0201.20.60, 0201.30.20, 0201.30.40, 0201.30.60, 0202. 10.00, 0202.20.20, 0202.20.40, 0202.20.60, 0202.30.20, 0202.30.40, 0202.30.60, 0204.21.00, 0204.22,40, 0204.23.40, 0204.41.00, 0204.42.40, 0204.43.40, and 0204.50.00), which may be imported, other than products of Canada, into the United States in any calendar year. Such limitations are to be imposed when the Secretary of Agriculture estimates that imports of articles, other than products of Canada, provided for in Harmonized Tariff Schedule of the United States subheadings 0201.10.00, 0201.20.40, 0201.20.60, 0201.30.40, 0201.30.60, 0202.10.00, 0202.20.40, 0202.20.60, 0202.30.40, 0202.30.60, 0204.21.00, 0204.22.40, 0204.23.40, 0204.41.00, 0204.42.40, 0204.43.40, and 0204.50.00 (hereinafter referred to as "meat articles"), in the absence of limitations under the Act during such calendar year, would equal or exceed 110 percent of the estimated aggregate quantity of meat articles prescribed for calendar year 1992 by subsection 2(c) as adjusted under subsection 2(d) of the Act.

In accordance with the requirements of the Act, I have made the following estimates:

1. The estimated aggregate quantity of meat articles prescribed by subsection 2(c) as adjusted by subsection 2(d) of the Act for calendar year 1992 is 1,192 million pounds.

2. The first quarterly estimate of the aggregate quantity of meat articles which would, in the absence of limitations under the Act, be imported during calendar year 1992 is 1,274 million pounds.

Done at Washington, DC this 31st day of December, 1991.

Edward Madigan,

Secretary of Agriculture,

[FR Doc. 92–223 Filed 1–6–92; 8:45 am]

BILLING CODE 3410–10–M

Agricultural Stabilization and Conservation Service

National Marketing Quota for Fire-Cured (Type 21), Fire-Cured (Types 22 & 23), Dark Air-Cured (Types 35 & 36), Virginia Sun-Cured (Type 37), and Cigar-Filler and Cigar-Binder (Types 42–44 & 53–55) Tobaccos

AGENCY: Agricultural Stabilization and Conservation Service (ASCS) (USDA).

ACTION: Notice of proposed determinations.

SUMMARY: The Secretary of Agriculture is required by the Agricultural Adjustment Act of 1938, as amended, to proclaim by March 1, 1992, national marketing quotas for Virginia sun-cured (type 37—tobacco for the 1992–93, 1993–94, and 1994–95 marketing years and to determine and announce the amounts of the national marketing quotas for fire-cured (type 21), fire-cured (types 22 & 23), dark air-cured (types 35 & 36), Virginia sun-cured (type 37), and cigar-filler and cigar-binder (types 42–44 & 53–55) kinds of tobacco for the 1992–93 marketing year. The public in invited to submit written comments, views and recommendations concerning the determination of the national marketing quotas for such kinds of tobacco, the conduct of the referendum, and other related matters which are discussed in this notice.

DATES: Comments must be received on or before February 7, 1992, in order to be assured of consideration.

ADDRESSES: Send comment to the Director, Commodity Analysis Division, room 3741, South Building, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013. All written submissions made pursuant to the notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m., except holidays, Monday through Friday, in room 3741, South Building, 14th and Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Agricultural Economist, Commodity Analysis Division, ASCS, room 3736, South Building, P.O. Box 2415, Washington, DC 20013, (202) 720–8839. The Preliminary Regulatory Impact Analysis describing the options considered in developing this notice and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established to implement Executive Order 12291 and Department Regulation 1512–1 and has been classified as "not major."

The matters under consideration will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs of consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, the environment or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance to which this notice applies are: Commodity Loans and Purchases; 10.051.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

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

The Agricultural Adjustment Act of 1938, as amended (hereafter referred to as the "Act"), requires that, with respect

to Virginia sun-cured (type 37) tobacco, the Secretary of Agriculture (Secretary) must proclaim by March 1, 1992, national marketing quotas for the 1992–93, 1993–94, and 1994–95 marketing years. In addition, the Secretary is required to conduct, within 30 days after proclamation of such national marketing quotas, a referendum of farmers engaged in the 1991 production of this kind of tobacco to determine whether they favor or oppose marketing quotas for such years. For Virginia sun-cured (type 37) tobacco, the 1991–92 marketing year is the last year of the three consecutive marketing years for which marketing quotas previously proclaimed will be in effect for this kind of tobacco.

The Secretary is also required: (1) To determine and announce the amounts of the national marketing quotas with respect to fire-cured (type 21), fire-cured (types 22 & 23), dark air-cured (types 35 & 36), Virginia sun-cured (type 37), and cigar-filler and cigar binder (types 42–44 & 53–55) tobaccos for the 1992–93 marketing year; (2) to convert such marketing quotas into national acreage allotments and announce the allotments; (3) to apportion such allotments, less reserves of not to exceed 1 percent of each kind of tobacco respectively, through county ASCS committees among old farms; and (4) to apportion the reserves for use in: (a) Establishing acreage allotments for new farms, and (b) making corrections and adjusting inequities in old farm allotments. The five kinds of tobacco to which this notice applies account for about 3 percent of the total U.S. tobacco production.

Section 312(b) of the Act provides that the Secretary shall determine and announce, not later than March 1, 1992, with respect to kinds of tobacco specified in this notice of proposed determinations, the amount of the national marketing quota which will be in effect for the 1992–93 marketing year in terms of the total quantity of tobacco which may be marketed that will allow a supply of each kind of tobacco equal to the reserve supply level.

The aggregate reserve supply level for the 1991–92 marketing year for the 5 kinds of tobacco discussed in this notice was determined to be 175 million pounds (56 FR 20577). The proposed reserve supply level for the 1992–93 marketing year will range between 150 million and 200 million pounds. The aggregate total supply for the 1991–92 marketing year is 180.5 million pounds based on carryover of 123.6 million and production of 56.9 million pounds.

Section 312(c) of the Act provides that, within 30 days after a national marketing quota is proclaimed in accordance with section 312(a) of the Act for a kind of tobacco, the Secretary shall conduct a referendum of farmers engaged in the production of the crop of such kind of tobacco harvested immediately before holding the referendum to determine whether such farmers are in favor of or opposed to such quotas for the next three succeeding marketing years. If more than one-third of the farmers voting in a referendum for a kind of tobacco oppose the quotas, such results shall be proclaimed by the Secretary and the national marketing quotas so proclaimed shall not become effective, but the results shall in no way affect or limit the subsequent proclamation and submission to a referendum of national marketing quota as otherwise authorized in section 312.

Section 313(g) of the Act authorizes the Secretary to convert the national marketing quota into a national acreage allotment by dividing the national marketing quota by the national average yield for the 5 years immediately preceding the year in which the national marketing quota is proclaimed. In addition, the Secretary is authorized to apportion, through county committees, the national acreage allotment to tobacco producing farms, less a reserve not to exceed 1 percent thereof for new farms, to make corrections and adjust inequities in old farm allotments.

Proposed Determinations

Accordingly, comments are requested on the following proposed determinations for the kinds of tobacco listed for the 1992–93 marketing year:

1. With respect to fire-cured (type 21), fire-cured (types 22 & 23) dark air-cured (types 35 & 36), Virginia sun-cured (type 37), and cigar-filler and binder (types 42–44 & 53–55) tobaccos:

a. The amount of the reserve supply level, within the aggregate range of 150 and 200 million pounds;

b. The amount of the national marketing quota for each kind tobacco for the 1992–93 marketing year, within the aggregate range of 60 million and 80 million pounds; and

c. The amounts of the national acreage allotments to be reserved for new farms, and for making corrections and adjusting inequities in old farm allotments, within the aggregate range of 100 to 500 acres.

2. With respect to Virginia sun-cured (type 37) tobacco:

a. The date or period of the referenda for determining whether quotas will be in effect for the 1992–93, 1993–94, and 1994–95 marketing years for such kind of tobacco; and

b. Whether the referenda should be conducted at polling places rather than by mail ballot (see 7 CFR part 717).

Authority: 7 U.S.C. 1301, 1312 and 1313.

Signed at Washington, DC on December 31, 1991.

Keith D. Bjerke,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 92–262 Filed 1–6–92; 8:45 am]

BILLING CODE 3410–05–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting of the Board

AGENCY: Architectural and Transportation Barriers Compliance Board (ATBCB).

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB or Access Board) has scheduled its regular business meetings to take place in Washington, DC on Tuesday and Wednesday, January 14–15, 1992 at the times and locations noted below.

DATES: The schedule of events is as follows:

Location: Embassy Suites Hotel, 1250 22nd Street, NW., Washington, DC.

Tuesday, January 14, 1992:

9 a.m.–12 p.m.—Working Group, Title II

1 p.m.–5 p.m.—Working Group, Title II

Wednesday, January 15, 1992:

9 a.m.–10:30 a.m.—Working Group Meeting, If Necessary

10:30 a.m.–11:30 a.m.—Planning and Budget Committee

1 p.m.–3:00 p.m.—Business Meeting

MATTERS TO BE CONSIDERED: At its business meeting, the Board will consider the following Agenda Items:

- Approval of the minutes of the January 8, September 25, and November 13, 1991 Board meetings.
- Election of Officers.
- Board Policy of Charging for Training Expenses.
- FY 92 Research and Technical Assistance Projects.
- Delegation of Authority to the General Counsel to sign Federal Register Correction Notices.
- Procedures to Consult with DOJ on Code Certification.
- Federal Register Notice setting research priorities.
- Goals and Objectives.
- Approval of the Fiscal Year 1992 Operating Plan.
- Committee Reports.

- Title II Work Group Plan of Action.
- Complaint Status Report.
- Voting by Proxies.

FOR FURTHER INFORMATION CONTACT: For further information regarding the business meetings, please contact Barbara A. Gilley, Executive Officer, (202) 653–7834 (voice/TDD).

SUPPLEMENTARY INFORMATION: Some meetings may be closed to the public. All meetings are accessible to persons with disabilities. Sign language interpreters and an assistive listening system are available at all meetings.

Lawrence W. Roffee, Jr.,

Executive Director.

[FR Doc. 92–242 Filed 1–6–92; 8:45 am]

BILLING CODE 8150–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–009]

Color Television Receivers, Except for Video Monitors, From Taiwan; Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioners, a domestic interested party, and certain respondents, the Department of Commerce has conducted an administrative review of the antidumpting duty order on color television receivers, except for video monitors, from Taiwan. This notice covers 14 manufacturers/ exporters and the period April 1, 1990 through March 31, 1991. The review indicates the existence of dumping margins for certain firms during this period.

As a result of this review, we have preliminarily determined to assess antidumping duties equal to the differences between United States price and foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 7, 1992.

FOR FURTHER INFORMATION CONTACT: Philip Marchal, Leon McNeill, or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2923.

SUPPLEMENTARY INFORMATION:

Background

On December 16, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 65218) the final results of the 1989–90 (sixth) administrative review of the antidumping duty order on color television receivers, except for video monitors, from Taiwan (49 FR 18336, April 30, 1984). In April 1991, the petitioners, a domestic interested party, and certain respondents requested, in accordance with § 353.22(a) of the Commerce Regulations, that we conduct an administrative review for the period April 1, 1990 through March 31, 1991. We published a notice of initiation of the antidumping duty administrative review on May 21, 1991 (56 FR 23271).

The Department initiated a review for Action Electronics Co., Ltd. (Action), AOC International, Inc. (AOC), Funai Electric Co., Ltd. (Funai), Hitachi Television (Taiwan) Ltd. (Hitachi), Kuang Yuan Co., Ltd. (Kuang Yuan), Nettek Corp., Ltd. (Nettek), Paramount Electronics (Paramount), Proton Electronic Industrial Co., Ltd. (Proton), RCA Taiwan Ltd. (RCA), Sampo Corp. (Sampo), Sanyo Electric (Taiwan) Co., Ltd. (Sanyo), Shinlee Corp. (Shinlee), Tatung Co. (Tatung), and Teco Electric and Machinery Co., Ltd. (Teco) for the 1990–91 period.

The Department has now conducted a review for this period in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Also, in April, 1991, the Department received from respondent Sanyo a request, pursuant to §§ 353.25(d)(1) and 353.22(f), that the Department conduct a changed circumstances review for the purpose of determining whether sufficient circumstances exist to warrant revocation of the order as it relates to Sanyo. The Department is considering that request.

Scope of the Review

Imports covered by the review are shipments of color television receivers, except for video monitors, complete or incomplete, from Taiwan. The order covers all color television receivers regardless of tariff classification. Effective January 1, 1989, this merchandise is classified under the Harmonized Tariff Schedule (HTS) items 8528.10.80, 8529.90.15, 8529.90.20, and 8540.11.00. HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

This review covers 14 manufacturers/ exporters of Taiwan color television receivers, except for video monitors, and the period April 1, 1990 through March 31, 1991.

Funai, Hitachi, Sampo, and Sanyo had no shipments of the subject merchandise, and AOC, Nettek, Paramount, Shinlee, and Teco failed to respond to our questionnarie. For those firms which had no shipments, we continued the deposit rate for each firm for the last period for which a review has been completed in which that firm had shipments. For those firms that failed to respond to our questionnaire, we used the best information available (BIA), which was the highest margin among respondent firms in the current review period, or any rate received by any firm in prior reviews, whichever was higher. See, Final Results of Antidumping Duty Administrative Reviews: Portable Electric Typewriters from Japan, 56 FR 56393 (November 4, 1991).

United States Price

In calculating United States price (U.S. price), we used purchase price or exporter's sales price (ESP), both as defined in section 772 of the Tariff Act. Purchase price and ESP were based on the packed f.o.b., c.i.f., or delivered prices to the first unrelated purchasers in the United States.

We made deductions, where appropriate, for export charges, ocean freight, marine insurance, U.S. and foreign inland freight and insurance, U.S. and foreign brokerage fees, bank charges, shipping charges, U.S. customs duties, inspection fees, finder's fees, harbor fees, discounts, rebates, credit expenses, warranty expenses, advertising and sales promotion expenses, after-sale warehousing, technical service expenses, royalties, bonuses, commissions to unrelated parties, selling expenses incurred in Taiwan, and the U.S. subsidiary's indirect selling expenses. Where applicable, we made an addition for import duties not collected on imported raw materials used to produce subsequently exported merchandise.

We accounted for any commodity taxes imposed in Taiwan, but not collected by reason of exportation to the United States, by multiplying the appropriate duty paying value (DPV) of the merchandise sold in the United States by the tax rate in Taiwan, and adding the result to the U.S. price. In Taiwan, the DPV is the ex-factory price for merchandise produced in a bonded factory; for merchandise produced in an unbonded factory, the DPV is the price to the first unrelated purchaser in the United States.

We accounted for the value-added tax (VAT) imposed in Taiwan, but not collected by reason of exportation to the

United States, by multiplying the U.S. invoice value by the VAT rate, and adding the result to U.S. price.

No other adjustments were claimed or allowed.

Foreign Market Value

In calculating FMV, we used home market price, third-country price, or constructed value, as defined in section 773 of the Tariff Act, as appropriate.

Home market prices were used when sufficient quantities of such or similar merchandise were sold in the home market to provide a reliable basis for comparison. We used home market sales as the basis for FMV for Action, Proton, and Tatung.

Since we determined that the home market sales of Kuang Yuan were insufficient to use as a basis for FMV, we used third-country sales as the basis for FMV.

We used constructed value for RCA since RCA had insufficient sales of such or similar merchandise in both the home and third-country markets.

Home market price was based on the packed, delivered price to unrelated purchasers in the home market. Where applicable, we made adjustments for inland freight, insurance, commissions to unrelated parties, rebates, credit expenses, discounts, warranty expenses, advertising the sales promotion expenses, royalties, after-sale warehousing, differences in the physical characteristics of the merchandise, and differences in packing.

We also made adjustments, where applicable, for indirect selling expenses to offset commissions, and to offset U.S. selling expenses deducted in ESP calculations, but not for amounts exceeding the U.S. commissions and expenses. For Action, we made adjustments for U.S. indirect selling expenses on purchase price sales, in amounts not exceeding home market commissions. Finally, we made circumstance-of-sale (COS) adjustments for commodity tax differences and VAT differences, where appropriate.

Third-country price was based on the packed f.o.b. price to unrelated purchasers. We made adjustments, where applicable, for brokerage and handling, Taiwan inland freight, credit expenses, and royalties.

Finally, we made COS adjustments for credit expenses and royalties.

We disallowed RCA's claim for a COS adjustment to constructed value for the U.S. subsidiary's selling expenses. There is no provision within the statute instructing us to use U.S. selling expenses as a surrogate when the producer does not incur selling expenses in its home market. See our response to Comment 32 in Color Television Receivers, Except for Video Monitors, from Taiwan; Final Results of Antidumping Duty Administrative Review (56 FR 31378, July 10, 1991).

No other adjustments were claimed or allowed.

Constructed value consisted of the sum of the costs of materials, fabrication, general expenses, profit, and the cost of export packing. Because the statutory minimum of 10 percent of the cost of materials and fabrication exceeded the actual amount of general expenses, we added the statutory minimum amount, in accordance with section 773(e) of the Tariff Act. Because the statutory minimum of eight percent of the sum of the cost of materials, fabrication, and general expenses exceeded the actual profit, we added the statutory minimum.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist:

Manufacturer/ exporter	Period of review	Margin (percent)
Action Electronics Co., Ltd.	04/01/90–03/31/91	1.64
AOC International, Inc..	04/01/90–03/31/91	[2] 23.89
Funai Electric Co. Ltd..	04/01/90–03/31/91	[1] 23.89
Hitachi Television (Taiwan) Ltd..	04/01/90–03/31/91	[1] 23.89
Kuang Yuan Co., Ltd..	04/01/90–03/31/91	0.00
Nettek Corp., Ltd..	04/01/90–03/31/91	[2] 23.89
Paramount Electronics.	04/01/90–03/31/91	[2] 23.89
Proton Electronic Industrial Co., Ltd..	04/01/90–03/31/91	4.13
RCA Taiwan, Ltd..	04/01/90–03/31/91	0.41
Sampo Corp.	04/01/90–03/31/91	[1] 0.78
Sanyo Electric (Taiwan) Co., Ltd..	04/01/90–03/31/91	[1] 4.66
Shinlee Corp.	04/01/90–03/31/91	[2] 23.89
Tatung Co.	04/01/90–03/31/91	0.23
Teco Electric and Machinery Co., Ltd..	04/01/90–03/31/91	[2] 23.89
All Others	not applicable	4.13

[1] No shipments during the period; rate is from the last review in which there were shipments.

[2] No response; we therefore used the best information available, which was either the highest rate among respondent firms in the relevant review, or any rate received by any firm in prior reviews, whichever was higher.

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such case briefs.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and FMV may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of color television receivers, except for video monitors, from Taiwan entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed companies will be that established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review, but covered in previous reviews or the original less-than-fair-value investigation, the cash deposit rate will continue to be the company-specific rate published in the final results covering the most recent period; (3) if the exporter is not a firm covered in this review, previous reviews, or the original investigation, but the manufacturer of the merchandise in the final results of this review, or if not covered in this review, the most recent review period or the original investigation; and (4) the cash deposit rate for any future entries from all other manufacturers or exporters who are not covered in this or prior administrative reviews, and who are unrelated to any of the reviewed firms or any previously reviewed firm, will be 4.13 percent, the "All Others" rate established in the final results of this administrative review. This rate represents the highest non-BIA rate for any firm with shipments during the period covered by this administrative review whose shipments to the United States were reviewed. These deposit requirements, when imposed, shall remain in effect until publication of the

final results of the next administrative review.

This administrative review and notice are in accordance with sections 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: December 20, 1991.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-267 Filed 1-6-92; 8:45 am]

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[A-588-020]

Final Results of Antidumping Duty Administrative Review and Revocation in Part: Titanium Sponge From Japan

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

EFFECTIVE DATE: January 7, 1992.

FOR FURTHER INFORMATION CONTACT: Michelle Frederick or Stephen Alley, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-0186 or (202) 377-1766.

FINAL RESULTS:

Background

On August 16, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 40866) the preliminary results of its fifth administrative review of the antidumping duty order on titanium sponge from Japan (49 FR 47053, November 30, 1984). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

The review covers four producers of Japanese titanium sponge for the period November 1, 1988 through October 31, 1989. The producers are: Toho Titanium Co., Ltd. (Toho); Osaka Titanium Co., Ltd. (Osaka); and Showa Denko K.K. (Showa). The fourth producer, Nippon Soda Co., Ltd., had no shipments during the period.

Scope of the Review

Imports covered by the review are shipments of unwrought titanium sponge. Titanium sponge is a porous, brittle metal which has a high strength-to-weight ratio and is highly ductile. It is an intermediate product used to produce titanium ingots, slabs, billets, plates, and sheets. During the review period, titanium sponge was classifiable under item 629.1420 of the Tariff Schedules of the United States Annotated (TSUSA). Titanium sponge is currently classifiable under Harmonized Tariff Schedule (HTS) subheading 8108.10.50.10. Although the TSUSA and HTS numbers are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Revocation in Part

In the first and second administrative reviews of this order, Osaka had shipments but made no sales at less than fair value and was assessed a zero percent margin. During the second administrative review and pursuant to 19 CFR 353.54, Osaka requested revocation of the order as it pertained to them. Because of a lack of evidence that Osaka was unlikely to resume dumping, in the preliminary results of the second administrative review, the Department refused Osaka's request. However, after considering comments from interested parties, and after Osaka agreed, pursuant to 19 CFR 353.54(e), to the immediate reinstatement of the order if circumstances develop indicating that Osaka is making sales at less than fair value, the Department published a "Tentative Determination to Revoke in Part" as part of the final results of the second administrative review (54 FR 13403, April 3, 1989). The Department stated that if the revocation were made final, it would apply to all entries made on or after October 31, 1987.

On October 18, 1990, the Department published final results of the third and fourth administrative reviews (55 FR 42227). Osaka made no shipments in either of those periods.

The issue of Osaka's revocation was raised again prior to the Department's preliminary results in this administrative review (the fifth). Osaka's request for revocation is governed by the regulations in effect at the time the Department issued its tentative determination to revoke. (See, "Antidumping Duties; Final Rule" (54 FR 12742, 12758, March 28, 1989).)

The Department received comments from Osaka and petitioner regarding this revocation. Osaka provided evidence of efforts it has undertaken to avoid sales at less than fair value, including its refusal to make sales, rather than risk sales at less than fair value. Osaka also resubmitted a written agreement regarding the possible reinstatement of the order as it pertains to Osaka, pursuant to 19 CFR 353.54(e). The petitioner indicated that they had no objection to this revocation.

The Department has determined that Osaka has not sold titanium sponge at less than fair value in this review period and that there is no likelihood of resumption of sales at less than fair value by Osaka. Since Osaka did not make sales at less than fair value in the first, second, and fifth administrative review periods, and had no shipments in the third and fourth periods, in accordance with 19 CFR 353.54, we are revoking the antidumping duty order as it pertains to Osaka. This revocation applies to all unliquidated entries of the subject merchandise entered, or withdrawn from warehouse for consumption on or after October 10, 1987, the date stated in our tentative determination to revoke the order.

Product Comparisons

Respondents Showa and Osaka have argued that there are different such or similar categories of titanium sponge and that product comparisons should only be made within these such or similar categories. However, as in prior proceedings involving this merchandise, we have found that titanium sponge constitutes one such or similar category, and for comparison purposes, we considered all titanium sponge to be identical. (See *Comment 1.*)

At the preliminary results, for each of the three respondents we made price-to-price comparisons at what we described as the same level of trade. Since the preliminary results, we have examined this issue further. For purposes of the final results, we did not make price-to-price comparisons by dividing the markets into levels of trade, since information on the record does not support such a stratification. (See *Comment 2.*) We compared U.S. price and foreign market value as detailed below.

United States Price

In calculating United States price for Osaka, Toho, and Showa, the Department used purchase price, as defined in section 772(b) of the Act, both because the merchandise was sold to unrelated purchasers in the United States prior to importation into the United States and because exporter's sales price (ESP) methodology was not indicated by other circumstances.

A. Osaka

For Osaka, we calculated purchase price based on packed, ex-factory or delivered prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, foreign inland insurance, foreign brokerage and handling, ocean freight, marine insurance, U.S. duty, harbor and U.S. Customs user fees, U.S. brokerage and

handling, and U.S. inland freight. Because a consumption tax was paid on home market sales but not on U.S. sales, we added to the U.S. selling price the amount of the consumption tax that would have been collected if Japan had taxed the export sales.

B. Showa

For Showa, we calculated purchase price based on packed, delivered prices to unrelated customers in the United States. We made deductions, where appropriate, for cash discounts, foreign brokerage and handling, foreign inland freight, ocean freight, foreign insurance, U.S. inland freight, U.S. brokerage and handling, and U.S. duty, including harbor and U.S. Customs user fees. Because a consumption tax was paid on home market sales but not on U.S. sales, we added to the U.S. selling price the amount of the consumption tax that would have been collected if Japan had taxed the export sales.

