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WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

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2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)
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Contents

Federal Register

Vol. 58, No. 62

Friday, April 2, 1993

Agriculture Department
See Food and Nutrition Service

Army Department
See Engineers Corps

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

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

Commerce Department
See Export Administration Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities under OMB review, 17379

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 17385, 17386

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Laos, 17384

Commodity Futures Trading Commission
PROPOSED RULES
Complaints against registered persons; class action suits, 17369

Copyright Royalty Tribunal
NOTICES
Cable royalty fees:
Distribution proceedings, 17387

Defense Department
See Engineers Corps

Education Department
PROPOSED RULES
Postsecondary education:
Federal direct student loan program, 17472

Employment and Training Administration
NOTICES
Adjustment assistance:
Ardyne, Inc., 17430
Arkla Exploration Co., 17430
Bethlehem Steel Corp., 17430
Monessen, Inc., 17430

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 17431

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Grant and cooperative agreement awards:
Gas Technology Information, Inc., 17387

Engineers Corps
PROPOSED RULES
Danger zones and restricted areas:
Atlantic Ocean south of Chesapeake Bay entrance, VA, 17373
Norfolk Naval Shipyard, VA, 17374

Environmental Protection Agency
NOTICES
Alternative fuels research strategy; document availability, 17395
Drinking water:
Public water supply supervision program—
Maryland, 17395
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 17396,
Weekly receipts, 17397
Toxic and hazardous substances control:
Polychlorinated biphenyls (PCBs); applications for disposal approval, 17397

Equal Employment Opportunity Commission
NOTICES
Agency information collection activities under OMB review, 17398

Export Administration Bureau
NOTICES
Meetings:
Computer Systems Technical Advisory Committee, 17379

Farm Credit Administration
NOTICES
Meetings; Sunshine Act, 17469

Federal Aviation Administration
RULES
Control zones, 17322
Restricted areas, 17323
Standard instrument approach procedures, 17324, 17325
NOTICES
Airport noise compatibility program:
Pueblo Memorial Airport, CO, 17466
Exemption petitions; summary and disposition, 17467
Passenger facility charges; applications, etc.:
Lubbock International Airport, TX, 17467

Federal Communications Commission
RULES
Radio stations; table of assignments:
Florida, 17349
Television broadcasting:
Cable television systems—
Must-carry and retransmission consent provisions, 17350

PROPOSED RULES
Radio services, special:
Amateur services—
Message forwarding systems, 17375
NOTICES
Agency information collection activities under OMB review, 17399
Public safety radio communications plans:
Arkansas, 17399
New Mexico, 17399

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 17469

Federal Emergency Management Agency
NOTICES
Disaster and emergency areas:
Florida, 17400
Georgia, 17400
Virginia, 17400

Federal Energy Regulatory Commission
NOTICES
Hydroelectric applications, 17388, 17389
Applications, hearings, determinations, etc.:
Central Louisiana Electric Co., Inc., 17394
Northeast Utilities Service Co., 17394
NW Energy (William Lake), Limited Partnership; correction, 17394
Public Service Co. of Colorado, 17394

Federal Housing Finance Board
NOTICES
Meetings; Sunshine Act, 17469

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Barnett Banks, Inc., 17401
Farmers & Traders Bancshares, Inc., et al., 17401

Federal Trade Commission
NOTICES
Prohibited trade practices:
AE Clevite, Inc., 17405
ASFE, Association of Engineering Firms Practicing in the Geosciences, 17401
Fone Telecommunications, Inc., 17408
National Association of Social Workers, 17411

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Hartweg's golden sunburst, etc., 17376
NOTICES
Environmental statements; availability, etc.:
National Wildlife Refuge System management, 17426