C. Toho

For Toho, we calculated purchase price based on packed, delivered prices to the first unrelated customer in the United States. We made deductions, where appropriate, for foreign inland freight, foreign brokerage and handling, ocean freight, marine and inland insurance, U.S. duty, harbor and U.S. Customs user fees, U.S. brokerage and handling, and U.S. inland freight. Because a consumption tax was paid on home market sales but not on U.S. sales, we added to the U.S. selling price the amount of the consumption tax that would have been collected if Japan had taxed the export sales.

We made corrections to the reported amounts of U.S. duty, brokerage and handling, and inland freight expenses on certain sales, based on information obtained at verification.

Foreign Market Value

A. Osaka

For Osaka, we based foreign market value (FMV) on packed, delivered prices in the home market. We used sales to both unrelated customers and to those related customers for which we could establish that sales were at arm's length. We determined that sales were at arm's length if individual related parties were, on average, charged prices comparable to the prices charged to unrelated customers.

Osaka contends that it had no direct relationship with one home market customer. At the preliminary results, we determined that sales to this customer were related party transactions and we did not use these sales in calculating FMV. Since the preliminary results, we have examined this issue further. Based on information on the record, we have determined that this customer is not related to Osaka as defined in section 771(13) of the Act, and we are including sales to this customer in calculating FMV. (See *Comment 3.*)

We made deductions for foreign inland freight. We made adjustments, where appropriate, for post-sale price adjustments. We made circumstance-of-sale adjustments, where appropriate, for differences in credit expenses and post-sale warehousing expenses, pursuant to 19 CFR 353.56(a). In accordance with 19 CFR 353.56(b), we added U.S. commissions and deducted home market indirect selling expenses up to the amount of the U.S. commissions. We deducted home market packing costs and added U.S. packing costs. We also made a circumstance-of-sale adjustment for the difference between the consumption taxes on home market sales and U.S. sales.

B. Showa

In the previous administrative review, as a result of an allegation from petitioner, the Department initiated an investigation of sales made below the cost of production. As a result of this analysis, below-cost sales were found. Therefore, for this review, we also investigated whether sales were made in the home market at less than the cost of production. Showa reported its COP data based on materials, labor, overhead, and selling, general, and administrative costs incurred during the period of review (POR). We relied on the submitted data except in the following instances where the costs were not appropriately quantified or valued:

(1) We adjusted the submitted overhead costs to correct a misclassification of depreciation expense;

(2) We adjusted interest expense to exclude the submitted deduction for interest income, because evidence of the short-term nature of this interest income is not on the record;

(3) We adjusted general and administrative (G&A) expense to account for a clerical error which understated these expenses; and

(4) We allocated a share of write-downs and write-offs (expenses incurred in reorganizing Showa) to the review period.

In accordance with section 773(b) of the Act, in determining whether to disregard home market sales made at prices below COP, we examined whether such sales (1) were made in substantial quantities over an extended period of time and (2) were at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade. In general, when less than 10 percent of home market sales are at prices below the COP, we do not disregard any below-cost sales. When between 10 and 90 percent of a respondent's sales are at prices below the COP, we disregard the below-cost home market sales in our calculation of FMV provided that these below-cost sales were made over an extended period of time. When more than 90 percent of a respondent's home market sales are at prices below the COP and occur over an extended period of time, we determine that there are an insufficient number of sales to serve as the basis for calculating FMV and we base FMV on constructed value for all U.S. sales.

In this review, we found that between 10 and 90 percent of Showa's sales in the home market were made at prices below the COP. We found that below-cost sales were made in substantial quantities because more than 10 percent of Showa's sales of the subject merchandise in Japan were made at prices below the COP. We further determined that the below-cost sales were made in 5 months of the review period and thus were made over an extended period of time. Finally, Showa has provided no information that would lead us to conclude that its below-cost home market sales would permit recovery of all costs within a reasonable period of time in the normal course of trade. Accordingly, we disregarded all sales that were made at prices below the COP.

We based FMV on packed, delivered prices. We used sales to both unrelated customers and to those related customers for which we could establish that sales were at arm's length. We determined that sales were at arm's length if individual related parties were, on average, charged prices comparable to the prices charged to unrelated customers.

Based on findings at verification, we adjusted the date of sale in the home market for certain sales to one customer. For those sales where the reported date of shipment preceded the reported date of sale, we changed the date of sale to the date of shipment.

We made deductions for inland freight. We made adjustments, where appropriate, for post-sale price adjustments. We made circumstance-of-sale adjustments, where appropriate, for differences in credit expenses, pursuant to 19 CFR 353.56(a). In accordance with 19 CFR 353.56(b), we subtracted home

market commissions and added U.S. commissions. We adjusted home market packing costs, based on findings at verification. We deducted home market packing costs and added U.S. packing costs. We also made a circumstance-of-sale adjustment for the difference between the consumption taxes on home market sales and U.S. sales.

With regard to certain home market commissions paid to related commissionaires, based on information on the record, we compared the commissions paid to related selling agents in the home market to those paid to unrelated selling agents in the home market, and we have determined that these commissions are at arm's length. Therefore, we are making the appropriate adjustment. (See, Final Determination of Sales at Less Than Fair Value: Coated Groundwood Paper from Finland (56 FR 56363, November 4, 1991), Comment 6).

C. Toho

In all previous administrative reviews, the Department initiated an investigation of sales made below the cost of production. As a result of these analyses, below cost sales were found. Therefore, for this review, we have also investigated whether sales were made in the home market at less than the cost of production. Toho reported its COP data based on materials, labor, overhead, and selling, general, and administrative costs incurred during the POR. We relied on the submitted data except in the following instances where the costs were not appropriately quantified or valued:

(1) We adjusted interest expense to exclude the offset for imputed credit since this is not necessary for COP purposes; and

(2) We reduced research and development costs which had been overstated due to a clerical error.

In this review, applying the analysis described above for Toho, we found that between 10 and 90 percent of Toho's sales in the home market were made at prices below the COP. We found that below-cost sales were made in substantial quantities because more than 10 percent of Toho's sales of the subject merchandise in Japan were made at prices below the COP. We further determined that the below-cost sales were made in 12 months of the review period and thus were made over an extended period of time. Finally, Toho has provided no information that would lead us to conclude that its below-cost home market sales would permit recovery of all costs within a reasonable period of time in the normal course of trade. Accordingly, we disregarded all sales that were made at prices below the COP.

We based FMV on packed, delivered prices to unrelated customers in the home market. We used sales to both unrelated customers and to those related customers for which we could establish that sales were at arm's length. We determined that sales were at arm's length if individual related parties were, on average, charged prices comparable to the prices charged to unrelated customers.

We made deductions for inland freight. We made circumstances-of-sale adjustments, where appropriate, for differences in credit expenses, pursuant to 19 CFR 353.56(a). We deducted home market packing costs and added U.S. packing costs. We also made a circumstance-of-sale adjustment for the difference between the consumption taxes on home market sales and U.S. sales.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the petitioner, RMI Titanium Company, and Osaka, Showa, and Toho. At the request of petitioner and the three respondents, we held a public hearing on October 10, 1991.

Comment 1

Respondent Showa and Osaka have argued that there are different such or similar categories of titanium sponge, and that product comparisons should only be made within these such or similar categories.

Showa claims that its sales or titanium sponge to the United States and home markets during the POR consisted of three different products: Titanium sponge for mill use (Product 1); titanium sponge for non-mill use (Product 2); and off-grade titanium sponge (Product 3). Showa argues that U.S. Product 1 sales should be compared exclusively with home market Product 1 sales.

Showa contends that the criteria the Department uses to determine whether two or more products belong to separate "such or similar" categories (the component materials, the purposes for which the products are used, and the commercial value or commercial interchangeability of the products (section 771(16) of the Act) support comparisons of U.S. Product 1 to home market Product 1. Showa argues that Product 3 differs physically from Product 1, that the three products have three separate and distinct purposes, and that home market Products 2 and 3 fail to meet the such or similar requirement of having the same "commercial value."

Showa argues that, even if the Department were to find that all home market products fell within the same such or similar category, the Department must still compare the "most similar" home market product with the U.S. product. Showa claims that home market Product 1 is more similar to U.S. Product 1 than is home market Product 2 or 3, since it is used for the same purpose.

Osaka states that, prior to the preliminary results of this review, the Department always compared Osaka's U.S. prices of Product 1 (mill-use) with home market prices of Product 1 (mill-use). Osaka contends that the Department improperly reversed its previous practices in this review.

Osaka states that for purposes of the investigation and the first and second administrative reviews, the Department considered Product 2 (additive-use) so different from Product 1 that it did not require Osaka to report these sales. Osaka argues that product 2 does not qualify as such or similar merchandise. Concerning Product 3, Osaka explains that Product 3 is titanium sponge purchased by Osaka and re-sold. Since Product 3 is not produced by Osaka, Osaka contends that it does not qualify as such or similar merchandise. Osaka argues that, should the Department determine that Product 2 is such or similar merchandise, it should still calculate the dumping margin based solely on sales of Product 1 because Product 1 sold in Japan is more similar to Product 1 sold in the United States than is Product 2 sold in Japan.

Like Showa, Osaka argues that section 771(16)(B) of the Act supports comparisons of U.S. Product 1 to home market Product 1.

Petitioner argues that in the preliminary results, the Department correctly treated physically identical products as "such merchandise." Petitioner claims that Showa's proposal is counter to the language of the antidumping law and to long-standing Department practice. Petitioner argues that the statute does not consider use and looks only to the physical characteristics of the product and the identity of the manufacturer to determine "such" merchandise. Petitioner contends that Showa itself admits that Product 1 and Product 2 are physically identical, and that Showa did not and will not find cases supporting its proposition that physically identical products can be divided into separate such or similar categories. Finally, petitioner argues that it would be

impossible for the U.S. Customs Service to distinguish between titanium sponge based on use, and that even Showa admits that it cannot identify the use for all the titanium sponge it sells.

Showa argues that petitioner is incorrect in its statement that Showa's home market products are physically identical to the product that Showa sells in the United States and that therefore, section 771(16) (B) and (C) of the Act do not apply for identifying "such or similar" product categories. Showa contends that it has never made the claim that its three home market products are identical to the product sold in the United States, and explains that the physical properties within each product category may vary. Showa claims that since its three products are not physically identical "either inter or intra-categorically," the Department should apply the criterion for "such or similar" merchandise under section 771(16)(B) of the Act.

DOC Position

Consistent with the Department's policy in prior administrative reviews of this order, we are treating all subject merchandise within the scope of this review as a single such or similar category. Further, in making product comparisons we considered all titanium sponge to be identical.

Osaka and Showa have not provided sufficient technical information supporting the claims for product segregation or the definitive criteria necessary to define the alleged different categories of titanium sponge. The respondents themselves apply different criteria when defining their supposed categories. Respondents have not differentiated between their product categories based on physical characteristics, but rather base their categorizations on end-use. Furthermore, we have determined that there are no cost differences associated with producing the alleged different categories of titanium sponge.

Given the lack of information supplied by respondents, our standard practice of making product comparisons based on physical characteristics, and our history of product matching in this case, we are treating all subject merchandise within the scope of this review as a single such or similar category.

Concerning Osaka's sales of Product 3, since Product 3 is not produced by Osaka, it does not qualify as such or similar merchandise according to section 771(16) of the Act. Accordingly, Osaka's sales of Product 3 were not included for purposes of calculating Osaka's final dumping margin.

Comment 2

All three respondents argue that the Department improperly attempted to compare sales at the same level of trade in the preliminary results of this review. Respondents claim that the Department should follow its long-standing practice in this proceeding and not match sales based upon customer categories.

Respondents also claim that customer categories do not represent different levels of trade. They argue that the only logical basis for concluding that a difference in customer category or function yields a distinct level of trade is where the difference in category or function results in a pricing difference. Showa claims that, under 19 CFR 353.58, the Department is authorized—but not required—to compare sales at the same level of trade. Respondents claim that when prices do not vary by level of trade, the Department does not make price comparisons by level of trade. Since they claim that there are no pricing differences between their customer categories, respondents argue that there is no basis for a level of trade comparison. Osaka and Showa claim that pricing is based on quantities purchased and not on customer category.

Toho claims that the Department "generally has taken into account respondent's customer categories only when one party is claiming an adjustment for differing levels of trade," and Toho has not made this claim. Moreover, if the Department was attempting to make a level of trade adjustment or to compare similar levels of trade in the U.S. and home markets, the comparison was inappropriately made.

DOC Position

For purposes of the preliminary results, the Department attempted to make comparisons at the same level of trade in the U.S. and home markets by equating level of trade with customer category.

Since the preliminary results we have examined this issue further and determined that there is insufficient information on the record to support such level of trade distinctions. Information on the record identifies customer categories, and we have no reason to disbelieve respondents' contention that these categories do not constitute different levels of trade. We also have no reason to disbelieve respondents' contention that there is no correlation between levels of trade, however defined, and pricing.

Comment 3

Osaka contends that the Department should treat a particular home market customer ("customer") as an unrelated party. At the preliminary results, the Department determined that sales to this customer were not at arm's length and therefore treated the customer in question as a related party and did not include sales to this customer in calculating FMV.

Citing section 771(13) of the Act, Osaka asserts that the customer is not related to Osaka because: (1) The customer is not Osaka's agent or principal; (2) the customer does not directly or indirectly own or control Osaka; (3) Osaka does not directly or indirectly own or control the customer; and (4) common stock ownership between the customer and other parties do not meet the 20 percent statutory test of 771(13)(D).

Furthermore, Osaka states that, based on verification, the Department had no grounds for considering Osaka and the customer related parties at the preliminary results. Respondent contends that the verification report did not state that Osaka and the customer were related.

Petitioner agrees with Osaka and states that Osaka is correct in its contention that sales to this customer should be used in calculating FMV. Petitioner is persuaded (1) that the relationship between Osaka and the customer is "sufficiently indirect that no real influence on prices is effected by the relationship," and (2) that the Department's comparison of the average price of sales to this customer to the average price of sales to unrelated trading companies in the home market is insufficient to test whether prices are at arm's length.

DOC Position

Based on information on the record, we have determined that, pursuant to section 771(13) of the Act, Osaka and the customer in question are not related. Therefore, for purposes of the final results, we have included Osaka's sales to this customer when calculating FMV.

Comment 4

Osaka argues that the Department should use all related party sales in its margin calculations because sales to related and unrelated customers were made at comparable prices. Osaka claims that it sets prices based on quantity of the merchandise sold and not on its relationship to the customer.

Osaka also argues that the Department incorrectly calculated the "Overall Percent Ratio of Related to

Unrelated Prices." Osaka contends that the Department weighted the average by the related quantity when it should have weighted the average by the sum of the related and unrelated quantities.

DOC Position

We disagree with Osaka. We compared prices to unrelated customers to prices to related customers to determine whether sales to related parties were made at arm's length. We determined that sales were at arm's length if individual related parties were, on average, charged prices comparable to the prices charged to unrelated customers. We excluded related party sales to certain customers because these sales were not at arm's length.

Concerning Osaka's statement that we incorrectly conducted the arm's length test, Osaka misunderstood our methodology. We do not weight average all related parties to determine whether sales are at arm's length, but rather perform our analysis on a customer-specific basis. We compared the weighted average price to each related customer to the weighted average price to all unrelated customers to determine whether sales to each related customer were at arm's length.

Comment 5

Citing 19 CFR 353.55(a), Showa claims that the Department is required to compare U.S. sales with home market sales of "comparable quantities." Pursuant to the regulations, Showa argues that it is a well-established Department practice that where a party demonstrates a correlation between price and quantity, the Department will disregard home market sales which are not of comparable quantities to U.S. sales. Further, when there are both large quantity sales and small quantity sales in the home market, only the large quantity sales should be compared with the large quantity U.S. sales.

Showa claims that since quantity is the basis for its prices, the Department should compare these comparable quantity sales. Based on its argument that the Department should compare U.S. Product 1 sales only to home market Product 1 sales, Showa claims that it has adequate home market sales of large quantities of Product 1 for purposes of comparison with large quantity U.S. Product 1 sales.

Showa analyzed the relationship between price and quantity in two different ways. First, Showa divided all sales into various categories by quantity and calculated a weighted average net price for each category. Second, Showa undertook a regression analysis showing the quantity sold to each customer and the weighted average net price for each customer. In both cases, Showa claims there is a direct correlation: the greater the quantity, the lower the price.

Showa admits that the correlation between price and quantity is not apparent based on a visual examination of the data. Showa's prices are based on the quantity a customer buys over a period of time—not the quantity purchased in a given transaction. Showa sets prices based on a "customer's past, present and expected future volume purchases with adjustments based on packing requirements."

DOC Position

We do not believe that Showa has provided either: (1) Sufficient justification for their argument that we should compare sales of comparable quantities (*i.e.*, proof that price is driven by quantity purchased); or (2) sufficient information as to how we would compare U.S. sales with home market sales of comparable quantities.

Showa's comparable quantity argument is faulty in that it is directly related to Showa's argument that the Department should compare U.S. Product 1 sales only to home market Product 1 sales. Showa claims that it has adequate home market sales of large quantities of Product 1 for purposes of comparison with large quantity U.S. Product 1 sales, but as discussed in *Comment 1*, we are treating all subject merchandise within the scope of this review as a single such or similar category. Further, an examination of Showa's data shows that some sales of U.S. Product 1 and home market Product 1 were made in "small" quantities, and some sales of home market Product 3 were made in "large" quantities.

Showa claims that its prices are based on the quantity a customer buys over a period of time and not the quantity purchased in a given transaction, yet Showa's suggested methodology for implementing comparable quantity comparisons is based on the quantity of each specific transaction. Furthermore, the "comparable" quantity categories suggested by Showa appear to be somewhat random, and Showa provides no justification or explanation for how it determined what quantities were "comparable."

We did not attempt to compare U.S. sales with home market sales of "comparable quantities" because the information on the record does not support making such comparisons. Absent proof that price is driven by quantity purchased and proof that certain quantities are "comparable" while other quantities are not, we cannot compare U.S. sales with home market sales of "comparable quantities."

Comment 6

Showa claims that the Department should use a weighted-average FMV for the period of review, rather than a monthly weighted-average FMV. Showa argues that the POR FMV is representative of home market prices. Showa cites Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof From Japan (56 FR 41508, 41517, August 21, 1991) (TRBs from Japan), where the Department conducted a two-prong test for determining whether a period weighted-average FMV is representative. Showa believes it meets the test established in TRBs from Japan, and claims we should use the period weighted-average FMV.

Petitioner argues that the Department should not abandon its long-standing practice of comparing contemporaneous sales. Petitioner claims that Showa offers no rationale for suggesting that the Department deviate from its standard practice, and merely cites one example where the Department compared sales based on a weight-averaged FMV. Furthermore, petitioner claims that the TRBs from Japan case involved extraordinarily complex product matching issues and an exceptionally large number of transactions. Petitioner claims that there is no necessity or justification for abandoning the preference for comparing contemporaneous sales.

DOC Position

We see no reason, in this case, to vary from our standard practice of comparing sales based on a monthly weighted-average FMV.

Comment 7

Petitioner claims that the Department uncritically accepted Showa's allocation of its parent company's (Showa Denko) G&A expenses and that these amounts should be recalculated on the basis of cost of sales. Petitioner states that while Showa Denko's G&A allocation may have been based on internal accounting policies, the respondent has had ample opportunity to adjust its normal accounting since the original order on titanium sponge was issued in November 1984.

Respondent claims that the Department correctly calculated G&A expenses in a manner consistent with previous reviews.

DOC Position

We agree with respondent. We verified the parent company G&A

allocation to subsidiaries, noting it was based on Showa Denko internal accounting policy manual guidelines. We have no reason to believe that these guidelines distort the proper allocation of G&A. (See, Titanium Sponge from Japan; Final Results of Antidumping Administrative Review (55 FR 42227, October 18, 1990), Comment 4.)

Comment 8

Petitioner contends that the Department understated Showa's "loss allocation rate" for this review period because of errors in the method used to divide write-off expenses between this period and the prior review period. The write-off was divided between two review periods which each included portions of the fiscal year in which the write-off had been recorded. Petitioner further asserts that if a similar error was made in the previous review, the Department should correct for both periods by increasing the loss allocation rate in the current review period.

Respondent claims that the write off of fixed assets in connection with the reorganization of Showa Titanium constitutes an extraordinary item, excludable from normal operations which should not be included in costs summarized for the COP or CV.

DOC Position

We agree with Petitioner, in part. We have recalculated the loss allocation rate for this review period. We used the proportionate share of the loss and the cost of sales of the fiscal year in which the loss was incurred. The loss was applied only to the cost of production for 1988. There was no error in the previous review, and the entire loss has now been allocated to products produced in 1988. Losses incurred on sales or write-offs of fixed assets pursuant to Showa's restructuring were not considered to be extraordinary items and were included as part of the loss. (See, Titanium Sponge from Japan; Final Results of Antidumping Administrative Review, 55 FR 42227 (October 18, 1990), Comment 3.)

Comment 9

Petitioner claims that Toho has diluted the amount of research and development (R&D) costs allocated to titanium sponge through "creative accounting." Respondent asserts that the R&D data used in the preliminary results were verified by Department representatives.

DOC Position

We agree with respondent. The Department verified that R&D specific to titanium sponge was included in cost of manufacture (COM), and general R&D was allocated as part of G&A expense.

Comment 10

Petitioner asserts that the Department improperly deducted Toho's interest income from finance expense because there is no evidence on the record that the interest income is short term. Respondent claims that the Department fully verified its records regarding finance expense and income, and that the Department should maintain the calculations of finance expense.

DOC Position

We agree with respondent. The Department verified that the submitted finance income was interest earned on unrestricted bank deposits, *i.e.*, short-term interest income.

Final Results of the Review

Based on our final analysis, we determine that the following weighted-average margins exist for the period November 1, 1988, through October 31, 1989:

Manufacturer/exporter	Margin (percent)
Osaka Titanium Co., Ltd	0.00
Showa Denko K.K.	13.16
Toho Titanium Co., Ltd.	0.00
Nippon Soda Co., Ltd.	*56.27
All Others	13.16

* No shipments during the period; rate is from the last review in which there were shipments.

In response to our questionnaire, Nippon Soda responded that it made no shipments of Japanese titanium sponge to the United States during the POR. The U.S. Customs Service verified that Nippon Soda made no shipments of titanium sponge to the United States during the POR. We will collect cash deposits on future entries of merchandise by Nippon Soda equal to the most recent rate calculated for Nippon Soda.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed companies will be that established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review, but covered in previous reviews or the original less-than-fair-value investigation, the cash deposit rate will continue to be the company-specific rate published in the final results or final determination covering the most recent period; (3) if the exporter is not a firm covered in this review, previous reviews, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review, or if not covered in this review, the most recent period or the original investigation; and (4) the cash deposit rate for any future entries from all other manufacturers or exporters who are not covered in this or prior administrative reviews, and who are unrelated to the reviewed firm or any previously reviewed firm, will be the "all other" rate established in the final results of this administrative review. This rate represents the highest rate for any firm in this administrative review (whose shipments to the United States were reviewed), other than those firms receiving a rate based entirely on best information available. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c)(5).

Dated: December 31, 1991.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-268 Filed 1-6-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-505]

Porcelain-on-Steel Cookingware From Mexico; Final Results of Countervailing Duty Administrative Review

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

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On September 24, 1991, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on porcelain-on-steel cookingware from

Mexico (56 FR 48163). We have now completed that review and determine the total bounty or grant to be *de minimis* for CINSA and 3.26 for all other companies for the period January 1, 1990 through December 31, 1990.

EFFECTIVE DATE: January 7, 1992.

FOR FURTHER INFORMATION CONTACT: Dana S. Mermelstein or Maria P. MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTAL INFORMATION:

Background

On September 24, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 48163) the preliminary results of its administrative review of the countervailing duty order on porcelain-on-steel cookingware from Mexico (51 FR 44287; December 12, 1986). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of Review

Imports covered by this review are shipments of porcelain-on-steel cookingware from Mexico. The products are porcelain-on-steel cookingware (except teakettles), which do not have self-contained electric heating elements. All of the foregoing are constructed of steel, and are enameled or glazed with vitreous glasses. During the review period such merchandise was classifiable under item number 7323.94.0020 of the Harmonized Tariff Schedule (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period from January 1, 1990 through December 31, 1990, two companies, and the following programs: (1) FOMEX; (2) BANCOMEXT Financing for Exporters; (3) FONEI; (4) Program for Temporary Importation of Products Used in the Production of Exports (PITEX); (5) CEPROFI; (6) Guarantee and Development Fund for Medium and Small Industries (FOGAIN); (7) Other BANCOMEXT preferential financing; (8) Import Duty Reductions and Exemptions; (9) State tax incentives; (10) NAFINSA FONEI-type financing; and (11) NAFINSA FOGAIN-type financing.

Calculation Methodology for Assessment and Deposit Purposes

In calculating the benefits received during the review period, we followed the methodology described in the preamble to 19 CFR 355.20(d) (53 FR 52306, 52325–52326; December 27, 1988). First, we calculated a country-wide rate, weight-averaging the benefits received by both companies subject to review to determine the overall subsidy from all countervailable programs benefitting exports of subject merchandise to the United States. Because the country-wide rate was above *de minimis*, as defined by 19 CFR 355.7, we proceeded to the next step in our analysis and examined the *ad valorem* rate we had calculated for each company for all countervailable programs, to determine whether individual company rates differed significantly from the weighted-average country-wide rate. One company (CINSA) received aggregate benefits which were *de minimis* (significantly different within the meaning of 19 CFR 355.22(d)(3)(ii)). This company must be treated separately for assessment and cash deposit purposes.

The remaining company (APSA) received aggregate benefits from all countervailable programs combined which were not significantly different from the weighted-average country-wide rate; its rate was used to establish the "all-other" rate for the review period. See, *e.g.*, Final Results of Countervailing Duty Administrative Review; Ceramic Tile from Mexico (56 FR 27496, 27498; June 14, 1991).

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from Acero Porcelanizado, S.A. (APSA) and CINSA, the two respondent companies, and the Government of Mexico.

Comment 1: APSA and CINSA claim that the Department has overstated the benefits attributable to the BANCOMEXT Export Financing program. By using the interest payment to interest payment comparison methodology in calculating benefits for the BANCOMEXT export financing program, rather than the interest rate to interest rate comparison methodology which the Department has used in the past, the Department has not accounted for the loss of the use of funds by the borrower when interest is pre-paid, as it is for BANCOMEXT export financing.

Department's Position: We have adjusted our calculations to account for the prepayment of interest required by the BANCOMEXT Export Financing program. We determine the benefit from BANCOMEXT Export Financing to be 0.16 percent *ad valorem* for CINSA and 0.47 percent *ad valorem* for all other companies.

Comment 2: The Government of Mexico contests the Department's determination that the BANCOMEXT export financing program provides countervailable benefits. First, the Government of Mexico contends that the use of a commercial rate as a benchmark in the Department's calculation is inconsistent with Item (k) of the Illustrative List of Export Subsidies annexed to the Agreement on Interpretation and Applications of Articles VI, XVI, and XVIII of the General Agreements on Tariff and Trade (GATT). Item (k) of the Illustrative List defines an export subsidy as the granting of export credits by governments at interest rates below the cost of funds to the government. BANCOMEXT financing meets the cost to government standard and therefore does not provide countervailable subsidies. Second, the Government of Mexico maintains that BANCOMEXT loans are indeed given at commercial rates. The stated interest rate for BANCOMEXT financing is the U.S. prime rate plus 0.5 percent, and prime rate is considered a commercial rate.

Department's Position: We disagree. The cost to government standard which defines an export subsidy in Item (k) of the Illustrative List does not limit the United States in applying its own national countervailing duty law to determine the countervailability of benefits bestowed on merchandise exported from Mexico. Because BANCOMEXT export financing is only available to exporters, we determine this program is countervailable. See *e.g.*, Certain Textile Mill Products from Mexico; Final Results of Countervailing Duty Order Administrative Review (54 FR 36841; September 5, 1989) and Certain Textile Mill Products from Mexico; Final Results of Countervailing Duty Administrative Review (56 FR 12175, 12177; March 22, 1991). When we compared our benchmark with the interest rates reported under the BANCOMEXT program, we found countervailable benefits. There is no evidence on the record illustrating the Government of Mexico's assertion that the BANCOMEXT interest rate, the U.S. prime rate plus 0.5 percent, is commercially available in Mexico.

Comment 3: The Government of Mexico contests our use of the quarterly weighted average effective interest rates published in the Federal Reserve Bulletin as a benchmark, since this rate represents all types of lending at a certain level. The Government of Mexico argues that a more appropriate benchmark would be a rate which reflects financing for exports, such as a

rate available through the U.S. Export-Import Bank.

Department's Position: We disagree. It is the Department's practice to use the predominant source of short-term financing to construct a benchmark. See, Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Carbon Steel Butt-Weld Pipe Fittings from Thailand (55 FR 1695; January 18, 1990) and Section 355.44(b)(3)(i) of the Department's proposed regulations (54 FR 23366, 23380; May 31, 1989). The benchmark that we have relied on here is a national-average interest rate based on a Federal Reserve survey of the terms of lending at commercial banks during the review period. Our use of Federal Reserve rates has been sustained in *Cementos Anahuac del Golfo, S.A.* v. *U.S.*, 689 F. Supp. 1191, 1214 (CIT 1988), *aff'd Cementos Guadalajara, S.A.* v. *U.S.* 879 F. 2d 847 (Fed. Cir. 1989), *cert. denied*, 110 S. Ct. 1318 (1990), and *PPG* v. *United States*, 768 F. Supp. 354 (CIT 1991), appeal docketed, No. 91–1486 (CAFC, Sept. 9, 1991). Use of U.S. Export-Import Bank lending rates as the basis for our benchmark, as the Government of Mexico proposes, would be inappropriate here because such rates represent long-term financing, are limited to exporters, and the rates are based on conditions specific to the individual borrower or importing country.

Comment 4: The Government of Mexico contends that the PITEX program is not an export subsidy because machinery temporarily imported under PITEX is used to manufacture merchandise for both the domestic and the export markets.

Department's Position: We disagree. The eligibility criteria for the PITEX program limit the benefits to exporters because they require a company to have a proven export record, and to use the imported merchandise (both raw materials and equipment) in the production of goods for export. See, Certain Textile Mill Products from Mexico; Final Results of Countervailing Administrative Review (56 FR 12175, 12178; March 22, 1991). Moreover, should a company using PITEX wish to sell its production (incorporating the imported raw materials or produced with the imported equipment) in the domestic market, it must obtain special authorization and pay the corresponding duties, thereby forfeiting the portion of benefits granted through PITEX to merchandise ultimately sold in the domestic market. In addition, such sales in the domestic market are limited to thirty percent of the total PITEX-related production. Therefore, because PITEX benefits are limited to exporters, and to the extent that PITEX provides duty drawback on non-physically incorporated merchandise, we determine this program to be a countervailable export subsidy. See, Certain Textile Mill Products from Mexico; Final Results of Countervailing Duty Administrative Review (56 FR 50858, 50860; October 9, 1991).

Comment 5: The Government of Mexico argues that because import duties are part of the acquisition cost of capital equipment and are therefore depreciated over the useful life of the equipment, the Department should allocate the PITEX benefit over the useful life of the equipment.

Department's Position: We disagree. With respect to the timing of the benefit, it is the Department's practice to expense benefits resulting from tax or duty exemption programs in full in the year of receipt. The benefit consists of import duties not paid on the imported machinery, which normally would be payable at the time of import; we followed our standard practice by expensing the benefit from the value of duty exemptions in full, in the year of receipt. See, Final Affirmative Countervailing Duty Determination and Partial Countervailing Duty Order: Ball Bearings and Parts Thereof from Thailand; Final Negative Countervailing Duty Determinations: Antifriction Bearings (Other Than Ball or Tapered Roller Bearings) and Parts Thereof from Thailand (54 FR 19130; May 3, 1989); see also Certain Cotton Yarn Products from Brazil; Preliminary Results of Countervailing Duty Administrative Review (55 FR 19766; May 11, 1990); § 355.48(b)(6) of the Department's proposed regulations (54 FR 23366, 23384; May 31, 1989).

Final Results of Review

After reviewing all of the comments received, and correcting for clerical errors found in the calculations, we determine the total bounty or grant to be *de minimis* for CINSA, and 3.26 percent *ad valorem* for all other companies for the period January 1, 1990 through December 31, 1990.

For this merchandise, the Department will instruct the Customs Service to liquidate, without regard to countervailing duties, shipments from CINSA, and to assess countervailing duties of 3.26 percent of the f.o.b. invoice price on shipments from all other companies exported on or after January 1, 1990 and on or before December 31, 1990.

The Department will also instruct the Customs Service to waive cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on any shipments of merchandise from the CINSA, and to collect a cash deposit of estimated countervailing duties of 3.18 percent of the f.o.b. invoice price on shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement and waiver shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: December 30, 1991.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92–269 Filed 1–6–92 8:45 am]

BILLING CODE 3510–DS–M

Short-Supply Determination: Certain 13-Chrome Stainless Steel Tubing

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of short-supply determination on certain sizes of 13-chrome stainless steel tubing.

SHORT-SUPPLY REVIEW NUMBER: 60.

SUMMARY: The Secretary of Commerce ("Secretary") hereby grants a short-supply allowance for 182 metric tons of certain sizes of 13-chrome stainless steel tubing for the first quarter 1992 under the U.S.-Japan Steel Arrangement.

EFFECTIVE DATE: December 27, 1991.

FOR FURTHER INFORMATION CONTACT: Marissa Rauch or Kathy McNamara, Office of Agreements Compliance, Import Administration. U.S. Department of Commerce, room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230 (202) 377–1382 or (202) 377–3792.

SUPPLEMENTARY INFORMATION: On November 27 and 29, 1991, the Secretary received adequate petitions from Sooner Pipe & Supply Corporation ("Sooner"), requesting a short-supply allowances for 286 metric tons of this product for the first quarter 1992 under Paragraph 8 of the Arrangement Between the Government of Japan and the Government of the United States of America in Certain Steel Products (the U.S.-Japan Steel Arrangement). Sooner requested short supply because it alleges that this material is not produced

domestically and regular export licenses are not available for this material.

The requested material meets the following specifications: 13-Chrome Stainless Steel Tubing Grades SM13CR–85 and SM23CR–95 with Vam Ace Connections.

	Quantity (MT)
1. SM13CR–85 O.D. 2⅞" × 4.60Lb/Ft × R–2 Vam Ace	42
2. SM13CR–85 O.D. 2⅞" × 6.40Lb/Ft × R–2 Vam Ace	174
Total	216
3. SM13CR–85 O.D. 2⅞" × 7.70Lb/Ft × R–2 Vam Ace	52
4. SM13CR–95 O.D. 2⅞" × 7.70Lb/Ft × R–2 Vam Ace	17
5. SM13CR–95 O.D. 2⅞" × 7.70:Lb/Ft Vam Ace 1 set of pup joints	1
6. SM13CR–95 O.D. 2⅞" × 7.70Lb/Ft Vam Ace 1 piece Double Pin Sub 2 feet long	
Total	70

Chemical Composition:

C:	0.15	–0.22
MN:	0.25	–1.00
CR	12.00	–14.00
NI:	MAX.	0.50
CU	MAX.	0.25
SI	MAX.	1.00

Mechanical Properties:

PSI

	SM85 grade	SM95 grade
Min. Yield Strength	85,000	95,000
Max. Yield Strength	100,000	110,000
Min. Tensile Strength	100,000	105,000

The Secretary conducted this short-supply review pursuant to section 4(b)(4)(A) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101–221, 103 Stat. 1886 (1989) ("the Act"), and § 357.102 of the Department of Commerce's Short-Supply Procedures, 19 CFR 357.102 ("Commerce's Short-Supply Procedures").

Action

On November 27 and 29, 1991, the Secretary established an official record on this short-supply request (Case Number 60) in the Central Records Unit, room B–099, Import Administration, U.S. Department of Commerce at the above address. On December 9, 1991, the Secretary published a notice in the **Federal Register** announcing a review of this request and soliciting comments from interested parties. Comments were required to be received no later than December 16, 1991, and interested parties were invited to file replies to any comments no later than five days after that date. In order to determine whether this product, or a viable alternative product, could be supplied in the U.S. market for the period of this review, the Secretary sent questionnaires to: North Star Steel, Texas Inc. ("North Star"), Al Tech Specialty Steel Corporation ("Al Tech"), USX Corporation ("USX"), CF&I Steel Corporation ("CF&I"), Koppel Steel Corporation ("Koppel"), and Lone Star Steel Corporation ("Lone Star"). The Secretary received timely questionnaire responses from 5 of the 6 companies.

Questionnaire Responses

Four questionnaire respondents (CF&I, North Star, Lone Star and Koppel) indicated that they were unable to supply the requested 13-chrome tubing. Al Tech indicated that it would be able to supply 13-chrome tubing meeting the specifications, but not in the requested lengths.

On December 18, 1991, we received a letter from John Gandy Corporation ("JGC"), a specialty distribution company for corrosion resistant alloy OCTG, as an interested party. JGC indicated that it has 13-chrome tubing meeting the requested specifications in inventory. JGC provided an inventory list indicating that, of the tubing requested by Sooner, it has the following inventory:

52 MT (15,000 ft.) SM 13CR–85 O.D. 2⅞" × 7.70 lb/ft. × range 2
52 MT (18,000 ft.) SM 13CR–85 O.D. 2⅞" × 6.40 lb/ft. × range 2

104MT

On December 16, 1991, Sooner responded to Al Tech's comments by indicating that their equipment in the oil field is set to handle only range 2 (28–32 ft.) pipe. Therefore, the 20 foot lengths offered by Al Tech are unacceptable in Sooner's down-hold applications.

On December 19, 1991, Sooner provided comments in response to JGC's letter. Sooner indicated that the material JGC has offered may have been in inventory for a long period and may therefore be subject to "crevice corrosion." Sooner noted that the pipe offered by JGC is produced by Sumitomo, Kawasaki and Tubecex. Sooner asserts that purchasing pipe produced by several different manufacturers would be inconsistent with its practice of purchasing pipe through a single source, and would deprive Sooner of "single source responsibility" in case of problems. Sooner also expressed concern that JGC does not have any coupling stock to thread the material with a Vam Ace connection, which would make it impossible to screw the pipe together.

On December 20, 1991, JGC responded to Sooner's concerns and provided full specification sheets on the 13-chrome material held in inventory. JGC noted that, as part of its standard practice, it would perform electro-magnetic or ultrasonic testing to detect any crevice corrosion on the offered pipe. With regard to sole source responsibility, JGC noted that it ordinarily serves as the first point of responsibility for its OCTG customers. With regard to threading for the Vam Ace connection, JGC indicated that it inventories coupling stock to match its inventory of pipe, and that its stock could be threaded for the Vam Ace connection in one to two weeks through Vam PTS. JGC asserts that in the past year it has sold over 100,000 ft. of pipe threaded with Vam Ace connections.

On December 20, 1991, Sooner responded to JGC's comments, noting that certain of the pipe offered did not meet its requirements for hydrostatic testing, Charpy impact testing, and hardness testing. In addition, Sooner asserted that the non-destructive testing offered by JGC would not necessarily detect crevice corrosion. Sooner asserts that, in its experience, crevice corrosion can only be detected by visual inspection by a knowledgeable inspector.

Analysis

The principle question in this review is whether sufficient supplies of tubing are available domestically to meet Sooner's actual consumption needs.

One domestic producer, Al Tech, has indicated that it can produce 13-chrome tubing, however, it cannot meet the API range 2 length specifications (28-32 ft) that are necessary for Sooner's application. According to Sooner, the equipment in the oil patch is set to handle tubing in Range 2 lengths (28-32 foot lengths) an API standard for OCTG pipe. Use of shorter, non-range 2 pipe would require either welding or additional jointing, which would be unacceptable for use in Sooner's downhole applications. The pipe offered by Al Tech does not and cannot easily be converted to meet the API length specifications noted in Sooner's petitions and therefore does not address Sooner's short-supply needs.

JGC offers 104 metric tons of pipe meeting all of the specifications provided by Sooner in its November 27 and 29, 1991, petitions. Sooner has since stated that the offered pipe does not

meet certain other requirements not noted in its initial petitions for short supply, notably, single source requirements, certain testing requirements, and visual inspection by a practiced inspector.

Standards for hardness testing, Charpy impact testing and hydrostatic testing are standards not included in Sooner's initial petition for short supply, but were noted only after JGC offered pipe available from its inventory. Pursuant to section 375.102(d) of the Department's Short Supply Procedures, petitioner is required to file a new petition for short supply if it modifies its request to the extent that the modification represents a substantial change in its request. Since these testing requirements were not included in Sooner's initial request, JGC has had no opportunity to comment upon the reasonableness of these testing requirements. Therefore, the additional testing standards described in Sooner's December 20, 1991, submission constitute a substantial change in the specifications for the material requested and cannot be considered in this review. Sooner must file a new petition for short supply fully describing all testing requirements if it wants these requirements to be considered by the Secretary in making his determination.

With regard to single source responsibility, we note that source preferences are not one of the five factors described in the House Report to the Steel Trade Liberalization Act (H.R. 101–263) ("House Report") that are to be considered in determining whether short supply exists. Further, JGC asserts that it acts as the first point of responsibility for its customers should problems arise with JGC's products. Therefore, the fact that the material offered by JGC's products. Therefore, the fact that the material offered by JGC was produced by different steel companies does not affect our determination of whether short supply currently exists in the domestic market.

After subtracting the quantity offered by JGC from the quantity requested by Sooner, the following tonnage remains outstanding:

122 MT (60,000 ft.) SM13CR–85 O.D. 2⅞" × 6.40 lb/ft. × range 2
42 MT (20,000 ft.) SM13CR–85 O.D. 2⅜" × 4.60 lb/ft. × 2
17 MT (5,000 ft.) SM13CR–95 O.D. 2⅞" × 7.70 lb/ft. × range 2
1 MT 1 set of pup joints—SM13CR–95 O.D. 2⅞" × 7.70 lb/ft.
1 MT 1 piece double pin sub (2 ft. long)

182 MT

Conclusion

Because the domestic industry is unable to supply Sooner with 182 metric tons of material meeting its specification for the first quarter of 1992, the Secretary determines that short supply does exist with respect to the requested product for this time period. Pursuant to section 4(b)(4)(A) of the Act and § 357.102 of Commerce's Short-Supply Procedures, the Secretary hereby grants a short-supply allowance for 182 metric tons of the requested 13-chrome stainless steel tubing in the sizes noted above for the first quarter 1992.

Dated: December 27, 1991.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92–270 Filed 1–6–92; 8:45 am]

BILLING CODE 3510-DS-M

Technology Administration, Bureau of Export Administration

National Critical Technologies Development and Advancement; Public Workshop

AGENCY: Technology Administration; Bureau of Export Administration, Commerce.

ACTION: Notice of public workshop.

SUMMARY: This is to notify interested parties that the Department of Commerce will hold a public workshop on February 6, 1992 at the National Institute of Standards and Technology in Gaithersburg, Maryland to explore interest in the development and advancement of national critical technologies. The workshop will (1) acquaint the private sector with the Strategic Partnerships Initiative, and (2) encourage private sector input on the scope and format of industrial surveys that the Bureau of Export Administration is developing to assess the financial and production status of six Department of Defense critical technologies. A registration fee of $75.00 per participant is due no later than January 24, 1991. Space is limited.

DATES: The workshop will convene at 9 a.m. (registration at 8 a.m.) and conclude at 5 p.m. on Thursday, February 6, 1992. A registration fee of $75.00 per participant is due no later than January 24, 1992. Space is limited.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Gaithersburg, Maryland. Registration fees should be forwarded to:

National Institute of Standards and Technology, Conference Registrar—"Criticla Technologies Workshop", A–902 Administration Building, Gaithersburg, MD 20899

FOR FURTHER INFORMATION CONTACT: Lori Phillips, Conference Registrar, (301) 975–4513.

SUPPLEMENTARY INFORMATION: This is to notify interested parties that the Department of Commerce will hold a public workshop on February 6, 1992 at the National Institute of Standards and Technology in Gaithersburg, Maryland to explore interest in the development and advancement of national critical technologies. The workshop will serve two purposes: (1) Pursuant to the Notice of Final Rules and Regulations, dated August 20, 1991, acquaint the private sector with the Strategic Partnerships Initiative, including how strategic partnerships offer a means for firms to collaborate on the development and commercialization of large-scale critical technologies; and (2) encourage private sector input on the scope and format of industrial surveys that the Bureau of Export Administration is developing to assess the financial and production status of six Department of Defense critical technologies (optoelectronics, composites, advanced ceramics, flexible computer integrated manufacturing, artificial intelligence, and superconductivity). These industrial assessments will be conducted in accordance with Section 825 of the fiscal year 1991 Defense Authorization Act.

Goal of the Strategic Parternships Initiative

Strategic Partnerships are multi—industry teams of noncompeting firms formed to create and commercialize proprietary technologies, especially large-scale critical technologies, using a systems management approach. Large-scale critical technologies are technologies that are too complex and costly for a single firm to create, and have more potential applications than a single firm or even an industry can readily and fully exploit. In some cases, investments in these technologies can be recouped only if the results are used in several applications. Since speed of recoupment can be critical to continued competitiveness, it often is essential that multiple major applications be introduced simultaneously.

This new initiative is designed to provide the private sector the opportunity to discuss possible benefits of forming strategic partnerships among firms representing the entire food chain of specific technologies. By focusing on a specific technology, these partnerships will have the capability to integrate

innovation activities for a broad range of applications made possible by that technology. Strategic partnerships are made up generally of noncompeting companies, and are capable of accomplishing the entire process of innovation working on a proprietary basis.

The immediate goal of this initiative is to hold workshops on key technologies upon request from the private sector, at which the stakeholder industries in the food chain for each technology will have a change to consider: potential applications and current status of the technology, what R&D needs to be performed, the competitive position of U.S. industry in that technology, and ways in which U.S. stakeholders might organize themselves to maximize commercial benefits. The design of and participants in a specific partnership will be solely at the discretion of the private sector.

Goal of the Critical Technology Assessments

The Department of Defense has identified 21 technologies deemed critical to national security. These technologies include Machine Intelligence, Flexible Manufacturing, Photonics, Superconductivity, and Advanced Materials. The Technologies and the industries that support them constitute a section of the defense industrial base vital to present and future national security needs of the United States.

The Bureau of Export Administration, Office of Industrial Resource Administration (OIRA), in coordination with the Technology Administration, and the Department of Defense, is conducting assessments of the Department of Defense's 21 Critical Technologies. Assessments of six technologies and their industrial infrastructures are scheduled to be completed in fiscal year 1992. The final reports will be delivered as public documents to the United States Congress, Armed Services Committees.

The immediate goal of this workshop is to secure the participation of industry associations and individual companies in framing assessment outlines and industrial surveys related to their technologies. OIRA will then use the surveys to collect research and development, financial, production, and employment information, which will form the basis for each final Critical Technology Assessment.

Dated: December 31, 1991.

Deborah Wince-Smith,

Assistant Secretary for Technology Policy

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 92-266 Filed 1-6-92; 8:45 am]

BILLING CODE 3510-13-M

CONGRESSIONAL BUDGET OFFICE

Transmittal of Final Sequestration Report for Fiscal Year 1992 to Congress and the Office of Management and Budget

Pursuant to section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904(b)), the Congressional Budget Office hereby reports that it has submitted its Final Sequestration Report for Fiscal Year 1992 to the House of Representatives, the Senate, and the Office of Management and Budget.

Stanley L. Greigg,

Director, Office of Intergovernmental Relations, Congressional Budget Office.

[FR Doc. 92-436 Filed 1-6-92; 8:45 am]

BILLING CODE 2107-11-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Defense FAR Supplement, part 215, Contracting by Negotiation, and the clauses at 252.215; OMB Control Number 0704-0232.

Type of Request: Revision.

Average Burden Hours/Minutes per Response: 4 hours and 40 minutes.

Responses per Respondent: 1.

Number of Respondents: 199,540.

Annual Burden Hours: 932,900.

Annual Responses: 199,615.

Needs and Uses: Defense Far Supplement Part 215 concerns information collection requirements required (1) for negotiation of contracts, (2) for implementing the Industrial Modernization Improvement Program, and (3) to perform estimating systems surveys.

Affected Public: Businesses or other for-profit, non profit institutions and Small Businesses or Organizations

Frequency: On Occasion.

Respondents Obligation: Required to obtain or retain a benefit.

Desk Officer: Mr. Peter Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DOD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Davis Highway, suite 1204, Arlington, Virginia, 22202-4302.

Dated: December 31, 1991.

L.M. Bynum,

Alternate OSD Federal Register Officer, Department of Defense.

[FR Doc. 92-249 Filed 1-6-92; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Application Form, and Applicable OMB Control Number: Defense FAR Supplement, part 210, Specifications, Standards and Other Purchase Descriptions, and the clauses at 252.210; Forms DD 346 and 347; OMB Control Number 0704-0230.

Type of Request: Revision.

Average Burden Hours/Minutes per Response: 3 Hours.

Responses per Respondent: 1.

Number of Respondents: 15,000.

Annual Burden Hours: 45,000.

Annual Responses: 15,000.

Needs and Uses: Defense FAR Supplement part 210 concerns information collection requirements required to obtain bills of material for production maintenance purposes by preparing and submitting DD Forms 346 and 347.

Affected Public: Businesses or other for-profit, non profit institutions and Small Businesses or Organizations.

Frequency: On Occasion.

Respondents Obligation: Required to obtain or retain a benefit.

Desk Officer: Mr. Peter Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Office for DOD, room 3255, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Davis Highway, suite 1204, Arlington, Virginia, 22202–4302.

Dated: December 31, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–250 Filed 1–6–92; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Defense FAR Supplement, part 225, Foreign Acquisitions, and the clauses at 252.225; Form DD 2139: OMB Control Number 0704–0229.

Type of Request: Revision.

Average Burden Hours/Minutes per Response: 3 Hours.

Responses per Respondent: 3.

Number of Respondents: 53,153.

Annual Burden Hours: 458,765.

Annual Responses: 159,642.

Needs and Uses: Defense FAR Supplement (DFARS) part 225 concerns information collection requirements required to process (10 duty free certificates, (2) report on expenditures by foreign contractors in the United States and (3) information required by the Trade Agreements Act on sources of petroleum. In addition, information collection requirements previously approved under DFARS parts 204 and 208 have been relocated to part 225 as a result of a complete rewrite of DFARS.

Affected Public: Businesses or other for-profit, non profit institutions and Small Businesses or Organizations.

Frequency: On Occasion.

Respondents Obligation: Required to obtain or retain a benefit.

Desk Officer: Mr. Peter Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DOD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Davis Highway, suite 1204, Arlington, Virginia, 22202–4302.

Dated: December 31, 1991

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–251 Filed 1–6–92; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, applicable form, and applicable OMB control number: DoD FAR supplement, part 225, Foreign Acquisition.

Type of Request: New collection.

Average burden hours/minutes per response: 1 hour.

Responses per respondent: 1.

Number of respondents: 50.

Annual burden hours (including recordkeeping): 100.

Annual Responses: 50.

Needs and uses: The Department of Defense (DoD) and the United Kingdom (U.K.) have a reciprocal agreement to waive, on a case-by-case basis, nonrecurring cost charges on U.K. purchases, and commercial exploitation levies on DoD purchases. The terms of the reciprocal agreement are addressed in a series of confidential letters between the two Governments. This rule revises the Defense Federal Acquisition Regulation Supplement to address commercial exploitation levies. It requests information needed to obtain a waiver of the levies.

Affected public: Business or other for-profit.

Frequency: On occasion.

Respondents obligation: Required to obtain or retain a benefit.

OMB Desk officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: December 31, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–252 Filed 1–6–92; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, applicable form, and applicable OMB control number: Navy Advertising Effectiveness Study (NAES), OMB Control Number: 0703–0032.

Type of request: Expedited Submission—Approval Date Requested: March 1, 1992.

Average burden hours/minutes per response: 30 minutes.

Responses per respondent: 2.

Number of respondents: 1,000.

Annual responses: 2,000.

Needs and uses: The Navy Advertising Effectiveness survey measures recruiting advertising effectiveness, and provides data for strategies to be used in advertising.

Affected public: Individuals or households.

Frequency: Semiannually.

Respondent's obligation: Voluntary.

OMB desk officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD clearance officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215

Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202–4302.

Dated: December 31, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–253 Filed 1–6–92; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

December 23, 1991.

The USAF Scientific Advisory Board Air Combat Cross-Matrix Panel will meet on 24 January 1992 from 8 a.m. to 5 p.m. at Headquarters, Tactical Air Command (TAC), Langley AFB, Virginia.

The purpose of this meeting is to exchange information among Panel members and TAC personnel on technical developments and tactical operations issues. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92–219 Filed 1–6–92; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF ENERGY

Financial Assistance Award; Intent To Award a Cooperative Agreement; Southern States Energy Board

AGENCY: Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The U.S. Department of Energy (DOE) announces that pursuant to 10 CFR 600.6(a)(5) it is making a financial assistance award to Southern States Energy Board (SSEB) to facilitate the exchange of information and discussion of issues relating to the transportation of high-level nuclear waste.

SCOPE: Work under the cooperative agreement will include the collection and analysis of institutional data to be included in nuclear waste reports; analyses of state regional issues; organizing and participating in meetings to inform state and local government officials of the findings of transportation technical and institutional studies; and developing options for issue resolution or mitigation.

BASIS FOR NONCOMPETITIVE AWARD: Pursuant to 10 CFR 600.7(b)(2)(i)(D), DOE has determined that SSEB has exclusive capacity to perform the activities successfully, based upon the unique character of the organization, proprietary data, technical expertise and other such special qualifications.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Placement and Administration, Attn: Nick Graham, PR–322.1, 1000 Independence Ave., SW., Washington, DC 20585.

Arnold A. Gjerstad,

Acting Director, Operations Division "B", Office of Placement and Administration.

[FR Doc. 92–263 Filed 1–6–92; 8:45 am]

BILLING CODE 6450–01–M

Office of Fossil Energy

[FE Docket No. 91–19–NG]

Inland Gas & Oil Corp.; Application To Amend Authorization To Import And Export Natural Gas, Including Liquefied Natural Gas, From and to Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of Application to Amend Authorization to Import and Export Natural Gas, Including LNG, from and to Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on December 5, 1991, of an application filed by Inland Gas & Oil Corp. (IGOC) requesting authorization to amend its authorization to import and export natural gas, including liquefied natural gas (LNG), from and to Canada. IGOC was granted blanket authorization to import up to 14 Bcf and export up to 36 Bcf of natural gas for a two-year period in DOE/FE Opinion and Order No. 517 (Order 517) on July 5, 1991 (1 FE ¶ 70,463). IGOC requests that the DOE increase its currently authorized blanket import volumes from 14 Bcf to a maximum of 35 Bcf for the remainder of Order 517's authorization term. The blanket export volumes approved in Order 517 would not change. In addition, IGOC requests authority to import or export the proposed natural gas and LNG at new border facilities to be constructed by Sumas International Pipeline Inc. (SIPI).

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 in Washington, DC, at the address listed below no later than 4:30 p.m., eastern time, February 6, 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, (202) 586–9478.

FOR FURTHER INFORMATION CONTACT:

Thomas Dukes, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–070, FE–53, 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, GC–14, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–0503.

SUPPLEMENTARY INFORMATION: IGOC is a corporation organized under the laws of the State of Delaware with its principal place of business in Wilmington, Delaware. IGOC is a wholly owned subsidiary of BC Gas Inc. (BC Gas), a Canadian corporation located in Vancouver, British Columbia. IGOC functions as a natural gas marketer and intends to import and export natural gas or LNG on a short-term or spot basis for its own account or as agent for Canadian or U.S. purchasers and suppliers, including BC Gas and its U.S. agent, Grand Valley Gas Company of Salt Lake City, Utah. IGOC states the terms of all transactions will be the product of arms length negotiations between the parties and therefore will be competitive.

The decision on the import portion of this amendment request 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). IGOC's currently authorized export volumes are not affected by this amendment request. Therefore, parties that may oppose this application should limit their comments to the issue of increasing the import ceiling approved by Order 517. The applicant asserts the imports would be competitive under the proposed arrangement. Parties opposing the import arrangement 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 to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the 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 above address.

It is intended that a decisional record will be developed on the application 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 IGOC'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, December 31, 1991.

Clifford P. Tomaszewski,

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

[FR Doc. 92–264 Filed 1–6–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 91–84–NG]

Tennessee Gas Pipeline Co.; Application To Amend Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application to amend long-term authorizations to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application filed on October 10, 1991, by Tennessee Gas Pipeline company (Tennessee) to amend two current natural gas import authorizations under which Tennessee imports gas for its own account for system supply. The amendments requested would allow Tennessee the option of importing this gas for sale on the spot market on its own account or for sale as agent for third parties to whom Tennessee might assign its rights under the two long-term gas contracts underlying these two import licenses.

The application was 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, February 6, 1992.

ADDRESSES: Office of Fuels Programs, Fossil energy, U.S. Department of Energy, room 3F–056, FE–50, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478.

FOR FURTHER INFORMATION:

Stanley C. Vass, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–094, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9482;

Diane Stubbs, 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) 586–6667.

SUPPLEMENTARY INFORMATION: Tennessee currently is authorized to import, through October 31, 2002, up to 125,000 Mcf of natural gas per day from KannGaz Producers Ltd. (KannGaz) and up to 25,000 Mcf of gas per day from TransCanada Pipelines Limited (TransCanada). See DOE Opinion and Order Nos. 195–B and 254–A at 1 FE ¶70,261 and 1 FE ¶70,262, respectively. Gas imported from both suppliers is transported by TransCanada to a point on the international border near Niagara Falls, New York, where TransCanada's facilities interconnect with those of Tennessee.

Tennessee requests its existing import authorizations be modified solely to give Tennessee the option of importing the gas for sale on the spot market on its own account or as agent for third parties if not needed for system supply. According to the application, the terms and conditions of Tennessee's contracts with KannGaz and TransCanada, which are known and have been approved, would govern any gas purchase rights assigned to a third party. In support of its application, Tennessee asserts the amendments requested would in no way affect DOE findings that gas imported pursuant to the terms of the KannGaz and TransCanada contracts is competitive, needed, and secure. Further, Tennessee asserts the flexibility of the proposed modification would increase the overall competitiveness of the import arrangements and would provide firm customers some measure of protection from having to absorb demand and minimum take costs if system supply takes decline for any reason.

The decision on Tennessee'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 that may oppose this application should focus their responses on the effect of the proposed modification on the public interest determinations already made by DOE with regard to the Tennessee/KannGaz and Tennessee/TransCanada imports. Tennessee asserts the proposed modifications are in the public interest because they would enhance the flexibility of the imports. Parties opposing the import arrangements 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 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 the 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 regulation in 10 CFR part 590. Protests, motions to intervene, notices of intervention, 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 response 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, shown that it is material and relevant to a decision in this proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference should 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 Tennessee's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 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 December 27, 1991.

Clifford P. Tomaszewski,

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

[FR Doc. 92–200 Filed 1–6–92; 8:45 am]

BILLING CODE 6450–0–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 4090–9]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICR) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. Because EPA is requesting expedited review, this notice includes the specific data items being collected. The ICRs describe the nature of the information collections and their expected costs and burden.

DATES: Comments must be submitted on or before February 6, 1992.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Environmental Education

Title: Environmental Fellowship Application Form (EPA No. 1609.01).

Abstract: This ICR is a new collection in support of the Environmental Fellowship Program established by the National Environmental Education Act (NEEA) under Public Law 101–169, section 7. Each year, in accordance with the NEEA, the Office of the Governor of each State and the Office of the Mayor of the District of Columbia will nominate an eligible teacher, and an alternate, as potential recipients of this Fellowship. Following approval of this ICR, nominees will be required to complete and submit the Environmental Fellowship Application to EPA representatives from the Office of Environmental Education (OEE). OEE representatives will use the information from the completed application to: (1) Select potential Fellows, and (2) place each Fellow with an appropriate department or agency, geographical location, and type of organization unit (laboratory, office, or field station). The Environmental Fellowship Application will contain the following data elements:

1. *Term* for which applicant is seeking Fellowship (date, semester, school year, calendar year).

2. *Identifier Information:* (a) Name of applicant (last, first, middle), (b) Social Security Number, (c) sex (M/F), (d) birth date, (e) citizenship (U.S., Other), and (f) ethnic origin (optional).

3. *Locator Information:* (a) Current residence (street, city, state and zip code), (b) legal residence (if different from "a"), and (c) telephone number (home, business).

4. *Geographic Availability:* (a) Preference to work near home (y/n) and (b) region or area of the country applicant would prefer to be located for the duration of the Fellowship assignment.

5. *Work Preference:* (a) Preference, in order, for working in a laboratory, office, or field station; (b) preference, in order, for working in communications, research, policy/program, laboratory, or any other; (c) specific environmental subjects applicant is interested in (e.g. air pollution, water pollution, toxics, soil conservation, fish and wildlife, forestry, national parks, pesticides, clean-up of waste sites); and (d) first two preferences for work assignment in a department or agency.

6. *Teaching Experience:* (a) Number of years and grade level taught by applicant (Primary, Secondary, Middle/Junior High, Other); (b) present teaching status; (c) course(s) presently being

taught, and number of years spent teaching present course(s); and (d) past teaching experience (courses, years taught).

7. *Education:* (a) Undergraduate/graduate major and minor; (b) name(s) and address(es) of institutions from which undergraduate/graduate degree(s) was (were) obtained; (c) college courses applicant has completed that are considered relevant to the Fellowship Program (environmental science, environmental studies, environmental education, or other science courses); (d) college courses completed by the applicant in math, computers, writing/English, public policy/political science, statistics, economics; (e) clubs or student activities the applicant has sponsored and any professional activities that applicant has been involved in; and (f) applicant's language skills and the level of fluency obtained in each language.

8. *Essay Questions:* (a) A detailed explanation of an environmental project or activity the applicant has been involved with to include how the project was initiated, who was involved, what the applicant's specific role was, and what was accomplished; and (b) an explanation of the applicant's interest in the Environmental Fellowship Program and how the Fellowship will help the applicant's performance in the classroom, school, and/or school system.

9. *Certification:* (a) Name and telephone number of the school official sponsoring the applicant, (b) name of the Governor of the applicant's State, and (c) signature of the applicant.

Burden Statement: Public reporting burden for this collection of information is estimated to average 3 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining data, and completing and reviewing the application.

Respondents: Eligible Teachers, as described in the NEEA.

Estimated Number of Respondents: 102.

Estimated Number of Responses per Respondent: 1.

Frequency of Collection: On occasion.

Estimated Total Annual Burden on Respondents: 306 hours.

Expedited Review: An expedited request is made under the Paperwork Reduction Act (5 CFR 1320.18). To meet the schedule set forth under the National Environmental Education Act, and to allow respondents sufficient time to review, complete and submit this information collection request, the EPA has requested OMB clearance by late January of 1992.

Title: Environmental Internship Application Form (EPA No. 1610.01).

Abstract: This ICR is a new collection in support of the Environmental Internship Program established by the National Environmental Education Act (NEEA) under Public Law 101–169, section 7. Each year, the EPA will select, on the basis of criteria described in the NEEA, undergraduate and graduate students to participate in the Environmental Internship Program. Following approval of this ICR, eligible students that wish to participate in the Internship Program must complete the Environmental Internship Application and submit the application to the EPA. The Office of Environmental Education at the EPA will use the information obtained from the application to: (1) Select potential Interns and (2) place each Intern with an appropriate department or agency, geographical location, and type of organization (laboratory, office, or field station). The application form will also explain the eligibility criteria to potential applicants, and thereby reduce wasted effort by applicants that are ineligible. The Environmental Internship Application will contain the following data elements:

1. *Term* for which applicant is seeking Internship (date, semester, school year, calendar year).

2. *Identifier Information:* (a) Name of applicant (last, first, middle), (b) Social Security Number, (c) sex (M/F), (d) birth date, (e) citizenship (U.S., Other), and (f) ethnic origin (optional).

3. *Locator Information:* (a) Current residence (street, city, state and zip code) and date when current address becomes invalid, (b) mailing residence (if different from "a"), and (c) telephone number (home, other).

4. *Georgraphic Availability:* (a) Preference to work near home (Y/n) and (b) region or area of the country applicant would prefer to be located for the duration of Internship.

5. *Work Preference:* (a) Preference, in order, for working in a laboratory, office, or field station; (b) preference, in order, for working in communications, research, policy/program, laboratory, or any other; (c) preference for Environmental Issues; and d) first two preferences for work assignment in a department or agency.

6. *Education:* (a) Undergraduate/graduate major and minor; (b) name (s) and address (es) of universities/departments from which undergraduate/graduate degree (s) was (were) obtained or is (are) anticipated; (c) college courses that are considered relevant to the Internship Program (environmental science, environmental studies, environmental education, or other science courses), and the grades obtained; (d) college courses, and the grades obtained, in math, computers, writing/English, public policy/ political science, statistics, economics; and e) an indication (y/n) from the applicant, if the internship is part of applicant's degree requirements.

8. *Essay Questions:* A detailed explanation of the applicant's interest in the Environmental Internship Program and the applicant's career interests with respect to specific areas of environmental study.

9. *Certification:* Signature of applicant on completed application.

Burden Statement: Public reporting burden for this collection of information is estimated to average 3 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining data, and completing and reviewing the application.

Respondents: Eligible Students, as described in the NEEA.

Estimated Number of Respondents: 1000.

Estimated Number of Responses per Respondent: 1.

Frequency of Collection: On occasion.

Estimated Total Annual Burden on Respondents: 3000 hours.

Expedited Review: An expedited request is made under the Paperwork Reductions Act (5 CFR 1320.18). To meet the schedule set forth under the National Environmental Education Act, and to allow respondents sufficient time to review, complete and submit this information collection request, the EPA has requested OMB clearance by late January of 1992.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW., Washington, DC 20460,

and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503

Dated December 27, 1991.

David Schwarz, Acting

Director, Regulatory Management Division.

[FR Doc. 92–183 Filed 1–6–92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

The Port Authority of New York 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.

Agreements No.: 224–003930–005, 224–003930–006.

Title: Port Authority of New York and New Jersey/Universal Maritime Service Corp. Terminal Agreement.

Parties: The Port Authority of New York and New Jersey, Universal Maritime Service Corp.

Synopsis: The proposed amendments provide for exceptions to the usage rental for the handling of certain excepted cargoes and overall lease rental modifications.

Agreement No.: 224–011034–001.

Title: Port of Seattle/Dovex Corporation Terminal Agreement.

Parties: Port of Seattle, Dovex Corporation.

Synopsis: The proposed amendment clarifies the definition of cargo qualifying for discounts, revises the discount structure, adds two five-year options for the user, establishes specific procedures for adjusting rates upon renewal, and clarifies other provisions regarding management and use of facilities.

Dated: December 31, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92–225 Filed 1–6–92; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR part 510.

License Number: 1634.

Name: Vincent Bastides dba Basmar Exports Co.

Address: 89–25 186th Street, Hollis, NY 11423.

Date: November 24, 1991.

Reason: Failed to furnish a valid surety bond.

License Number: 2014.

Name: Steve Sami.

Address: P.O. Box 269, Arlington, VA 22210.

Date Revoked: December 1, 1991.

Reason: Failed to furnish a valid surety bond.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 92–226 Filed 1–6–92; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

National Advisory Council for Health Care Policy, Research, and Evaluation: Request for Nominations for Public Members

SUMMARY: 42 U.S.C. 299c, section 921 of the Public Health Service (PHS) Act, as amended by section 6103(c) of the Omnibus Budget Reconciliation Act of 1989, established a National Advisory Council for Health Care Policy, Research, and Evaluation (the Council). The Council is to advise the Secretary and the Administrator, Agency for Health Care Policy and Research, on matters related to the enhancement of the quality, appropriateness, and effectiveness of health care services and access to such services through scientific research and the promotion of improvements in clinical practice and the organization, financing, and delivery of health care services. Seventeen members with staggered terms were appointed in 1990. Six current members' terms will expire in May 1992. Nominations to fill these vacancies should be received on or before February 15, 1992. Current members whose terms expire in 1992 will be considered for reappointment should they so desire.

ADDRESSES: All nominations for membership should be submitted to Judith D. Moore, Executive Secretary, National Advisory Council for Health Care Policy, Research, and Evaluation, suite 603, Executive Office Center, 2102 East Jefferson Street, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Judith D. Moore, Executive Secretary at (301) 227–8142 from December 20, 1991, until January 24, 1992, and at (301) 227–8459 after January 24, 1992.

SUPPLEMENTARY INFORMATION: 42 U.S.C. 299c, section 921 of the PHS Act, provides that the National Advisory Council for Health Care Policy, Research, and Evaluation shall consist of 17 appropriately qualified representatives of the public appointed by the Secretary. Of the 17 public members, 8 are to be individuals distinguished in the conduct of research, demonstration projects, and evaluations with respect to health care; 3 are to be individuals distinguished in the practice of medicine; 2 are to be individuals distinguished in the health professions; 2 are to be individuals distinguished in the fields of business, law, ethics, economics, and public policy; and 2 are to be individuals representing the interests of consumers of health care.

The six members whose terms expire May 31, 1992, represent expertise in health services research (2 members), health professions (one member), the practice of medicine (one member), public policy (one member), and the interests of health care consumers (one member). (Each of these individuals with expiring terms will be considered for reappointment should they so desire.)

The Council advises the Secretary, through the Administrator, regarding priorities for a national agenda and strategy for: (1) Conduct of research, demonstration projects, and evaluations with respect to health care, including clinical practice and primary care; (2) development and application of appropriate health care technology assessments; (3) development and periodic review and updating of guidelines for clinical practice, standards of quality, performance measures, and medical review criteria with respect to health care; (4) conduct of research on outcomes of health care services and procedures. In addition, the Council performs second level review of grant applications in excess of $250,000 total direct costs.

The term of office is 3 years, except that appointments are staggered to permit an orderly rotation of membership.

Interested persons may nominate one or more qualified persons for membership on the Council.

Nominations shall state that the nominee is willing to serve as a member of the Council and appears to have no conflict of interest that would preclude Council membership. Potential candidates will be asked to provide detailed information concerning such matters as financial interests, consultancies, and research grants or contracts, to permit evaluation of possible sources of conflict of interest.

The Department is seeking a broad geographic representation and has special interest in assuring that women, minority groups, and the physically handicapped are adequately represented on advisory bodies and, therefore, extends particular encouragement to nominations for appropriately qualified female, minority, and/or physically handicapped candidates.

Dated: December 19, 1991.

J. Jarrett Clinton,

Administrator.

[FR Doc. 92–213 Filed 1–6–92; 8:45 am]

BILLING CODE 4160–90–M

Food and Drug Administration

Advisory Committees; Filing of Annual Reports

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that, as required by the Federal Advisory Committee Act, the agency has filed with the Library of Congress the annual reports of those FDA advisory committees that held closed meetings.

ADDRESSES: Copies are available from the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, 301–443–1751.

FOR FURTHER INFORMATION CONTACT: Donna M. Combs, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

SUPPLEMENTARY INFORMATION: Under section 13 of the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR 14.60(c), FDA has filed with the Library of Congress the annual reports for the following FDA advisory committees that held closed meetings during the period October 1, 1990, through September 30, 1991:

Center for Biologics Evaluation and Research

Biological Response Modifiers Advisory Committee, Blood Products Advisory Committee, Vaccines and Related Biological Products Advisory Committee.

Center for Drug Evaluation and Research

Anesthetic and Life Support Drugs Advisory Committee, Anti-Infective Drugs Advisory Committee, Antiviral Drugs Advisory Committee, Arthritis Advisory Committee, Drug Abuse Advisory Committee, Generic Drugs Advisory Committee.

Center for Devices and Radiological Health

Circulatory System Devices Panel, Medical Devices Advisory Committee, Gastroenterology and Urology Devices Panel, Immunology Devices Panel.

Annual reports are available for public inspection at: (1) The Library of Congress, Newspaper and Current Periodical Reading Room, rm. 133, Madison Bldg., 101 Independence Ave. SE., Washington, DC; (2) the Department of Health and Human Services Library, rm G–619, 330 Independence Ave. SW., Washington, DC, on weekdays between 9 a.m. and 5:30 p.m.; and (3) the Dockets Management Branch (HFA–305), rm. 1–23, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 31, 1991.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 92–217 Filed 1–6–92; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 91N–0435]

Solvay Animal Health, Inc.; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) held by Solvay Animal Health, Inc. The NADA provides for the use of Tinostat Type A medicated article containing butynorate to make Type B and Type C medicated feeds. The sponsor requested the withdrawal of approval. In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending the animal drug regulations by removing the portion of the regulations that reflect approval of the NADA.

EFFECTIVE DATE: December 31, 1991.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8749.

SUPPLEMENTARY INFORMATION: Solvay Animal Health, Inc., 2000 Rockford Rd., Charles City, IA 50616–9989, is the sponsor of NADA 8–741 which provides for the use of Tinostat Type A medicated article containing 25 percent butynorate to make Type B and Type C medicated feeds for use as turkey coccidiostats. Solvay Animal Health, Inc., in a letter dated April 26, 1991, requested that FDA withdraw approval of NADA 8–741.

Therefore, under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 8–741 and all supplements and amendments thereto is hereby withdrawn, effective December 31, 1991. Distribution and use after that date are illegal. The sponsor has agreed to retrieve and destroy any unused product remaining in distribution channels after that date.

In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending 21 CFR 558.4 to remove the entry for medicated feed applications for feed containing butynorate as the sole ingredient and is also removing § 558.108 which reflects this approval.

Dated: December 24, 1991.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 92–234 Filed 1–6–92; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants: Rechartering

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the rechartering of the Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants by the Secretary of Health and Human Services. This notice is issued under the

Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. app. 2).

DATES: Authority for this committee will expire on December 2, 1993, unless the Secretary of Health and Human Services formally determines that rechartering is in the public interest.

FOR FURTHER INFORMATION CONTACT: Donna Combs, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: December 31, 1991.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 92–215 Filed 1–6–92; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 90P–0386]

Cottage cheese Deviating From Identity Standard; Amendment of Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it is amending a temporary permit, issued to Friendship Dairies, Inc., to market test a product designated as "nonfat cottage cheese" that deviates from the U.S. standards of identity for cottage cheese (21 CFR 133.128), dry curd cottage cheese (21 CFR 133.129), and lowfat cottage cheese (21 CFR 133.131), to increase the amount of test product to be distributed. In addition, the milkfat content allowed in the nonfat cottage cheese test product is changed from "0.1 percent" to " less than 0.3 percent."

FOR FURTHER INFORMATION CONTACT: Michelle A Smith, Center for Food Safety and Applied Nutrition (HFF–414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0106.

SUPPLEMENTARY INFORMATION: In the Federal Register of December 6, 1990 (55 FR 50403), FDA issued a temporary permit under the provisions of 21 CFR 130.17, to Friendship Dairies, Inc., 4900 Maspeth Ave., Maspeth, NY 11378, to market test "nonfat cottage cheese" in interstate commerce. The agency issued the permit to facilitate interstate market testing of a nonfat cottage cheese, formulated from dry curd cottage cheese and a dressing, such that the finished product contains 0.1 percent milkfat. The product deviates from the U.S. standards of identity for cottage cheese (21 CFR 133.128) and lowfat cottage cheese (21 CFR 133.131) in that the milkfat content of cottage cheese is not less than 4.0 percent, and the milkfat content of lowfat cottage cheese ranges from 0.5 to 2.0 percent. The test product also deviates from the U.S. standard of identity for dry curd cottage cheese (21 CFR 133.129) because of the added dressing. The test product meets all requirements of the standards with the exception of these deviations. The purpose of the variation is to offer the consumer a product that is nutritionally equivalent to cottage cheese but contains less fat.

Friendship Dairies, Inc., has requested that FDA amend its temporary permit to increase the amount of test product from 544,320 kilograms (kg) (1,200,000 pounds (lb)) to 600,454 kg (1,321,000 lb). The applicant requested this amendment to add an additional brand name to its market test. The applicant has also requested that FDA change the level of milkfat allowed in the test product from "0.1 percent" to "less than 0.3 percent." Friendship Dairies, Inc., maintains that this amendment will not alter the substance of the temporary permit (55 FR 50403) but will allow for a product with improved flavor and sensory characteristics. The milkfat content remains less than 0.5 gram per serving.

Therefore, under the provision of 21 CFR 130.17(f), FDA is amending the temporary permit to increase the amount of test product to 600,454 kg per year. In addition, FDA is changing the level of milkfat allowed in the test product from "0.1 percent" to "less than 0.3 percent." All other terms and conditions of this permit remain the same.

Dated: December 26, 1991.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92–214 Filed 1–6–92; 8:45 am]

BILLING CODE 4160–01–M

Consumer Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Cincinnati District Office, chaired by James C. Simmons, District Director. The topic to be discussed is food labeling reform.

DATES: Wednesday, January 22, 1992, 10 a.m. to 12 m.

ADDRESSES: Environmental Protection Agency Bldg., Rm. 130–138, 26 Martin Luther King, Jr. Dr., Cincinnati, OH 45202.

FOR FURTHER INFORMATION CONTACT: Patricia A. Leathem, Public Affairs Specialist, Food and Drug Administration, 114 Central Pkwy., Cincinnati, OH 45202, 513–684–3501.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: December 31, 1991.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 92–216 Filed 1–6–92; 8:45 am]

BILLING CODE 4160–01–M

National Institutes of Health

National Institute of Child Health and Human Development; Regional Meetings of the National Center for Medical Rehabilitation Research, NICHD

Notice is hereby given that the National Center for Medical Rehabilitation Research (NCMRR), NICHD, will convene three (3) regional meetings in 1992. The location of these meetings will be Houston, Texas; Seattle, Washington; and Bethesda, Maryland. All sessions of these meetings will be open to the public.

The National Advisory Board on Medical Rehabilitation Research (NABMRR) has been asked to develop a report on medical rehabilitation research that will be submitted to the President of the United States and to the U.S. Congress. In preparing this report the NABMRR will assess the current status of medical rehabilitation, identify medical rehabilitation issues and opportunities, and recommend approaches to program priorities in research for individuals with disabilities.

The purpose of these meetings is to acquire public testimony related to this research report from members of the scientific community and from individuals representing organizations interested in the needs and opportunities for research related to the medical rehabilitation of persons with disabilities. The testimony derived from the three meetings will be considered by the NABMRR in the development of the research report.

Due to time constraints, only one representative from each disability advocacy organization and one from each department at a university or treatment facility may present oral testimony, with presentations limited to five (5) minutes. One session at each meeting site will be open to testimony on any topic related to medical rehabilitation research. At each site, one functional problem and one crosscutting issue in the field of medical rehabilitation research will be emphasized. For an explanation of the functional problem and crosscutting issue topic at each site, please request a copy of the Draft Report of the NABMRR Research Report. Comments on this draft report are encouraged. Copies of this report may be obtained from the NCMRR at the address listed below.

A letter of intent to present oral testimony should be sent by interested individuals and organizations to the National Center for Medical Rehabilitation Research (NCMRR). With this letter, please include a one-page summary of the testimony to be presented. The date of receipt of the letter will establish the order of presentations at the meeting. A full written statement should be made available at the meeting.

Individuals and organizations unable to make oral presentations to the NABMRR at the field hearings may provide written statements for consideration by the NABMRR. One written copy of their statement should be sent to the address below no later than March 6, 1992.

Comments and questions relating to the proposed meetings and requests for the Draft Report of the NABMRR Research Report Should be addressed to David B. Gray, Ph.D., Acting Deputy Director, NCMRR, NICHD, Executive Plaza South, room 450 West, 6120 Executive Boulevard, Rockville, Maryland 20852, (301/402–2242). Please place the phrase "ATTENTION: Field Hearing" in the lower left portion of the envelope.

Date of Meeting: February 26, 1992.

Place of Meeting: The Institute for Rehabilitation and Research, 1333 Moursund, Houston, Texas 77030.

Receipt Date Deadline: February 12, 1992.

Hearing Schedule

Plenary Session: 9 a.m.–5:30 p.m.

Public Testimony: 1:30 p.m.–5:30 p.m.

Session 1 Topic: Any topic relevant to medical rehabilitation research.

Session 2 Topic: Functional Problem*—Behavioral Systems.

Session 3 topic: Crosscutting Issue*—Treatment Effectiveness.

Date of Meeting: March 2, 1992.

Place of Meeting: University of Washington, Student Union Building, West Ball Room, Seattle, Washington 98195.

Receipt Date Deadline: February 19, 1992.

Hearing Schedule

Plenary Session: 9 a.m.–12 noon.

Public Testimony: 1:30 p.m.–5:30 p.m.

Session 1 Topic: Any topic relevant to medical rehabilitation research.

Session 2 Topic: Functional Problem—Mobility.

Session 3 Topic: Crosscutting Issue—Assistive Devices.

Date of Meeting: March 19, 1992.

Place of Meeting: Warren Magnuson Clinical Center (Bldg. 10), Masur Auditorium, 900 Rockville Pike, Bethesda, Maryland 20892.

Receipt Date Deadline: March 4, 1992.

Hearing Schedule

Plenary Session: 9 a.m.–12 noon.

Public Testimony: 1:30 p.m.–5:30 p.m.

Session 1 Topic: Any topic relevant to medical rehabilitation research.

Session 2 Topic: Functional Problem—Body Systems.

Session 3 Topic: Crosscutting Issue—Assessment & Measurement.

Dated: December 30, 1991.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–224 Filed 1–6–92; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Meeting of the National Deafness and Other Communication Disorders Advisory Board

Pursuant to Public law 92–463, notice is hereby given of the meeting of the National Deafness and Other Communication Disorders Advisory Board on January 13, 1992. The meeting will take place from 8:30 a.m. to 4:30 p.m. in Conference Room 6, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting will be open to the public to discuss the Board's activities and to present special reports. Attendance by the public will be limited to the space available.

Summaries of the Board's meeting and a roster of members may be obtained from Mrs. Monica Davies, National Institute on Deafness and Other Communication Disorders, Building 31, room 3C08, National Institutes of Health, Bethesda, Maryland 20892, 301–402–1129, upon request.

This notice is being published later than the 15 days prior to the meeting due to the difficulty of coordinating schedules.

(Catalog of Federal Domestic Assistance Program No. 13.173 Biological Research Related to Deafness and Other Communication Disorders.)

Dated: January 2, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–331 Filed 1–6–92; 8:45 am]

BILLING CODE 4140–01–M

* For an explanation of the functional problem and crosscutting issue categories, please refer to the Draft Report of the NABMRR Research Report.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–91–3371; FR–2941–N–02]

Announcement of Winners of Technical Assistance Awards for the Development of Community Energy Systems Based on District Heating and Cooling

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

ACTION: Announcement of funding awards.

SUMMARY: This Notice announces funding awards HUD has made pursuant to a competition for feasibility and other studies for district heating and cooling systems. This Notice contains the names and addresses of the award winners and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: James F. Selvaggi, Office of Technical Assistance, Department Of Housing and Urban Development, room 7148, 451 Seventh Street, SW., Washington, DC, 20410. Telephone (202) 708–2090. The TDD number is (202) 708–0564. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: In a Notice published on May 2, 1991 (56 FR 20314), HUD announced the availability of $578,000 in community development technical assistance funds for initial feasibility studies of new systems; design, marketing, and financial/ownership packaging for systems already proven feasible; and for major expansions of existing systems that require further studies.

The authority for this competition is the Community Development Technical Assistance Program under section 107 of title I of the Housing and Community Development Act of 1974, implemented by HUD regulations at 24 CFR 570.400 and 570.402.

The purpose of this competition was to aid communities in developing community energy systems based on district heating and cooling, thereby reducing energy costs to commence and industry, making housing more affordable, and reducing dependence on imported fuels.

Five applicants responded by the closing date of July 17, 1991, these were scored and ranked pursuant to the Factors for Award in the May 2, 1991 Notice. All five were judged to the fundable up to their requested amounts, which totaled $550,000 of the $578,000 available.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (P.L. 101–235, approved December 15, 1989), the Department announces the five winner of the district heating and cooling competition as follows:

Mr. Ernest Freeman
Director, City of Baltimore
417 East Fayette Street
8th Floor
Baltimore, Md 21202
(301) 396–3100
$50,000

Mr Aaron A. Thompson
Mayor, City of Camden
Office of the Mayor
Six and Market Street
Camden, NJ 08101
(609) 757–7200
$150,000

Mr. Donald W. Ahlstrom
Mayor, City of Jamestown
P.O. Box 700
Jamestown, NY 14702
0700
(716) 483–7600
$100,000

Mr. Joaquin G. Avino
County Manager
Metro-Dade Center
Suite 2910
111 NW., 1st Street
Miami, Fl 33128–1994
(305) 375–5311
$150,000

Mr. J. Scott Wolf
Director, City of Providence
Governor's Office of Housing, Energy, and Intergovernmental Relations
Six and Market Street
Providence, RI 02903–2850
(401) 421–7740
$100,000

Dated: December 23, 1991.

Paul R. Bardack

Deputy Assistant Secretary for Economic Development.

[FR Doc. 92–227 Filed 1–6–92; 8:45 am]

BILLING CODE 4210–29–M

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–91–3286; FR–3063–C–02]

Family Self-Sufficiency

AGENCY: Office of Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of fund availability for FY 91, correction of selection/qualification process for applications from Indian housing authorities, extension of application deadline.

SUMMARY: On September 30, 1991, the Department published a NOFA (56 FR 49604) for the Public and Indian Housing Family Self-Sufficiency Program for Fiscal Year 1991. This notice revises and corrects the published NOFA as it pertains to the Indian Housing portion of the funding competition. This notice will affect only the Indian Housing portion of the NOFA, except that the extension of the application deadline announced today applies to all applicants. Based upon information from HUD Field Offices, national training sessions and comments from participants in these sessions, the Department has decided to set out a minimum score that will be necessary for an Indian Housing application to be considered "approvable."

DATES: The deadline date for receipt of applications in response to the Notice of Fund Availability (NOFA) for the Public and Indian Housing Family Self-Sufficiency Program for Fiscal Year 1991 has been extended to February 10, 1992. Applications must be received in the HUD Field/Indian Office by close of business on that date.

With reference to this deadline extension, applicants should note that, in a separate document as yet unpublished, the Department intends to notify applicants for Section 8 Incentive Award Rental Vouchers and Rental Certificants in connection with the Family Self-Sufficiency Program (a NOFA also published on September 30, 1991 (56 FR 49612)) that (1) FY 1991 and 1992 funding will be combined into a single funding round; and (2) the FY 1991 "Incentive Award" NOFA's application due date has been extended from January 10, 1992 to February 10, 1992. Please note as well that the extended due date in today's document is applicable to the NOFA for the Public and Indian Housing Family Self-Sufficiency Program for FY 1991 (56 FR 49604) which is the subject matter of today's document, and not to the Incentive Award NOFA.

FOR FURTHER INFORMATION CONTACT: Dominic Nessi, Director, Office of Indian Housing, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708–1015.

Hearing or speech impaired individuals may call HUD's TDD number (202) 708–4594. (The TDD number and the above-listed telephone number are not toll-free.)

SUPPLEMENTARY INFORMATION: The Notice of Fund Availability for the Public and Indian Housing Family Self-Sufficiency Program for Fiscal Year 1991 was published in the **Federal Register** of September 30, 1991, at 56 FR 49604.

Today's document corrects the September 30, 1991 NOFA by adding a minimum score requirement for applications for Family Self-Sufficiency Funds for Indian Housing programs.

On page 49605, in FR Doc. 91–23312, in the second column, immediately after the paragraph designated as 2b., a new paragraph 2c is added, to read as follows:

c. An application for Indian Housing funds which does not receive a minimum score of 60 points of the possible 110 points under the rating and ranking criteria which follow, will not be considered "approvable" for funding.

This change is being made to assure that any funded application represents a program capable of being pursued to a successful conclusion. In the Department's judgment, the stated minimum score is necessary to assure this result.

Dated December 31, 1991.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 92–228 Filed 1–6–92; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Salmon District Advisory Council: Meeting

AGENCY: Bureau of Land Management, Interior.

SUMMARY: The Salmon District of the Bureau of Land Management (BLM) announces a forthcoming meeting of the Salmon District Advisory Council.

DATES: The meeting will be held Wednesday January 8, 1992, at 10 a.m.

ADDRESSES: The meeting will be held at the BLM Salmon District Office, Salmon, Idaho.

SUPPLEMENTARY INFORMATION: The meeting is held in accordance with Public Laws 92–463 and 94–579. The purpose for the meeting is to discuss the Endangered Species Act and its implications for BLM management of the public lands, the Wild and Scenic Rivers study process, water quality issues, and current Salmon District issues.

The meeting is open to the public. Interested persons may make oral statements to the Council between 11 a.m. and 11:30 a.m. or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the Salmon District Office by January 3, 1992.

Summary minutes to the meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting. Notification of oral statements and requests for summary minutes should be sent to Roy S. Jackson, District Manager, Salmon District BLM, Box 430, Salmon, Idaho 83467.

Dated: December 17, 1991.

Robert W. Heidemann,

Associate District Manager

[FR Doc. 92–231 Filed 1–6–92; 8:45 am]

BILLING CODE 4310–G–G

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31988]

Missouri Pacific Railroad Co. and CSX Transportation, Inc.—Joint Relocation Project Exemption

On December 9, 1991, Missouri Pacific Railroad Company (MP) and CSX Transportation, Inc. (CSXT), filed a notice of exemption under 49 CFR 1180.2(d)(5) for their joint project to relocate a line of railroad. The joint project involves the abandonment by MP of its trackage rights over line of Consolidated Rail Corporation (Conrail) between Westville and Danville, IL, and its initiation of alternative operations between Woodland Jct., IL, and Danville over lines of CSXT pursuant to trackage rights granted it by that carrier. The purpose of the transaction is to establish a convenient alternate route for MP. The transaction was to have been consummated on or after December 16, 1991.

MP has been serving Danville pursuant to trackage rights over a line of Conrail between Westville and Danville. The joint relocation project involving MP and CSXT is the result of an agreement between the parties dated August 23, 1988, under which MP continued operating to Danville, but, instead of routing its trains through the MP station at Westville and then over the Conrail trackage between Westville and Danville, MP was to use its main line track to Woodland Jct. and then travel over CSXT trackage to Danville. Pursuant to the terms of the agreement, MP initially did not operate its trains over the CSXT track. Instead, CSXT handled MP's freight business in a haulage arrangement until such time as MP elected to handle its own traffic.[1] MP now has elected to recognize its right to operate its own trains over the CSXT track and has filed this exemption notice. The trackage rights granted by CSXT allow MP to serve shops and industries at Danville and to have interchange accessibility with CSXT at CSXT's Danville terminal trackage.

This is a joint project involving the relocation of a line of railroad that does not disrupt service to shippers, and it falls within the class of transactions identified at 49 CFR 1180.2(d)(5). MP's operation over the CSXT rail line is to be conducted pursuant to overhead trackage rights granted by CSXT. The Commission has determined that joint relocation projects embrace trackage rights transactions such as the one proposed here. See D.T. & I.R.—Trackage rights, 363 I.C.C. 878 (1981). Discontinuance of MP's trackage rights operation over Conrail line is involved as part of the line relocation project. The Commission, however, will assume jurisdiction over the abandonment and/or construction components of a relocation project only in cases where the proposal involves, for example, a change in service to shippers, expansion into new territory, or a change in existing competitive situations. See, generally, Denver & R.G.W.R. Co.—Jt. Proj.—Relocation Over BN, 4 I.C.C.2d 95 (1987). Under these standards, MP's discontinuance of operations over the Conrail line here is not subject to the Commission's jurisdiction.

Use of this exemption will be conditioned on appropriate labor protection. Any employees affected by the trackage rights agreement will be protected by the conditions in Norfolk and Western Ry. Co.—Trackage rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Joseph D. Anthofer, General Attorney, Jeanna L. Regier, Registered ICC Practitioner, 1416 Dodge Street, room 830, Omaha, NE 68179.

Decided: December 26, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary

[FR Doc. 92–205 Filed 1–6–92; 8:45 am]

BILLING CODE 7035–01–M

[1] The Commission has held that car haulage is a private arrangement between the carriers and does not require Commission approval.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Michael D. Laney, d/b/a Lanehaus Kennels; Denial of Application for Registration

On August 9, 1991, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Michael D. Laney, d/b/a Lanehaus Kennels, of Harlingen, Texas, proposing to deny his application, executed on April 13, 1989, for registration as a researcher. The statutory basis for the Order to Show Cause was that Mr Laney did not have authorization to conduct research with, or otherwise handle, controlled substances under the laws of the state in which he intended to practice as required by 21 U.S.C. 823(f).

The Order to Show Cause was served on Mr. Laney on August 16, 1991. More than thirty days have passed since the Order to Show Cause was received by Mr. Laney and the Drug Enforcement Administration has received no response from Mr. Laney or anyone purporting to represent him.

Pursuant to 21 CFR 1301.54(d), the Administrator finds that Mr. Laney has waived his opportunity for a hearing. Accordingly, under the provisions of 21 CFR 1301.57, the Administrator hereby enters his final order in this matter, based on findings of fact and conclusions of law as hereinafter set forth.

The Administrator finds that Mr. Laney applied for registration as a researcher in his capacity as a dog handler. Mr Laney's stated intention was to train animals to detect controlled substances. Neither Mr. Laney nor

Lanehaus Kennels holds any state registration as a researcher, nor is either registered or licensed by the State of Texas, Board of Private Investigators and Private Security Agencies, or by the Texas Department of Public Safety. Mr. Laney has not offered any evidence contrary to that stated in the Order To Show Cause, nor has he provided any information that he or his company is otherwise qualified as a practitioner or researcher under Title 21 U.S.C. 802(21).

The Administrator has no statutory authority to register practitioners if they are not licensed in the state in which they practice. See George P. Gotsis, M.D., 49 FR 33750 (1984); James W. Mitchell, M.D., 44 FR 71466 (1979). Thus, the Administrator must deny an application for a DEA Certificate of Registration if he determines that the applicant is not authorized to dispense, or conduct research with respect to, controlled substances under the laws of the state in which he practices. Based on all of the foregoing, the application of Mr. Laney and Lanehaus Kennels must be denied.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the application for registration, executed on April 13, 1989, by Michael Laney, d/b/a Lanehaus Kennels, be, and it hereby is, denied. This order is effective January 7, 1992.

Dated: December 27, 1991.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 92-238 Filed 1-6-92; 8:45 am]

BILLING CODE 4410-09-M

Antonio B. Sampang, M.D.; Revocation of Registration

On November 4, 1991, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order To Show Cause to Antonio B. Sampang, M.D., of San Diego, California, proposing to revoke his DEA Certificate of Registration, BSO397249, and to deny any pending applications for registration as a practitioner. The statutory basis for the Order To Show Cause was that Dr. Sampang had been convicted of a felony under the laws of the United States related to controlled substances, and that his state license to practice medicine had been revoked and he was no longer authorized by state law to handle controlled substances. 21 U.S.C. 824(a)(2) and 824(a)(3).

The Order To Show Cause was served on Dr. Sampang on November 9, 1991. More than thirty days have passed since the Order To Show Cause was received by Dr. Sampang. The Drug Enforcement Administration has received no response from Dr. Sampang or anyone purporting to represent him. Pursuant to 21 CFR 1301.54(d), the Administrator finds that Dr. Sampang has waived his opportunity for a hearing. Accordingly, under the provision of 21 CFR 1301.57, the Administrator enters his final order in this matter, based on findings of fact and conclusions of law as hereinafter set forth.

The Administrator finds that on May 17, 1990, before the United States District Court for the Western District of Virginia, Dr. Sampang was convicted, upon a plea of guilty, of one count of a violation of 21 U.S.C. 841(a)(1), for the unlawful distribution of controlled substances. He was sentenced to 24 months probation during which time he was prohibited from practicing medicine. On November 26, 1990, The Commonwealth of Virginia, Department of Health Professions, Board of Medicine issued an Order of Mandatory Revocation upon Dr. Sampang's license to practice medicine. Therefore, Dr. Sampang is not authorized to administer, dispense, prescribe, or otherwise handle controlled substances under the laws of the state in which he was registered by DEA. Dr. Sampang did not offer any evidence contrary to that recited in the Order To Show Cause.

The DEA has consistently held that termination of a registrant's state authority to handle controlled substances requires that DEA revoke the registrant's DEA Certificate of Registration. See, Sam S. Misasi, D.O., 50 FR 11469 (1985); George P. Gotsis, M.D., 49 FR 33750 (1984); Henry Weitz, M.D., 46 FR 34858 (1981).

Based on the foregoing, the Administrator concludes that Dr. Sampang's registration must be revoked. 21 U.S.C. 823(f) and 824(a)(3). Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, BS0397249, previously issued to Antonio B. Sampang, M.D., be, and it hereby is, revoked, and that any pending applications for registration, be, and they hereby are, denied. This order is effective February 6, 1992.

Dated: December 27, 1991.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 92-237 Filed 1-6-92; 8:45 am]

BILLING CODE 4410-09-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-8839]

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Dorchester Master Limited Partnership, 8½% Convertible Subordinated Debentures Due December 1, 2005)

December 31, 1991.

Dorchester Master Limited Partnership ("DMLP") has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to DMLP, it was involved in a transaction that occurred on February 19, 1991, pursuant to which DMLP became a wholly-owned indirect subsidiary of Parket & Parsley Petroleum Company ("PPPC") and, as a result of such transaction, (i) Parker & Parsley Oil & Gas Company ("PPGC"), a wholly-owned subsidiary of PPPC, became the owner of $22,975,000 principal amount of the $27,892,000 principal amount of Bonds outstanding and (ii) PPPC became a joint and several obligor with DMLP under the Indenture dated December 1, 1980, as supplemented, governing the Bonds ("Indenture").

The Board of Directors of Parker & Parsley Gas Processing Co., a Delaware Corporation ("Company") that is a wholly-owned subsidiary of PPPC, and the sole general partner of DMLP considers continued listing and registration of the Debentures on the Amex unduly burdensome because (i) as of July 11, 1991, there were only 111 registered holders of the Debentures; (ii)

$22,975,000 of the $27,892,000 principal amount of Debentures outstanding are held by PPGC, an affiliate of DMLP; (iii) since January 1, 1987, the trading volume has been relatively low; and (iv) continued listing of the Debentures is costly to the Company.

Any interested person may, on or before January 22, 1992 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary

[FR Doc. 92-229 Filed 1-6-92; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster Loan Areas #7504 & #7505]

Florida (And Contiguous Counties in Alabama); Declaration of Disaster Loan Area

Bay, Gulf, and Santa Rosa Counties and the contiguous counties of Calhoun, Escambia, Franklin, Jackson, Liberty, Okaloosa, Walton, and Washington in the State of Florida and Escambia County in the State of Alabama constitute an Economic Injury Disaster Loan Area due to severe, adverse impacts on the fishing industry caused by excessive rainfall and flooding beginning January 1991 and continuing through August 1991, resulting in reduced reproduction, altered migration patterns and retarded growth. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on September 28, 1992 at the address listed below: Disaster Area 2 Office, Small Business Administration, One Baltimore Place, suite 300, Atlanta, GA 30308, or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperative is 4 percent.

The numbers assigned to this declaration for economic injury are 750400 for Florida and 750500 for Alabama.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: December 26, 1991.

Paul H. Cooksey,

Acting Administrator.

[FR Doc. 92-259 Filed 1-6-92, 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2540]

Commonwealth of the Northern Mariana Islands; Declaration of Disaster Loan Area

The Islands of Saipan and Tinian in the Commonwealth of the Northern Mariana Islands constitute a disaster area as a result of damages caused by Typhoon Seth which occurred on November 3–4, 1991. Applications for loans for physical damage may be filed until the close of business on February 14, 1992 and for loans for economic injury until the close of business on September 16, 1992 at the address listed below: Disaster Area 4 Office, Small Business Administration, P.O. Box 13795, Sacramento, CA 95853–4795, or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	8.000
Homeowners without Credit Available Elsewhere	4.000
Businesses with Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) with Credit Available Elsewhere	8.500
For Economic Injury:	
Businesses and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 254006 and for economic injury the number is 749200.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: December 16, 1991.

Patricia Saiki,

Administrator

[FR Doc. 92-258 Filed 1-6-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: SR 520, 108th Avenue NE. to SR 901, King Co., WA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project in King County, Washington.

FOR FURTHER INFORMATION CONTACT: Barry F. Morehead, Federal Highway Administration, Evergreen Plaza Building, suite 501, 711 South Capitol Way, Olympia Washington 98501, Telephone: (206) 753–2120; E.R. Burch, Design Engineer, Washington State Department of Transportation, Highway Administration Building, Olympia, Washington 98504, Telephone: (206) 753–6141; or Ronald Q. Anderson, District Administrator, Washington State Department of Transportation, District One, 15325 SE 30th Place, Bellevue, Washington 98007–6538, Telephone (206) 764–4020.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Washington State Department of Transportation (WSDOT), will prepare an EIS on a proposal to improve first five mile segment of SR 520.

Alternatives to be considered include widening SR 520 to accommodate High Occupancy Vehicle (HOV) lanes, proposing access at NE 31st Street, modifying the 148th Avenue N.E. interchange, and a no action alternative. In addition, a feasibility study will be performed for adding ramps at 130th Avenue NE. Letters describing the proposed action and soliciting comments will be sent to the appropriate Federal, State, and local agencies as well as to citizens and organizations that have expressed interest in this project. A series of meetings with the public, interested community groups and governmental agencies will be held in early 1992. Notification will be published prior to publishing of the Draft Environmental Impact Statement, Public notice of actions related to the proposal which identify the date, time, place of meetings and note the length of review periods will be published when appropriate.

To ensure that the full range of issues related to this proposed project are identified and addressed, comments and suggestions are invited from all

interested parties. Comments or questions concerning this proposed action and to EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of federal programs and activities apply to this program)

Dated: December 30, 1991.

Richard C. Kay,

Area Engineer, Olympia, Washington.

[FR Doc. 92-233 Filed 1-6-92; 8:45 am]

BILLING CODE 4910-22-M

Saint Lawrence Seaway Development Corporation

Advisory Board; Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 1:30 p.m., January 31, 1992, at the Oberlin Building at Eisenhower Lock, Massena, New York. The agenda for this meeting will be as follows: Opening Remarks, Consideration of Minutes of Past Meeting; Review of Programs; Business; and Closing Remarks.

Attendance at meeting is open to the interested public but is limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact not later than, January 21, 1992, Marc C. Owen, Advisory Board Liaison, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW., Washington, DC 20590; 202/366-0091.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC on December 31, 1991.

Marc C. Owen,

Advisory Board Liaison.

[FR Doc. 92-232 Filed 1-6-92; 8:45 am]

BILLING CODE 4910-01-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: December 31, 1991.

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.

Internal Revenue Service

OMB Number: 1545-1144.
Form Number: IRS Form 706GS(D).
Type of Review: Revision.
Title: Generation-Skipping Transfer Tax Returns for Distributions.
Description: Form 706GS(D) is used by the distributes to compute and report the Federal GST tax imposed by IRC section 2601. IRS uses the information to enforce this tax and to verify that the tax has been properly computed.
Respondents: Individuals or households.
Estimated Number of Respondents/ Recordkeepers: 50,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—7 minutes.
Learning about the form or the law—12 minutes.
Preparing the form—22 minutes.
Copying, assembling, and sending the form to IRS—19 minutes.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 49,500 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. 92-241 Filed 1-6-92; 8:45 am]

BILLING CODE 4830-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee (TPSC); Generalized System of Preferences (GSP); Location of Public Hearings for Special GSP Review for Central and Eastern Europe

AGENCY: Office of the United States Trade Representative.

SUMMARY: The purpose of this notice is to announce the location of the public hearings to be held January 21-23, 1992, concerning the Special GSP Review for Central and Eastern European countries.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW., room 517, Washington, DC 20516. The telephone number is (202) 395-6971. Public versions of all documents are also available for review by appointment with the USTR Public Reading Room. Documents will be available in the reading room shortly after the filing deadlines. Appointments may be made from 10 a.m. to noon and 1 p.m. to 4 p.m. by calling (202) 395-6186.

SUPPLEMENTARY INFORMATION: As announced in a previous notice of December 18, 1991 (56 FR 65750), public hearings in connection with the Special GSP Review for Central and Eastern Europe are scheduled to be held January 21-23, 1992, beginning at 9 a.m. These hearings will be held in room 217 [Courtroom C] of the United States International Trade Commission, 500 E Street, SW., Washington, DC 20436.

David A. Weiss,

Chairman, Trade Policy Staff Committee.

[FR Doc. 92-236 Filed 1-6-92; 8:45 am]

BILLING CODE 3190-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 4
Tuesday, January 7, 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).

COMMODITY FUTURES TRADING COMMISSION

Commodity Futures Trading Commission

TIME AND DATE: 10:30 a.m., Tuesday, January 14, 1992.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 92–426 Filed 1–3–92; 3:16 pm]
BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Commodity Futures Trading Commission

TIME AND DATE: 10:30 a.m., Wednesday, January 22, 1992.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.
[FR Doc. 92–427 Filed 1–3–92; 3:16 pm]
BILLING CODE 6351–01–M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on January 9, 1992, from 10:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883–4003, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. The matters to be considered at the meeting are:

Open Session

A. Approval of FCA Board Meeting Minutes.

B. Regulations.

1. Expansion of Privacy Act Exemptions to Inspector General Investigatory Files—Amendment of 12 CFR 603.355 (Proposed).

Closed Session *

A. Enforcement Actions.

Dated: January 2, 1992.

Curtis M. Anderson,
Secretary, Farm Credit Administration Board.
[FR Doc. 92–321 Filed 1–2–92; 4:27 pm]
BILLING CODE 6705–01–M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, January 13, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 3, 1992.

Jennifer J. Johnson,
Associate Secretary of the Board.
[FR Doc. 92–416 Filed 1–3–92; 2:57 pm]
BILLING CODE 6210–01–M

* Session closed to the public—exempt pursuant to 5 U.S.C. 552b(c) (8) and (9).

INTERNATIONAL TRADE COMMISSION

United States International Trade Commission

TIME AND DATE: January 13, 1992 at 10:30 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings.
2. Minutes.
3. Ratification List.
4. Petitions and complaints; Certain condensers parts thereof and products containing same (Docket Number 1664).
5. Further consideration of the APO matter held over from the Commission meeting of October 10, 1991.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 205–2000.

Dated: December 30, 1991.

Kenneth R. Mason,
Secretary.
[FR Doc. 92–377 Filed 1–3–92; 1:36 pm]
BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Commission Conference

TIME & DATE: 10:00 a.m., Tuesday, January 14, 1992.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, DC 20423.

STATUS: The Commission will meet to discuss among themselves the following agenda items. Although the conference is open for the public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED:

Docket No. AB–167 (Sub-No. 1094), Chelsea Property Owners—Abandonment—Portion of the Consolidated Rail Corporation's West 30th Street Secondary Track in New York, NY.

Docket No. AB–1 (Sub-No. 299X), Chicago and North Western Transportation Company—Abandonment Exemption—In Cook County, IL.

Docket No. AB–39 (Sub-No. 12), St. Louis Southwestern Railway Company—Abandonment Exemption—In Smith and Cherokee Counties, TX.

Finance Docket No. 31870, Texas and Oklahoma R.R. Co.—Acquisition and Operation Exemption—The Atchison, Topeka and Santa Fe Railway Company.

CONTACT PERSON FOR MORE INFORMATION: A. Dennis Watson, Office of External Affairs, Telephone: (202) 927–5350, TDD: (202) 927–5721.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–271 Filed 1–2–92; 1:40 pm]

BILLING CODE 7035–01–M

NUCLEAR REGULATORY COMMISSION

Nuclear Regulatory Commission

DATES: Weeks of January 6, 13, 20, and 27, 1992.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of January 6

Friday January 10

1:30 p.m.—Affirmation/Discussion and Vote (Public Meeting) (if needed).

Week of January 13—Tentative.

Thursday January 16

9:30 a.m.—Collegial Discussion of Items of Commissioner Interest (Public Meeting).

2:30 p.m.—Periodic Briefing on EEO Program (Public Meeting).

Friday, January 17

10:00 a.m.—Briefing on Status of Implementation of Safety Goal Policy Statement (Public Meeting).

11:30 a.m.—Affirmation/Discussion and Vote (Public Meeting) (if needed).

2:00 p.m.—Briefing on Progress of Research in the Area of Organization and Management (Public Meeting).

Week of January 20—Tentative

Tuesday, January 21

1:30 p.m.—Briefing on Site Decommissioning Management Plan (Public Meeting).

Thursday January 23

11:30 a.m.—Affirmation/Discussion and Vote (Public Meeting) (if needed).

Week of January 27—Tentative

There are no Commission meetings scheduled for the week of January 27.

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: January 3, 1992.

Andrew L. Bates,

Office of the Secretary

[FR Doc. 92–402 Filed 1–3–92; 8:45 am]

BILLING CODE 7590–01–M

federal register

Tuesday
January 7, 1992

Part II

Department of the Interior

Bureau of Indian Affairs

Proclaiming Certain Lands as Part of the Reservation of the Seminole Tribe of Indians of Florida; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proclaiming Certain Lands as Part of the Reservation of the Seminole Tribe of Indians of Florida

December 24, 1991.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of reservation proclamation.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.3a.

SUMMARY: On December 24, 1991, by proclamation issued pursuant to the Act of June 28, 1934 (48 Stat. 986; 25 U.S.C. 467), the following-described tracts of land, located in Collier County, Florida, was added to and made part of the Seminole Indian Reservation.

Tallahassee Meridian, Collier County, Florida

Section 10, Township 47 South, Range 29 East, less and excepting therefrom the following: the SE¼ of the NE¼ of said Section 10; the West 50 feet of said Section 10, less railroad right of way conveyed to the State of Florida, Road Department, by Quit Claim Deed recorded in Deed Book 31, page 243 of the Public Records of Collier County, Florida; the North 30 feet of said Section 10, conveyed to Collier County, by Deed recorded in O.R. Book 54, page 583 of the Public Records of Collier County, Florida;

Section 15, Township 47 South, Range 29 East, commencing at the Northwest Corner of Section 15, Township 47 South, Range 29 East; thence North 88°37'37" East along the North boundary said Section, 443.00 feet; thence South 36°41'03" East, 73.53 feet to the South right of way line of county road for the point of beginning; thence North 88°37'37" East, 665.05 feet along said right of way line; thence South 33°57'17" west, 347.30 feet; thence South 34°50'43" East, 308.48 feet; thence South 60°36'57" West, 207.50 feet; thence North 36°41'03" West, 781.47 feet to the South right of way line of county road and to the point of beginning.

The above described parcels contain a total of 599.68 acres, more or less which are subject to all valid rights, reservations, rights of way, and easements of records.

Ronal Eden,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 92-221 Filed 1-6-92; 8:45 am]

BILLING CODE 4310-02-M

federal register

Tuesday
January 7, 1992

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule and Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB42

Endangered and Threatened Wildlife and Plants; Threatened Status for the Louisiana Black Bear and Related Rules

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the Louisiana black bear (*Ursus americanus luteolus*) to be a threatened species within its historic range. The historic range of the Louisiana black bear includes southern Mississippi, Louisiana, and east Texas. The Service designates other free-living bears of the species *U. americanus* within the Louisiana black bear's historic range as threatened due to similarity of appearance under the authority of the Endangered Species Act (Act) of 1973, as amended. This rule includes a special rule allowing normal forest management practices in occupied bear habitat, with certain limitations. The bear is vulnerable to habitat loss and illegal killing. This action implements protection of the Act.

EFFECTIVE DATE: February 6, 1992.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at U.S. Fish and Wildlife Service, 6578 Dogwood View Parkway, Suite A, Jackson, Mississippi 39213.

FOR FURTHER INFORMATION CONTACT: Mr. Wendell A. Neal, at the above address (601/965–4900 or FTS 490–4900).

SUPPLEMENTARY INFORMATION:

Background

The American black bear (*Ursus americanus*) was formerly widespread in North America, from northern Alaska and northern Canada, including Newfoundland, south to central northern Mexico (Lowery 1981). Hall (1981) lists sixteen subspecies of *U. americanus*. The black bear is a huge, bulky mammal with long black hair, with brownish or cinnamon color phases often found in western parts of its range. The tail on the black bear is short and well haired. The facial profile is rather blunt, the eyes small and the nose pad broad with large nostrils. The muzzle is yellowish brown and a white patch is sometimes present on the lower throat and chest. There are five toes on the front and hind feet with short curved claws. Large males may weigh more than 600 pounds, although weight varies considerably throughout their range.

In 1821, Edward Griffith, in his work "Carnivora," called the bear from Louisiana, the "yellow bear," according it a full species rank, i.e., *U. luteolus*. The first formal citation of the Louisiana black bear as a subspecies (*U. a. luteolus*) was by Miller and Kellog (1955) cited by Lowery (1981). In 1893, C.H. Merriam described the Louisiana black bear using five skulls from a Mer Rouge locality in Morehouse Parish in northeastern Louisiana. The distinctiveness of these skulls (Nowak 1986), when contrasted with other black bears, is that they are relatively long, narrow, and flat, and have proportionately large molar teeth (Nowak 1986). According to Hall (1981), *U. a. luteolus* once occurred throughout southern Mississippi, all of Louisiana and eastern Texas. The historic range according to Hall (1981) included all Texas counties east of and including Cass, Marion, Harrison, Upshur, Rusk, Cherokee, Anderson, Leon, Robertson, Burleson, Washington, Lavaca, Victoria, Refugio, and Aransas; all of Louisiana, and the southern Mississippi counties south of and including Washington, Humphreys, Holmes, Attala, Neshoba, and Lauderdale. While Hall (1981) included the southernmost counties in Arkansas as part of the range, there were no Arkansas specimens to support doing so. Accordingly, Arkansas is not considered as part of the historic range.

The Louisiana black bear was included as a category 2 species in the notice of review published on December 30, 1982 (47 FR 58454), September 18, 1985 (50 FR 37958), and January 6, 1989 (54 FR 554). Category 2 includes taxa that are being considered for possible addition to the Federal list of Endangered and Threatened Wildlife, but for which available data are judged insufficient to support a proposed rule.

The Service was petitioned on March 6, 1987, under section 4(b)(3)(A) of the Act to list the Louisiana black bear as an endangered species. The Service made two 12-month findings (August 19, 1988, 53 FR 31723, and August 10, 1989, 54 FR 32833), indicating that the action requested (listing) had been determined to be warranted but precluded by other actions to amend the lists.

In 1988 the Service undertook a study in cooperation with the Louisiana Department of Wildlife and Fisheries to clarify taxonomic concerns relating to possible introgression of non-native genetic material. The results of these investigations, which included blood protein electrophoresis, mitochondrial DNA and skull measurements, were received by the Service on July 21, 1989 (Pelton 1989).

A peer review of this report generated a variety of comments, which allow general conclusions on genetics and morphology. Although circumstantial evidence remains that native bears have interbred with introduced Minnesota bears, a morphological distinctiveness remains. There was disagreement on the taxon *U. a. luteolus* as being validated by the multicharacter morphological approach. However, the Service concludes that, notwithstanding conflicting opinions about accepted mammalian taxonomic criteria, available evidence, while not ovewhelming, does support validity of the taxon. As a subspecies, *U. a. luteolus* qualifies for listing consideration under the Act. This action presupposes bears within the historic range of *U. a. luteolus* possess those cranial features characterizing *U. a. luteolus*. Accordingly, threats to this population of bears threatens the taxon and thereby any unique genetic material possibly possessed by the taxon.

On June 21, 1990, the Service published in the **Federal Register** (55 FR 25341) a proposal to list the Louisiana black bear as a threatened species and to designate as threatened due to similarity of appearance all other bears of the species *Ursus americanus* within the historical range of *U. a. luteolus*. A notice of public hearing and reopening of the comment period was published in the **Federal Register** (55 FR 37723) on September 13, 1990, and a public hearing was held on October 11, 1990.

On September 20, 1991, the Service published in the **Federal Register** (56 FR 47732) a notice extending the deadline for taking final action on the proposal to list the Louisiana black bear, as provided in section 4(b)(6)(B)(i) of the Act, in order to examine questions regarding the taxonomy of the subspecies and reopened the public comment period. To assist the Service in making an informed decision on the listing of the Louisiana black bear, further assessment of morphometric data compiled in the course of the Pelton study (1989) was commissioned to further evaluate the systematic relationship of the Louisiana black bear (*U. a. luteolus*) and the Florida bear (*U. a. floridanus*). In addition to the existing data, additional skulls were located and the measurements included in the assessment. The conclusion from this review supports the current subspecific classifications of the Louisiana and Florida black bears. Assessment of the taxonomic relationship of black bears of

the southeastern region of the United States is ongoing.

Summary of Comments and Recommendations

In the June 21, 1990, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. The comment period was reopened and extended until October 21, 1990, to accommodate a request for a public hearing. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices inviting public comment were published in the "Baton Rouge Advocate" (Baton Rouge, Louisiana) on June 30, 1990, in the "Longview Journal" (Longview, Texas) on July 1, 1990, in the "Clarion Ledger" (Jackson, Mississippi) on July 6, 1990, in the "Lafayette Advertiser" (Lafayette, Louisiana) on July 9, 1990, and in the "Times Picayune" (New Orleans, Louisiana) on July 25, 1990.

A total of 86 comments were received on the proposed rule. One Federal agency commented but neither supported nor opposed the proposal. Two Louisiana State agencies provided three comments, one agency supporting the proposal, the other opposing it. Fifty-six individuals commented on the proposal. Of these, 33 supported it, 20 opposed it, and 3 were neutral. One wildlife research organization opposed the proposal. One economic development organization opposed it. Eight conservation organizations commented, seven supporting it and one being neutral. Sixteen timber companies and organizations representing either timber or landowner interests provided comments opposing the proposed rule.

A public hearing was requested by Joseph M. Haas, Luther F. Holloway, and the Mississippi Forestry Association. The hearing was held in the Louisiana Room of the Louisiana Department of Wildlife and Fisheries Building, 2000 Quail Drive, Baton Rouge, Louisiana on October 11, 1990, with 87 attendees. Seventeen comments were received during the hearing. Ten comments were in opposition, five were supportive and two were neutral. A question and answer session resulted in ten questions regarding the proposal.

Fourteen written comments were received during the comment period following the notice extending the deadline for a final listing decision. Seven comments were received from individuals with four favoring listing and three opposing. Three timber companies commented, all opposing the listing. Four organizations commented with one supporting, one neutral and two opposing.

Written comments and oral statements presented at the public hearing and received during the three comment periods are covered in the following summary. Comments of a similar nature or point are grouped into a number of general issues. These issues and the Service's response to each, are discussed below.

Issue 1: The subspecies *U. a. luteolus* is invalid because genetic differences among subspecies sampled were not conclusively different, and the basis for the subspecies designation was relatively minor morphologic differences. *Response:* The validity of the taxon does not depend on genetic differences. The subspecies designation is based on morphologic differences that distinguish Louisiana bears from other subspecies and is generally recognized as such by the scientific community. Morphological distinction, regardless of any known presence or absence of genetic differences, is sufficient to support a taxonomic entity.

Issue 2: Forced isolation through Federal listing could ultimately be the most damaging influence on the genetic composition of the Louisiana black bear. *Response:* The listing would not isolate any one group of bears. Gene flow between populations of the same species would be encouraged, not discouraged.

Issue 3: Because population data on the black bear are inconclusive, the bear should not be listed. *Response:* The Service agrees that population data for much of the Louisiana black bear's occupied range is not very useful. However, the Act requires the Service to make its proposals on the basis of the best available scientific and commercial data, which need not be statistically valid population estimates or counts.

Issue 4: Hybridization from *U. americanus* introduced from Minnesota in the mid-1960's is a serious threat to the Louisiana black bear, which today remains in pure form both in the Tensas and lower Atchafalaya River basins. *Response:* Discussion of this threat is found under factor E of this rule.

Issue 5: Listing the Louisiana black bear will place restrictions on the use of private lands. *Response:* While it is true that under section 7 of the Act private land management actions dependent on a Federal action, i.e., funding, licensing, permitting, etc., may require consultation between the Federal action agency and the Fish and Wildlife Service to insure the Federal action is not likely to jeopardize the continued existence of the Louisiana black bear, such consultation would not necessarily result in land use restrictions. Although there have been instances of effects on management of privately owned lands through section 9 of the Act (enforcement of taking prohibitions) based on adverse alteration of habitat for other species, a similar instance with a wide ranging species such as the Louisiana black bear is conjectural. The Louisiana black bear utilizes a diversity of habitats. Normal forest management activities that support a sustained yield of timber products and wildlife habitats are considered compatible with Louisiana black bear needs. Therefore, insofar as habitat alteration of occupied black bear habitat may be construed as a violation of section 9 of the Act, the Service issues herein a special rule which specifically exempts normal forest management activities as defined in the rule. This is in response to concerns expressed during the comment periods and is consistent with the Service's position that normal forest management activities are not considered a threat to the Louisiana black bear.

Issue 6: The Louisiana black bear should be listed as an endangered species rather than a threatened species. *Response:* The rationale for threatened status is described at the conclusion of the Summary of Factors Affecting the Species section.

Issue 7: Critical habitat for the Louisiana black bear should be designated. *Response:* This issue is addressed under the section entitled "Critical Habitat" in this rule.

Issue 8: Listing the Louisiana black bear will result in a transfer of management responsibility from the States to the Fish and Wildlife Service. *Response:* In the only known occupied habitat of the Louisiana black bear (Louisiana and Mississippi), there are existing cooperative agreements allowing the Service and the States to share Federal aid funds and responsibility in research and management actions directed toward recovery. Enforcement of section 9 of the Act also will be a cooperative endeavor between Federal and State conservation enforcement officers. The conduct of section 7 consultation, however, will be solely a Federal agency responsibility.

Issue 9: Given the opportunity for free movement of black bear from adjoining States into the range of the Louisiana black bear, it should not be concluded that black bear in Louisiana are a unique geographic isolate worthy of listing under the Endangered Species

Act. *Response:* The Service is listing a recognized subspecies and does not consider the Louisiana black bear to be a geographic isolate.

Issue 10: Arkansas is within the historic range but is not included within the designated range in the proposal. *Response:* The range of *U. a. luteolus* as depicted by Hall (1981) included a small area of south Arkansas; however, no specimens from Arkansas were used as a basis for placement of the line. Accordingly, Arkansas is not considered as part of the historic range for purposes of this rule.

Issue 11: The figures on rate of loss of bottomland hardwoods published in the proposed rule have leveled off and are no longer accurate, and in some cases there has been a reversal of losses because of the cropland reserve program. *Response:* The Service agrees there has been a leveling off of the clearing rates cited in the proposed rule. The Service also recognizes the efforts of private groups and governmental programs, and agrees there have been some reversals of the past trend. As noted in comments received during the last comment period, this leveling off of timberland loss is confirmed by the recent U.S. Forest Service survey data for the North Delta and South Delta regions of Louisiana (Rosson, Miller, and Vissage 1991), which indicated a slight increase in forested acreage for the North Delta region and a slight decrease in the South Delta region. However, based on history and present activities relative to interpretation and enforcement of the Food Security Act and the Clean Water Act, the Service remains unable to conclude that protection of these privately owned habitats is assured.

Issue 12: Listing of the Louisiana black bear may be an unnecessary legal encumbrance, and as such actually may cause more harm to the bear than not listing. *Response:* The Service makes listing decisions on the basis of the best available scientific and commercial data, and following a listing, the protective measures of the Act are made available to the species (See Available Conservation Measures elsewhere in this rule). The Service does not agree that listing may cause more harm to the bear than not listing.

Issue 13: The option of opening and closing of bear hunting seasons, as well as the setting of harvest limits as a management tool would be eliminated in Louisiana, and would be greatly complicated in Texas and Mississippi. *Response:* Under certain conditions, the Act allows taking of threatened species, which could include hunting. The Service agrees that administration of hunting seasons would be complicated by the listing.

Issue 14: State agencies will bear a disproportionate share of the economic burden for compliance. *Response:* Compliance with section 7 of the Act is strictly a Federal responsibility. States will share in the responsibility for enforcement and recovery actions, and they may be assisted through available Federal funds.

Issue 15: Delisting a species that was incorrectly or prematurely listed is much more difficult than the original listing. *Response:* The process for delisting, reclassification, or listing a species is the same.

Issue 16: The discriminant function analysis by Kennedy on skull morphology was flawed because the individuals used to define the functions were subsequently classified into groups using the same functions. The use of jackknifing or independent data sets should be used to test validity of the discriminant functions. *Response:* Had the discriminant function analysis not compared well with the principal component analysis, there may have been cause for concern. Since the two were corroborative, it was felt that a different approach would have added little to the conclusions.

Issue 17: The "look alike" provisions of the Act (threatened due to similarity of appearance) would discourage legitimate hunters from possessing black bears legally taken outside the described range. *Response:* The threatened due to similarity of appearance designation provides additional protection to free-living bears within the historic range of the Louisiana black bear, but it should not be construed to discourage hunters from engaging in legal black bear hunting opportunities provided elsewhere.

Issue 18: The proposed rule makes no distinction between bottomland hardwood and cypress-tupelo forest types, when in fact much of the Atchafalaya basin consists of flooded swamps not suitable for black bear. *Response:* The Service agrees that those permanently flooded acreages are not optimum bear habitat. Bears use intermittently flooded cypress-tupelo forest.

Issue 19: Any form of life should not be listed as threatened or endangered unless there is real provable evidence that such action will engender a better chance of survival and its continued existence as a viable component of its ecosystem. To list a form to have it "hang on" is scientifically irresponsible and obfuscates the real purposes of the proposal. *Response:* In accordance with the Act, the Service lists species on the basis of available scientific and commercial data, without regard to recoverability of the species in question.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Louisiana black bear should be classified as as threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Louisiana black bear (*U. a. luteolus*) are as follows:

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

The habitat of *U. a. luteolus* has suffered extensive modification with suitable habitat having been reduced by more than 80 percent as of 1980. The remaining habitat has been reduced in quality by fragmentation due to intrusion of man and his structures (e.g. proximity to man's disturbing activities, multi-lane highways, etc.), thereby stressing the remaining population of bears. According to Rieben (1980) as cited by Nowak (1986), the original 25,000,000 acres of bottomland forests of the lower Mississippi River Valley had been reduced to 5,000,000 acres, and through the early 1980's another 165,000 acres were being cleared annually. Some of the Mississippi River Delta counties in the lower Yazoo River Basin may have as little as 5 percent of the original bottomland hardwoods.

Presently occupied bear habitat in Louisiana consists of two core areas, the Tensas and Atchafalaya River Basins. Within the basins, only wooded areas (bottomland hardwoods) are considered as bear habitat, athough marshes along the lower rim of the Atchafalaya Basin and agricultural lands (sugarcane, soybeans) in other areas are also used. The once extensive bottomland forests of the Tensas Basin no longer exist, with only 15 percent (about 100,000 acres) of the original stands remaining (Gosselink, Louisiana State University, *in litt.* 1988). Of this, about 85 percent is in public ownership or under plans for public acquisition.

The entire Atchafalaya Basin contained 718,500 acres of bottomland hardwoods as of 1975 (O'Neil et al. 1975). In the lower Atchafalaya River

Basin (south of U.S. Highway 190), there are presently approximately 518,129 acres of bottomland hardwoods, with a projected amount of 536,739 by the year 2030 due to accretion (LeBlanc et al. 1981). In the lower Basin, there is a recently established Atchafalaya National Wildlife Refuge of about 15,000 acres and a State owned area (Sherburne Wildlife Management Area) of about 12,000 acres which is to be increased by 23,000 acres. The purchase of 367,000 acres of habitat protection easements also is planned. Dow Chemical has donated 30,000 acres to the State and there are 61,000 acres of accreted State lands with land use controls. Much of the northern portion of the Basin (considered as north of U.S. Highway 190 and which contains the better drained areas) has been cleared for agriculture. As of the 1975 O'Neil report, there were about 200,000 acres of forestland north of U.S. Highway 190. Today, there are 100,000 to 128,000 acres of forested lands remaining (Simmering, U.S. Department of Agriculture, *in litt.* 1989).

The privately owned lands of the Atchafalaya River Basin south of U.S. 190 may remain exposed to threat from clearing and conversion to agricultural uses. Privately owned woodlands for the north Atchafalaya River Basin and the Tensas River Basin were estimated to be in the range of 115,000 to 143,000 acres of occupied bear habitat out of a total woodland base of 200,000 to 228,000 acres. This means about one-half of the occupied bear habitat in this area is privately owned and under no plans for protection through conservation easements or acquisition. Clearing forested wetlands for accommodating crop use may forgo U.S. Department of Agriculture (USDA) farm program benefits for the landowner. This, in the short term, should protect these lands. In the long term, a substantial upturn in commodity prices may make it economically feasible to clear forested wetlands and farm without USDA program benefits. Since the 1985 Food Security Act is reauthorized every 5 years, there is no guarantee of continued protection of privately owned forested wetlands. In addition, catfish farming, now about a 13,000-acre industry in Louisiana, is rapidly expanding. This, along with crayfish farming and pastureland are other possible uses that would not be limited by the Food Security Act.

Past losses of habitat quantity and quality have been severe (ranging from 95 percent in some lower Mississippi Delta counties to 63 percent in the Atchafalaya River Basin). Protection of privately owned woodlands in the north Atchafalaya and the Tensas River Basins is not assured. Long term protection of these bear habitats may depend upon factors the Service neither controls nor can adequately predict. The Louisiana bear has exhibited a past vulnerability to habitat loss. The Service believes that further loss of privately owned occupied habitats to agriculture or other non-timber uses as an increment to past losses would represent a threat to this subspecies in a significant portion of its range.

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

Black bear populations range in density up to one to two per square mile. The Great Smokey Mountain National Park carries 500 to 600 bears on 512,000 acres (Pelton, pers. comm. 1989). The White River National Wildlife Refuge carries 130 bears on 113,000 acres (Smith 1983). Through trapping of 25 bears and extrapolation of untrapped bears and known family groups of bears, Weaver (pers. comm. 1989) estimates a population of at least 60 bears in about 70,000 acres of timberland of the Tensas River Basin, which contains about 100,000 acres of woods. What fraction 60 is of the total bears in the Tensas Basin is unknown.

In Atchafalaya River Basin, there are approximately 718,500 acres of timberland, about 518,129 of which are below U.S. Highway 190. For this vast tract, there is essentially no population data. The population estimates that are available for *U. a. luteolus* range in accuracy from crude to little more than intuition. Although estimates as quoted by Nowak (1986) indicate the bear population is low, all that is known for certain is that bears exist in the Atchafalaya River Basin and that due to bear movements, it would be difficult to separate bears from the lower, middle, or upper basin.

There are rumors of individuals killing bears for depredating sugar cane and for robbing trap lines. Bears are also killed incidentally to other forms of hunting. It may well be that bear numbers in the Atchafalaya are far greater than most believe, and that illegal kill is not a threat to that population. The White River National Wildlife Refuge in Arkansas has sustained heavy hunting pressure and has maintained a mid-range bear density. A rule of thumb the Virginia Department of Natural Resources uses is that their bear population can withstand a 20 percent annual loss to hunting without affecting the population's ability to sustain itself. However, as a population of bears approaches the minimum viable threshold, the more significant is any loss to that population. While it is true that illegal killing of bears occurs (Weaver 1988) and that illegal killing can be a threat, the effects of that illegal kill on the Louisiana black bear remain speculative.

The appearance of an abnormally low density of *U. a. luteolus* in the Atchafalaya River may be an artifact of the poor quality of population data or it may indicate considerable illegal kill is occurring on private and public lands. Should the latter be the case, and at this time it cannot be ruled out, illegal kill of that magnitude would unequivocally be a threat to the continued existence of a viable population of Louisiana black bears.

C. Disease or Predation

While a *U. a. luteolus*, like all other forms of vertebrate wildlife suffers from disease or possible predation (young bears being killed by older males), this is not considered limiting or threatening to the population.

D. The Inadequacy of Existing Regulatory Mechanisms

The dramatic losses of bottomland hardwood forests, including the loss of forested wetlands, as discussed in factor A, portray the inadequacy of existing regulatory mechanisms for protection of such habitats. If illegal killing is a threat, the possibility of prosecution under the Act in addition to State laws or regulations, may serve as a deterrent in some instances.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

The introduction of 161 to 163 bears of the subspecies *U. a. americanus* from Minnesota into the Atchafalaya and Tensas River Basins in the mid-sixties is considered by some (Nowak 1986) to represent a manmade threat to the native subspecies, *U. a. luteolus*. This threat was considered as one of "hybridization," in this instance cross breeding between the introduced subspecies and the native subspecies. Other researchers contended that little genetic difference would be found. In gathering data on this question, the Fish and Wildlife Service, in close consultation with the Louisiana Department of Wildlife and Fisheries, instituted a plan in July 1988 to obtain genetic samples from bears in Louisiana for comparison with bears from the original Minnesota trapping locale, and other bear populations, including the Florida subspecies, *U. a. floridanus*.

The genetic analyses did not show significant differences between the various subspecies (Pelton 1989). Expecting to preserve *U. a. luteolus*, as is, presupposes a static condition which does not exist. Further, interbreeding between subspecies is a normal and expected occurrence simply based on opportunity. The mobile nature of bears, plus the fact there was a more or less continuous distribution in relatively recent times (in an evolutionary sense), suggested at the outset that little genetic difference would be found. It appears that in a biological sense, hybridization as a threat at this taxonomic level may not be a significant cause for concern, unless there are real genetic differences which were undetected. Hybridization as a threat has neither been discounted nor proven and remains unsettled. Since the genetic profile of a known *U. a. luteolus* is unavailable, the issue is unlikely to be settled. The greatest likelihood is that the bears inhabiting the Atchafalaya and Tensas River Basins are a mixture; that in a definitional sense, the population is probably intraspecifically hybridized. In a biological sense, *U. a. luteolus* is likely pretty much unchanged (genetically) because of the low probability of reproductive isolation which would be necessary for an extended period in order for the evolutionary process of genetic differentiation to operate.

However, to the extent the genetic investigations did not identify real differences, or to the extent a pure genetic heritage is a realistic concept when applied to subspecies not likely to be reproductively isolated, the threat may (have) exist(ed). Since *U. a. luteolus* and *U. a. americanus* are so similar as to be difficult to distinguish even by experts, the only practical means available for protecting any possibly remaining unique genetic material originally belonging to the native *U. a. luteolus* would be through listing and protecting the taxon now distinguished by cranial features as *U. a. luteolus*.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the Service believes that the bear meets the criteria for protection under the Act on the basis of past habitat loss alone. The preferred action is to list the Louisiana black bear as threatened, defined as likely to become in danger of extinction within the foreseeable future throughout all or a significant portion of its range.

Although the Service recognizes that loss of occupied bear habitat has currently leveled off, the preferred action is chosen because of the continued exposure of privately owned occupied bear habitats to agricultural conversion, the Louisiana black bear's demonstrated past vulnerability to such loss, and the significance of these exposed habitats to the overall well-being and health of the subject bear populations. Endangered status is not chosen because the threats are not believed to place the Louisiana black bear in imminent danger of extinction. Because normal forest management practices in the range of the Louisiana black bear are considered by the Service to be compatible with black bear needs, a special rule is included herein exempting such practices from the take provisions of section 9 of the Act. For law enforcement purposes, all other free-living *U. americanus* within the historic range of *U. a. luteolus* are being classified as threatened due to similarity of appearance. Critical habitat is not being designated at this time as discussed below.

Critical Habitat

Section 3 of the Act defines critical habitat as the specific areas containing the physical and biological features essential to the conservation of the species and which may require special management considerations or protection. "Conservation" means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary. Section 4(a)(3) of the Act requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is proposed to be endangered or threatened. Service regulations (50 CFR 424.12(a)(2)) state that critical habitat is not determinable if information sufficient to perform required analysis of the impacts of the designation is lacking or if the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat. Section 4(b)(2) of the Act requires the Service to consider economic and other relevant impacts of designating a particular area as critical habitat on the basis of the best scientific data available. The Secretary may exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the conservation benefits, unless to do such would result in the extinction of the species.

In the June 21, 1990, proposed rule to list the Louisiana black bear, the Service stated that designation of critical habitat was not presently prudent. The basis for this determination was the interpretation that designation of critical habitat would not provide benefits over and above those available under section 7 by simply listing the species since all Federal and State agencies likely to be involved had been notified of the location and importance of protecting the species' habitat. Therefore, designation was deemed "not prudent" due to no net benefit. Consideration of this finding within the Service since the publication of the proposed rule has resulted in a determination that designation of critical habitat may be prudent in this case given the potential for further habitat loss as a result of Federal actions, but it is not now determinable. Section 4(b)(6)(C) provides that a concurrent critical habitat determination is not required and that the final decision on designation may be postponed for 1 additional year (i.e., 2 years from the date of publication of the proposed rule) if the Service finds that a prompt determination of endangered or threatened status is necessary to the conservation of the species. The Service believes that prompt determination of threatened status for the Louisiana black bear is necessary. This will afford the species the benefits of section 9 (prohibitions) and section 7 (interagency) cooperation.

The Louisiana black bear ranges over large areas of Louisiana and Mississippi. Although individual bears travel over great distances and are considered habitat "generalists" utilizing a diversity of habitats, they do require large areas of relatively undisturbed forest. In cooperation with the Black Bear Conservation Committee (BBCC), a coalition of State, Federal, academic and private interests committed to restoring the Louisiana black bear within its historic range, the Service is attempting to identify occupied and potential habitat and to ascertain the bear's biological needs. Studies are ongoing on the Tensas National Wildlife Refuge, in the lower Atchafalaya River basin and in Mississippi to delineate areas used by black bear and assess management needs, and maps are in preparation that will show occupied habitat, areas of occasional sightings, potential habitat and possible corridors. Development of a restoration plan has already been initiated by the BBCC. Once the maps are completed and a restoration plan or recovery plan is prepared, the Service will make a critical habitat determination and assess whether designation of critical habitat is prudent. In assessing critical habitat, the

Service will consider the bear's requirements for space, food, water, cover or shelter, reproduction and population growth, and other biological features that are essential to the conservation of the bear and that may require special management considerations or protection. In the interim, protection of this species' habitat will be addressed through the recovery process and through the section 7 jeopardy standard.

Available Conservation Measures

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

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Possible Federal actions may include Corps of Engineers wetland permits, Soil Conservation Service watershed projects or the Service's activities on National Wildlife Refuges within the species' occupied habitat. Formal consultation and the resulting biological opinion issued by the Service may preclude or modify Federal actions depending on the nature and extent of the impact on listed species.

Section 4(d) of the Act provides that whenever a species is listed as a threatened species, such regulations deemed necessary and advisable to provide for the conservation of the species may be issued. The Secretary may by regulation prohibit any act prohibited for endangered species under section 9(a). These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies. The term "harm" as it applies to the take prohibition is defined in 50 CFR 17.3 to include "an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering." The implementing regulations for threatened wildlife (50 CFR 17.31) incorporate, for the most part, by reference the prohibitions for endangered wildlife (50 CFR 17.21) except when a special rule applies [50 CFR 17.31(c)]. The Service finds that the prohibitions for endangered species are necessary and advisable for conservation of the threatened Louisiana black bear. However, pursuant to the latitude for threatened species afforded by the Act and 50 CFR 17.31(c), the Service issues a special rule, discussed below, exempting certain forest management activities that could be construed by some, although not the Service, to constitute "harm" to the Louisiana black bear.

In order to avoid unnecessary permitting requirements, and in response to extensive comments regarding perceived impacts of the listing on timber interests, the Service is promulgating a special rule exempting normal forest management activities from section 9 take prohibitions. The Service continues to take the position that habitat needs of the Louisiana black bear are compatible with normal forest management activities as practiced in this bear's range. This position is based on recent studies in the Tensas River basin of Louisiana (Weaver et al. 1991) that affirm the value of habitat diversity attributable to a variety of silvicultural procedures.

The Louisiana black bear, like other members of the species *U. americanus*, is not an old growth species; nor can it survive in open cropland conditions. Weaver (1991) found that an abundance of bear foods (e.g., fruits and soft mast) were produced following fairly severely timber harvests, and that bears also utilized these cutover areas for escape cover, and in some cases, actually used treetops remaining from logging operations as winter denning sites for birthing of cubs. This leads the Service to believe that maintaining occupied bear habitat in some form of timberland condition may be the single most critical factor in conserving this species, and that the principal threat to the bear is not normal forest management but conversion of these timbered habitats to croplands and other agricultural uses. For this reason, the Service believes that the exemption provided in the special rule will not contribute to loss of black bear habitat, but will provide for habitat diversity for the bear through continued forest management.

Certain restrictions pertaining to den trees are included in the special rule. Although den trees for Louisiana black bear are not essential, they are important (Weaver 1991). Because of their importance, actual den sites/trees or candidate den trees in occupied Louisiana black bear habitat are to be maintained. For purposes of the special rule, candidate den trees are considered to be bald cypress and tupelo gum with visible cavities, having a diameter at breast height (DBH) of 36 inches, and occurring in or along rivers, lakes, streams, bayous, sloughs, or other water bodies. Further or fewer restrictions in the special rule may become appropriate as results of ongoing research and recovery planning are assessed.

Permits may be issued to carry out otherwise prohibited activities involving threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, permits may also be available for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act.

Similarity of Appearance

Section 4(e) of the Act authorizes the treatment of a species (or subspecies or group of wildlife in common spatial arrangement) as an endangered or threatened species even though it is not otherwise listed as endangered or threatened if: (a) The species so closely resembles in appearance an endangered or threatened species that enforcement personnel would have substantial

difficulty in differentiating between listed and unlisted species; (b) the effect of this substantial difficulty is an additional threat to the endangered or threatened species; and (c) that such treatment will substantially facilitate the enforcement and further the policy of the Act.

Introductions of bears from Minnesota in the mid-sixties of the subspecies *U. a. americanus* gives rise to the possibility (however remote) that bears remain somewhere within the historic range of *U. a. luteolus* that are of *U. a. americanus* ancestry. Evidence of *U. a. americanus* in southern Arkansas just north of the Louisiana line has been recently documented. This theoretically could present an enforcement and taxonomic problem because both subspecies may now or later inhabit the same range, and the listed subspecies (*U. a. luteolus*) cannot always be differentiated from the unlisted *U. a. americanus* by enforcement personnel or experts. For these reasons, the Service is treating all free-living bears of the species *U. americanus* other than *U. a. luteolus* as threatened by similarity of appearance within the historic range of *U. a. luteolus* (Louisiana, Mississippi and Texas).

National Environmental Policy Act

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

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Author

The primary author of this rule is Wendell A. Neal (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

PART 17—[AMENDED]

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

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

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

2. Amend § 17.11(h) by adding the following, in alphabetical order under Mammals, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species							
Common name	Scientific name	Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
MAMMALS							
*	*	*	*	*	*	*	
Bear, American black	*Ursus americanus*	North America	USA (LA, MS, TX)	T(S/A)	456	NA	17.40(i)
*	*	*	*	*	*	*	
Bear, Louisiana black	*Ursus americanus luteolus*	USA (LA, MS, TX)	Entire	T	456	NA	17.40(i)
*	*	*	*	*	*	*	

3. Amend § 17.40 by adding paragraph (i) to read as follows:

§ 17.40 Special rules—mammals.

* * * * *

(i) Louisiana black bear (*Ursus americanus luteolus*). (1) Except as noted in paragraph (i)(2) of this section, all prohibitions of §17.31 and exemptions of § 17.32 shall apply to any black bear within the historic range of the Louisiana black bear (Texas, Louisiana and Mississippi).

(2) Subsection 17.40(i)(1) and § 17.31 shall not prohibit effects incidental to normal forest management activities within the historic range of the Louisiana black bear except for activities causing damage to or loss of den trees, den tree sites or candidate den trees. For purposes of this exemption, normal forest management activities are defined as those activities that support a sustained yield of timber products and wildlife habitats, thereby maintaining forestland conditions in occupied habitat. For purposes of this special rule, candidate den trees are considered to be bald cypress and tupelo gum with visible cavities, having

a minimum diameter at breast height (DBH) of 36 inches, and occurring in or along rivers, lakes, streams, bayous, sloughs, or other water bodies.

(3) This express exemption for normal forest management activities provided by this special rule is subject to modification or withdrawal if the Service determines that this provision fails to further the conservation of the Louisiana black bear.

Dated: December 30, 1991.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 92-244 Filed 1-6-92, 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Finding on a Petition To List the Florida Black Bear as a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding.

SUMMARY: The Service announces a 12-month finding on a petition to amend the List of Endangered and Threatened Wildlife. After review of all available scientific and commercial information, the Service has determined that listing the Florida black bear as threatened is warranted but precluded by other higher priority actions to amend the Lists of Endangered and Threatened Wildlife and Plants.

DATES: The finding reported in this notice was made in December, 1991. Comments and information may be submitted until further notice.

ADDRESSES: Information, comments, or questions regarding the petition finding may be submitted to the Field Supervisor, U.S. Fish and Wildlife Service, 3100 University Boulevard South, suite 120, Jacksonville, Florida 32216. The petition, finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Wesley at the above address (904/791–2580; FTS 946–2580).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended in 1982 (16 U.S.C. 1531 *et seq.*), requires that, for any petition to revise the Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific and commercial information, the U.S. Fish and Wildlife Service (Service) should make a finding within 12 months of the date of the receipt of the petition on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted, but precluded from immediate proposal by other pending proposals. Section 4(b)(3)(C) requires that petitions for which the requested action is found to be "warranted but precluded" should be treated as though resubmitted on the date of such finding, i.e., requiring a subsequent finding to be made within 12 months. Such 12-month findings are to be published promptly in the **Federal Register**.

In a petition dated May 20, 1990, and received by the Service on June 11, 1990, the Service was requested by Ms. Inge Hutchison of Lake Geneva, Florida to list the Florida black bear as a threatened species. The petition cited the following threats to the Florida black bear: (1) Illegal hunting by beekeepers, gallbladder poachers, and others; (2) loss and fragmentation of critical habitat; (3) hunting pressure; and (4) road mortality. An administrative finding that the petition presented substantial information that the requested action may be warranted was made in September, 1990, and announced in the **Federal Register** on October 18, 1990 (55 FR 42223).

The Florida black bear (*Ursus americanus floridanus*) is a subspecies of the black bear (*Ursus americanus*), which ranges from northern Alaska and Canada south to northern Mexico. The black bear formerly occurred in all the lower 48 States, but its range has decreased and become fragmented, particularly in the eastern States, where it is now generally restricted to large areas of remote woodlands (Maehr 1984a). The Florida black bear was described by Merriam (1896) based on a male specimen from Key Biscayne, Dade County, Florida. Merriam stated that he had examined several other skulls that he assigned to this species, apparently all from the Everglades area of south Florida. According to Hall (1981), the Florida black bear is primarily restricted to Florida but also occurs in the coastal plain areas of Georgia and Alabama. Hall indicates that the range of *floridanus* extends into extreme southeastern Mississippi, but cites no specimens attributable to the subspecies from that State. According to Hall's range map of the subspecies of the black bear, *floridanus* presumably intergrades with two other adjacent and contiguous subspecies of the black bear: on the north, with the American or eastern black bear (*U. a. americanus*) in Georgia and Alabama, and on the west with the Louisiana black bear (*U. a. luteolus*). The latter subspecies, historically occurring in southern Mississippi, Louisiana, and east Texas, was proposed as a threatened species by the Service on June 21, 1990 (55 FR 25341), due to threat from habitat loss and fragmentation of the populations.

Historically, the Florida black bear was found throughout Florida, including some coastal islands. Following extensive human development in the State, the distribution has become reduced and fragmented (Brady and Maehr 1985). It is currently considered a threatened species (in Florida) by the Florida Game and Fresh Water Fish Commission, except in Baker and Columbia Counties and Apalachicola National Forest, and is considered threatened by the Florida Committee on Rare and Endangered Plants and Animals (Williams 1978; Maehr and Wooding undated). The Florida black bear was considered a candidate for listing under the Endangered Species Act of 1973, as amended, in Service review notices of December 30, 1982 (47 FR 58454), September 18, 1985 (50 FR 37958), January 6, 1989 (54 FR 554), and November 21, 1991 (56 FR 58804).

In response to the October 18, 1990, notice the Service received comments from the Florida Congressional delegation, the state game agencies of Alabama, Florida, and Georgia, two conservation groups, two animal rights organizations, the Wildlife Committee of the National Forest Products Association and American Forest Council, and numerous private parties. Comments are summarized below.

In a joint letter dated July 19, 1991, the Florida Congressional delegation supported the listing of the Florida black bear as a threatened species.

The Alabama Division of Game and Fish (Division) stated that the black bear was considered a game species in Alabama, but that there was currently no open season. The Division enclosed a report (Dusi 1987) based on a study of black bears in southwestern Alabama. The report concluded that a dense, healthy and relatively undisturbed population of black bears occurred in Baldwin, Mobile and Washington Counties. Dusi (1987) believed that one habitat feature that made this area valuable black bear habitat was the presence of extensive titi (*Cliftonia monophylla* and *Cyrilla racemiflora*) swamps, providing refuge from human disturbance. He pointed out that such heavy shrub habitat was absent in much of Alabama. Maehr (1984) and Dusi (1986) have previously considered the survival of this population to be of concern. The Service's Daphne, Alabama Field Office reported that the size of this southwestern Alabama population might be as few as 50 bears.

The Georgia Game and Fish Division (Georgia) currently allows bear hunting in the five counties that are contiguous with the Okefenokee Swamp; this is within the range of the subspecies *floridanus*. The hunt totals 6 days, taking place the last weekend of September and the first two weekends in October. In their comments, Georgia included a nine-year summary (1981–1989) of bears that had been checked during the hunts; 221 bears, including 107 males and 114 females, were taken

during this period. Total annual take ranged from five to 56 bears. In the 1990 hunt, 23 bears (8 males, 15 females) were taken; 33 bears (15 males, 18 females) were taken in 1991 (Wes Abler, Georgia Division of Game and Fish, pers. comm.). This brought the eleven-year total to 277 bears (120 males and 147 females). There has been no indication of a downward trend in population. A seven-year age summary (1983–1989) showed the average age of males taken to be 4.44 years, and females 6.57 years. This was interpreted by Georgia to indicate a healthy age structure and a sustainable harvest. Georgia also indicated that they averaged three to six road-killed bears per year and received one or two nuisance bear complaints each year. They estimated that there was likely an annual illegal harvest by beekeepers approximating the legal harvest. Georgia believes that the Okefenokee black bear population is very healthy and would not merit listing as a threatened species. Service response: The Service must consider the status of a species over its range when making listing decisions. The existence of healthy populations in some parts of the range does not preclude the possibility that the species may qualify for listing based on one or more of the listing factors described under section 4 of the Act.

The Florida Game and Fresh Water Fish Commission (Commission) submitted information on the conservation status of the black bear in Florida. Black bears are still widely distributed in Florida, but the current distribution is patchy and fragmented, in contrast to the continuous range in the state before human settlement. The largest remaining black bear populations in Florida are located on Big Cypress National Preserve; Ocala, Osceola, and Apalachicola National Forests; and areas adjacent to these federal lands. A number of other small populations persist, but their long-term survival is doubtful because of small population size, limited habitat, and the likelihood of further development. Urbanization, agricultural development, and increasing recreational pressure are all considered to contribute to habitat loss. The size of the current bear population in Florida is not known, but is estimated at 500–1000 animlas (Maehr and Wooding undated). In a black bear habitat study of Ocala and Osceola National Forests, Wooding and Hardisky (undated) estimated that 125 bears may occur in Ocala National Forest; their sample size was too small to estimate the Osceola population. The black bear in Florida is currently considered threatened by the Florida Committee on Rare and Endangered Plants and Animals (Williams 1978) and by the Commission, except in Apalachicola National Forest and Baker and Columbia Counties, where regulated hunts are allowed.

The Commission goal for black bear management is to maintain the health and status of the species statewide. According to the Commission, bears in the two hunted populations have been hunted on a sustained yield basis for many years. The total number of bears checked from the Florida hunts over the nine years from 1981 to 1989 was 415 (mean = 46.1 per year). There was no apparent indication of a decline in the hunted populations, although regulatory changes have been made, and continue to be made, to reduce hunting pressure on females as necessary. Bear harvest is monitored by hunter reporting and mail surveys. Decisions on each year's hunt are generally based on numbers and sex and age distribution of the bears taken in the previous year. The Commission presented information on numerous changes in regulations affecting bears in Florida that had been made from 1939 to 1991. The trend has been toward more limitd hunting, with fewer areas open to hunting for shorter periods. In recent years, the hunt has been opened later in the year, when females are more apt to be denning and are therefore less vulnerable to being taken. The most recent harvest analysis (Wooding 1990) indicated that, while the hunt on private lands was sustainable, harvests on Osceola National Forest had been exessive and the record number of bears killed in Apalachicola National Forest in 1989–1990 was of concern. These findings resulted in the most recent changes in the bear hunt regulations. The Osceola National Forest hunt was reduced to nine days in mid-January, with no bear hunting allowed in archery, muzzleloader, and general gun seasons. The Apalachicola National Forest bear hunt was restricted to eleven days in late November. The general gun season on private lands in Baker and Columbia Counties was delayed two weeks, commencing in late November.

The Commission also submitted reports on black bear necropsies performed by Commission staff in 1989 and 1990. These data indicated that from April 1989 to June 1990, 48 black bears were known to have died from collisions with vehicles and three were killed illegally. In some years, road mortality equalled or exceeded legal take. Commission biologists have prepared recommendations on bear crossing designs and locations for major highways that, if implemented, would reduce bear mortality from vehicle collisions.

Comments from the conservation groups, animal rights organizations, and private parties supported Federal listing for the Florida black bear, citing habitat loss due to human population growth, roadkills, unsupportable hunting, and small but unknown population size as threats to the Florida black bear. Service response: The Service will continue to evaluate these threats with regard to the priority of listing the Florida black bear under the Act.

The Wildlife Committee (Committee) of the National Forest Products Association and the American Forest Council opposed listing. They believed the petition to list the Florida black bear was a surrogate (sic) to constrain land use policy, particularly timber harvesting; and that this would be a misuse of the Act's stated purpose to conserve endangered and threatened species and their ecosystems. Service response: Since the petitioner's main concern seemed to be hunting, and not land management practices, the Service does not believe the petition was primarily intended to constrain land use. Regardless of the intent of petitioners, the Service lists species only if they meet one or more of the five listing criteria in section 4(a)(1) of the Act. If a species qualifies for listing, the Service must proceed with such regulation, other priorities permitting. Economic impacts are not considered in making a listing decision, although they must be considered in promulgating regulations involving critical habitat. The Service attempts to carry out its listing, consultation, and recovery responsibilities so as to conserve the ecosystems on which endangered and threatened species depend. When possible, the Service lists species found together in particular ecosystems at the same time, and includes them in the same recovery plan, to emphasize the importance of protecting ecosystems, not just individual species.

The Committee also suggested that the subspecific nomenclature of the Florida black bear is archaic and should not be relied upon. They enclosed a letter from Dr. Michael Kennedy of Memphis State University, who recently examined skull morphology of the Louisiana black bear (*Ursus americanus luteolus*) as part of a recent investigation (Pelton 1989) of that subspecies' taxonomic validity. Dr. Kennedy felt that the taxonomic status of the Florida black bear was questionable for the following reasons: (a) The original description of the

subspecies did not assess geographic variation over the range of the two subspecies, because only material from south Florida was used to describe the Florida black bear. A complete assessment of bears using modern systematic tools has not been conducted. (b) Based on the Pelton report (1989), the Florida and Louisiana black bears are very similar. A complete assessment of *Ursus americanus* is neeed. Service response: The Service agrees that it would be desirable to have better taxonomic understanding of bear populations in the southeastern United States, and intends to commence a taxonomic study to address this issue in the near future. This study is expected to include both genetic and morphometric analyses of southeastern black bears and could clarify the status of the three subspecies in the region. The Service recently contracted with Dr. Kennedy to do additional morphometric work on this problem, and the results, although preliminary in nature and based on small samples, suggest that the subspecies *americanus, floridanus,* and *luteolus* are valid (Kennedy 1991). The Service notes that the Louisiana and Florida black bears remain generally accepted subspecies in the literature, and are eligible for protection under the Act. Although differences between the subspecies, as currently described, are slight, this is the case for many mammalian subspecies. Without further examination, doubts about the validity of black bear subspecies remain speculative.

The Committee further suggested that the Service should participate in the establishment of a black bear conservation committee in Florida to develop management plans to ensure continued viable populations. Service response: The Service agrees that the cooperation of a number of landowners and managers could be beneficial for bear conservation, and is willing to participate in any such effort. However, if the black bear qualifies for listing according to the listing factors under section 4 of the Act, the formation of a conservation committee would not relieve the Service of its responsibility to list the subspecies. If the Florida black bear were listed, management plans and other conservation tools could be an important part of a recovery plan.

Summary of Factors Affecting the Species

The five factors prescribed by section 4(a)(1) of the Act were evaluated to make a determination in response to the petition. These factors and their application to the Florida black bear (*Ursus americanus floridanus*) are as follows:

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

Much of the historical habitat of the Florida black bear has been lost to land clearing and alteration by man. Brady and Meahr (1985) concluded that black bear distribution in Florida is reduced and fragmented, and that local extinctions are an important threat to the existence of the species in the state. The range of the Florida black bear in peninsular Florida is particularly vulnerable to further habitat loss. Florida is one of the fastest growing states in human population, and that trend is expected to continue. The largest remaining populations of the Florida black bear are on Federal lands (approximate acreage follow each site), including Okefenokee National Wildlife Refuge (438,000 acres), the adjacent Dixon Memorial State Forest Wildlife Management Area (38,500 acres), Eglin Air Force Base (310,000 acres), Apalachicola (718,000 acres), Ocala (410,000 acres), and Osceola (194,000 acres) National Forests; and Big Cypress National Preserve, Fakahatchee Strand State Preserve, and Florida Panther National Wildlife Refuge (644,000 acres combined). Bears enjoy a reasonable degree of habitat security on these lands, but there is a continuing need to insure that public land management remains compatible with the continued existence of bears, and that activities on adjacent private lands do not adversely affect bears on public lands. Residential, agricultural, commercial, highway, and other forms of human development have already eliminated viable populations of Florida black bears on many private lands throughout the range; in the future this subspecies is likely to be restricted to "islands" of suitable habitat on public lands, preventing movements between bear populations. Habitat loss has been, and continues to be the most serious threat to the continued existence of the Florida black bear.

Nonetheless, a considerable amount of public land (over 2.5 million acres), occurring in large, widely separated blocks, is likely to remain available for conservation of the Florida black bear. In recent years, there have been significant purchases of private lands for conservation purposes in Florida by Federal and state agencies, and private organizations. Several major land acquisitions will improve conservation prospects for the Florida black bear. Major acquisitions have taken place in Florida's Big Bend (upper Gulf Coast area), Pinhook Swamp (an area between Osceola National Forest and Okefenokee National Wildlife Refuge), adjacent to Ocala National Forest, and in the Big Cypress area (Florida Panther National Wildlife Refuge). Several of these acquisitions will assist in maintaining corridors and habitat between major black bear concentrations. Because bears dispersing from the larger and more secure blocks of protected habitat are more vulnerable to human-caused mortality, such habitat linkages are essential to insure long-term viability of the Florida black bear.

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

Although the Florida black bear is a game species in Alabama, that state does not allow a hunt and has no intention of doing so in the foreseeable future (Keith Guyse, Alabama Division of Fish and Game, pers. comm.). The Georgia Game and Fish Division currently allows a six-day hunt of Florida black bears (three weekends in September and October) in the five counties contiguous with Okefenokee National Wildlife Refuge. The Florida Game and Fresh Water Fish Commission allows a nine-day hunt in both Apalachicola and Osceola National Forests, and a 58-day (general gun season) hunt on private lands in Baker and Columbia Counties. Both Florida and Georgia use hunt harvest results (age and sex ratio data from bears checked in) to adjust the seasons and limits for the subsequent year, and both states have been able to maintain huntable bear populations for many years using this approach. Many other states use a similar approach to manager black bears. The Service believes that both Florida and Georgia have adequate knowledge of their bear populations to alter or halt hunting before any hunted population could be extirpated. However, it is possible that some populations could, at least periodically, be reduced to less than optimal densities for long-term conservation. It would therefore be desirable to have more information on the demographics of the hunted populations, particularly concerning birth and death rates and population density. Florida currently has studies underway on both a hunted (Apalachicola National Forest) and an unhunted (Big Cypress National Preserve) population, and Georgia continues to study the hunted Okefenokee population. Information from these and other studies will be

even more necessary to make harvest decisions as threats from habitat loss and road mortality increase. Without more information, it may be difficult to evaluate the combined effects of hunting and other sources of mortality, and it may be difficult to justify the hunt. The Service encourages Florida and Georgia to continue to gather more data to allow a better assessment of the effects of hunting on the Florida black bear.

C. Disease or Predation

Southeastern black bears are known to host a variety of disease organisms, but none seem to represent a serious problem (Davidson and Nettles 1988); disease is not known to be a factor in the decline of this subspecies. The Florida black bear has few natural enemies; predation is not a threat.

D. The Inadequacy of Existing Regulatory Mechanisms

The wildlife laws of the States of Alabama, Florida, and Georgia give them the authority to protect the Florida black bear through the regulation of hunting. Federal protection against illegal trade in bears or bear parts (e.g. gall bladders or claws) is available through the Lacey Act, if such trade crosses state lines. Federal listing of the Florida black bear would provide additional take prohibitions and penalties through sections 9 and 11 of the Act, and Section 7 of the Act would require Federal agencies to insure that their actions were not likely to jeopardize the continued existence of the Florida black bear or to adversely modify critical habitat designated for the species.

E. Other Natural or Manmade Factors Affecting its Continued Existence

Road mortality is a serious threat to the Florida black bear in Florida. The threat is likely to worsen with increases in human population, road-building, and vehicular traffic. From 1976 to 1991, 250 bears were killed on Florida highways, with a steady increase over the years. Road mortality was greatest in the Big Cypress (Collier County) and the Ocala populations (Lake and Marion Counties), but occurred wherever bear populations must cross busy highways (John Wooding, Florida Game and Fresh Water Fish Commission, pears. comm., October 28, 1991). The Florida Game and Fresh Water Fish Commission is working with the Florida Department of Transportation to recommend and plan undercrossings in key areas as highways are built and widened, but it is likely that highways will continue to be a threat to the Florida black bear through habitat fragmentation.

Georgia reported 3–6 road-killed bears per year around Okefenokee Swamp, but roads and traffic are much more limited in that area than in much of Florida. No roadkill information was available from Alabama.

Humans are generally fearful and intolerant of bears when they come in contact. Nuisance complaints, particularly from beekeepers, are periodically received by state game agencies. As previously stated, illegal kills do occur as a result of these interactions. Maehr (1984b) reported that bear depredations have been reported from 41 of Florida's 67 counties, and that beekeepers have historically been responsible for a sizable illegal kill. The Georgia Game and Fish Division reported that beekeepers may kill as many bears annually around Okefenokee Swamp as are taken in the legal harvest.

Since bear parts, especially gall bladders, are considered to be medically valuable in the Orient, poaching of Florida black bears is a potential threat. Poaching of black bears to supply this illicit trade has been documented throughout North America, including within otherwise secure habitat on National Forest and National Park lands. Little information on such take is currently available within the range of the Florida black bear, and neither Alabama, Florida nor Georgia is aware of a serious problem, but continued attention should be paid to this threat. Illegal hunting could be especially detrimental to smaller, isolated populations of the Florida black bear.

Finding

On the basis of the best available scientific and commercial information and the following assessment of Service listing priorities and progress, the Service finds that the petition to list the Florida black bear as a threatened species is warranted, but precluded by work on other species having higher priority for listing.

In accordance with section 4(b) of the Act, the Service may make a warranted-but-precluded finding only if it can demonstrate that (1) other listing decisions have a higher priority, and that (2) expeditious progress is being made on other listing actions. On September 21, 1983, the Service published in the **Federal Register** its priority system for listing species under the Act. The system considers three factors in assigning species numerical priorities on a scale of 1 to 12. The three factors are magnitude of threat, immediacy of threat, and taxonomic distinctiveness.

As discussed above, the Florida black bear faces threats from habitat destruction, roadkills, and legal and illegal hunting. The Service considers the overall magnitude of these threats throughout the range of the subspecies as moderate to low. The Florida black bear occurs primarily on Federal lands (Okefenokee National Wildlife Refuge, Apalachicola, Osceola, and Ocala National Forests, and Big Cypress National Preserve) likely to remain favorable habitat into the foreseeable future. Although development is expected to continue on adjacent private lands, with negative effects on black bear habitat, the Service does not expect development to occur so quickly or extensively as to pose substantial immediate threats to the bear. Other man-caused threats, including road mortality, hunting and poaching, are a concern. They appear to be currently supportable by the major remaining Florida black bear populations, and are therefore considered to represent a moderate degree of threat.

The Service currently considers threats to the Florida black bear to be moderate-to-low throughout its range. As a subspecies, the Florida black bear has a lower listing priority than full species or monotypic genera under comparable threats to their continued existence. Therefore, the subspecies has been assigned a level 9 priority for listing. Other candidate species currently warrant more immediate listing consideration than the Florida black bear. Approximately 150 category 1 species (species for which the Service has adequate information to proceed with listing) are considered to have a high magnitude of imminent threat, and should therefore be addressed prior to the bear. If threats to the Florida black bear increase, the listing priority will become higher.

The Service believes that expeditious progress is being made on other listing actions. In fiscal year 1990 (October 1, 1989 to September 30, 1990), the Service proposed 106 species for listing and added 47 species to the lists of endangered and threatened wildlife and plants. In fiscal year 1991 (October 1, 1990 to September 30, 1991), 87 species were proposed for listing and 52 species were added to the list. Thus far in fiscal year 1992 (October 1, 1991 to September 30, 1992), the Service has proposed 67 species for listing and 37 species have been added to the list. The Service has also attempted to list species through multi-species listing actions whenever possible. In fiscal year 1990, 19 multispecies listings, including 92 species, were proposed or made final. In

fiscal year 1991, 16 multispecies listings, including 81 species, were proposed or made final. Thus far in fiscal year 1992, 10 multispecies listings, including 87 species, were proposed or made final. The Service intends to continue using multispecies listings whenever appropriate to maximize the use of its limited listing resources.

The Service will treat this petition, for which it makes a warranted-but-precluded finding, as though resubmitted on the date of the finding and make a subsequent finding within 12 months. The Service will continue to provide technical assistance to state and Federal agencies to address Florida black bear conservation needs.

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Author

The primary author of this notice is Dr. Michael M. Bentzien (see **ADDRESSES** section above).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

List of Subjects in 50 CFR Part 17

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

Dated: December 31, 1991.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 92–243 Filed 1–6–92; 8:45 am]

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Vol. 57, No. 4

Tuesday, January 7, 1992

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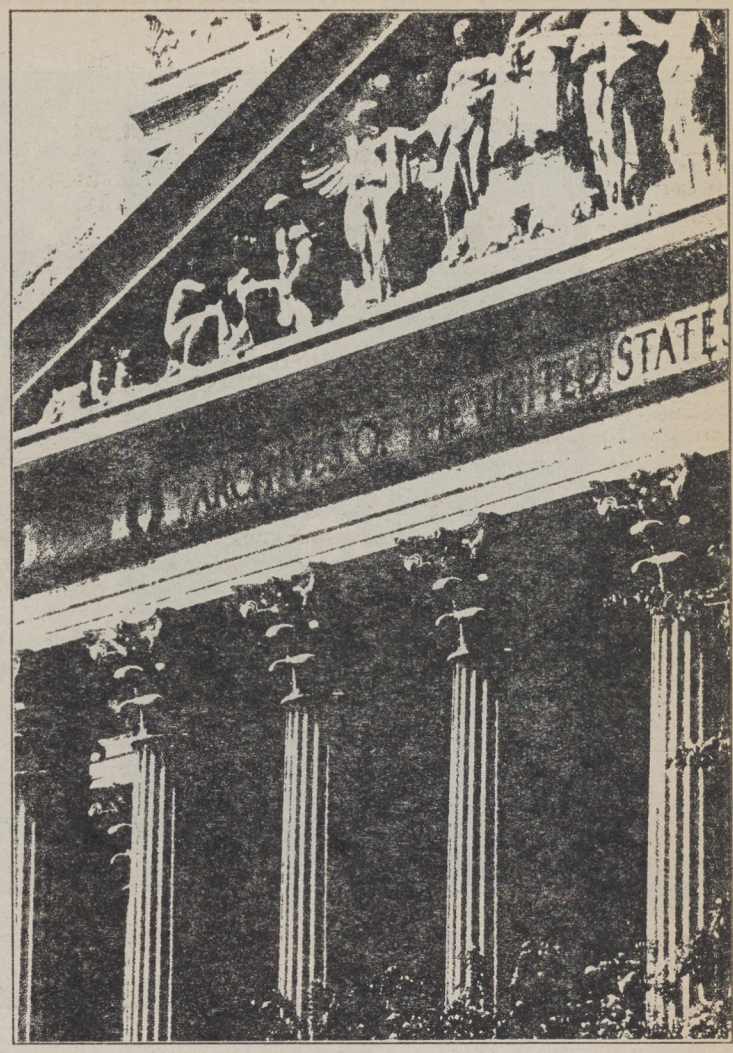

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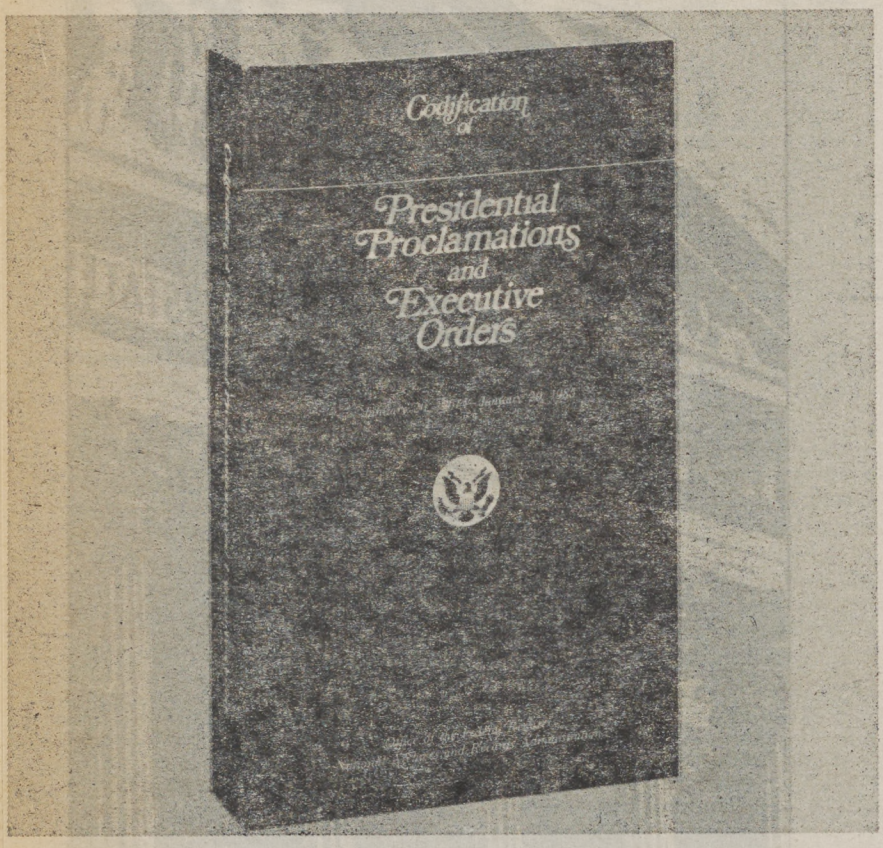

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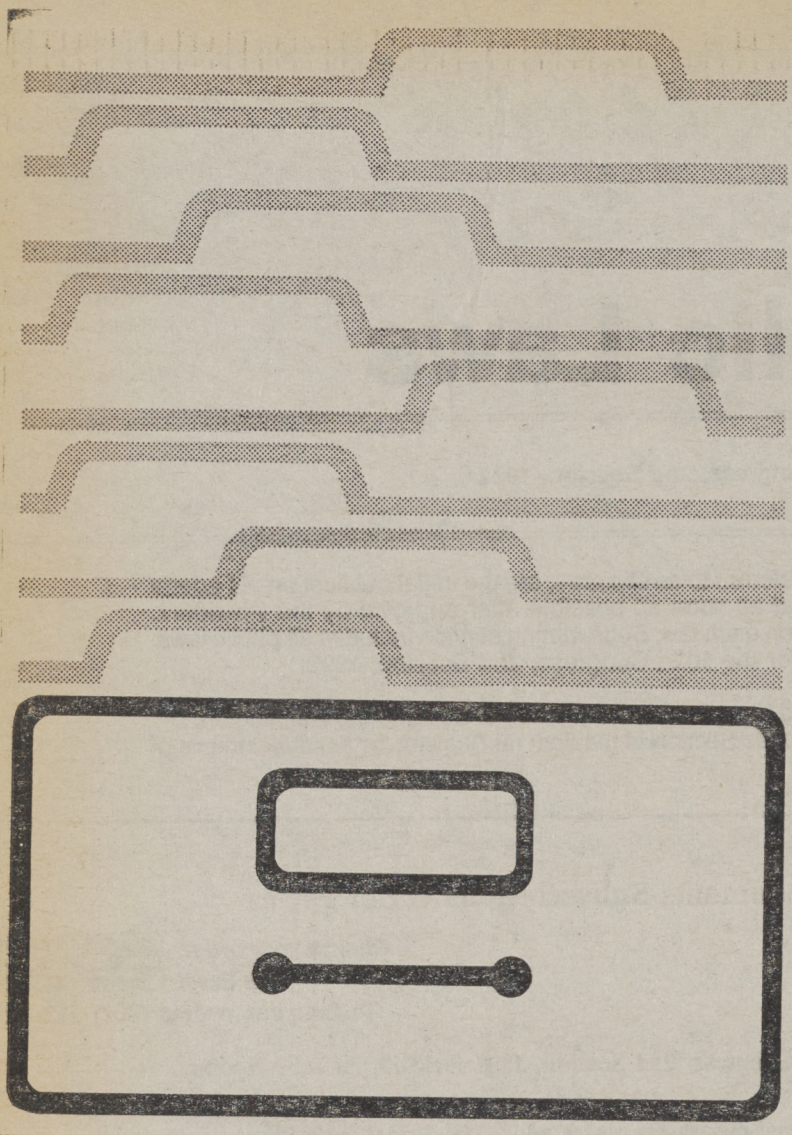

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