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Fenbendazole, etc.; correction, 17346
Isoflurane, 17346
Food for human consumption:
Food labeling—
Dietary lipids and cancer; health claims and label statements; correction, 17343
Nutrient content claims; general principles, petitions, and definition of terms; correction, 17341
Nutrition labeling, mandatory status; and nutrient content revision; correction, 17328
NOTICES
Animal drugs, feeds, and related products:
New drug applications—
Stevan M. Rogers Farm; proposal to withdraw, 17412
Veterinary Medicine Center list of guidelines; availability, 17413
Human drugs:
Patent extension; regulatory review period determinations—
DAYPRO, 17416

Food and Nutrition Service
NOTICES
Child nutrition programs:
School breakfast—
National school lunch program and school breakfast program, 17378

Health and Human Services Department
See Food and Drug Administration
See Health Care Financing Administration
See Health Resources and Services Administration
See National Institutes of Health
See Public Health Service

Health Care Financing Administration
NOTICES
Medicare:
Peer review organizations—
Contracts; in-State organizations statements of interest, 17417

Health Resources and Services Administration
See Public Health Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Maternal and child health services; Federal set-aside programs, 17418

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 17422

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service
See Surface Mining Reclamation and Enforcement Office

International Trade Administration
NOTICES
Antidumping:
Carbon steel butt-weld pipe fittings from—
Japan, 17380
Fresh and chilled Atlantic salmon from—
Norway, 17380
Melamine from—
Japan, 17382
Pads for woodwind instrument keys from—
Italy, 17382

Interstate Commerce Commission
NOTICES
Motor carriers:
Compensated intercorporate hauling operations, 17428
Declaratory order petitions—
Georgia-Pacific Corp., 17428

Justice Department
NOTICES
Pollution control; consent judgments:
Fiano, Lore, et al., 17429

Labor Department
See Employment and Training Administration
See Employment Standards Administration
See Labor Statistics Bureau

Labor Statistics Bureau
NOTICES
Meetings:
Business Research Advisory Council, 17429

Land Management Bureau
NOTICES
Alaska Native claims selection:
Sealaska Corp., 17423
Environmental statements; availability, etc.:
Oklahoma, 17423
Opening of public lands:
Oregon, 17424
Recreation use permit system:
Colorado River, etc., CO, 17424
Supplementary rule establishment; persons under 21 possessing alcoholic beverages on public land; prohibition, 17425
Survey plat filings:
Oregon, 17426

Maritime Administration
RULES
Subsidized vessels and operators:
Bulk cargo vessels; operating-differential subsidy; maintenance and repair subsidy rates; calculation, 17346

National Aeronautics and Space Administration
NOTICES
Meetings:
Aeronuatics Advisory Committee, 17432
Space Science and Applications Advisory Committee, 17432

National Archives and Records Administration
NOTICES
Agency records schedules; availability, 17432
Nixon Presidential historical materials; opening of materials, 17433

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Presenting and Commissioning Advisory Panel, 17434

National Institutes of Health
NOTICES
Meetings:
National Cancer Institute, 17419, 17420
National Heart, Lung, and Blood Institute, 17421
National Institute of General Medical Sciences, 17421
National Institute on Deafness and Other Communications Disorders, 17421

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Bering Sea and Aleutian Islands groundfish, 17366, 17367
Marine mammals:
Sea turtle conservation requirements; restrictions applicable to shrimp trawlers and other fisheries, 17364
NOTICES
Permits:
Endangered and threatened species, 17383
Marine mammals, 17383, 17384

National Park Service
NOTICES
Environmental statements; availability, etc.:
Cape Cod National Seashore, MA, 17427
Timpanogos Cave National Monument, UT, 17427
Meetings:
Chesapeake and Ohio Canal National Historical Park Commission, 17428

National Science Foundation
NOTICES
Meetings:
Chemical and Thermal Systems Special Emphasis Panel, 17434

Nuclear Regulatory Commission
RULES
Practice rules:
Domestic licensing proceedings—
Policy statement, 17321
NOTICES
Meetings:
Reactor Safeguards Advisory Committee, 17434
Organization, functions, and authority delegations:
Local public document room relocation and establishment—
Combustion Engineering, Inc.; Hematite, MO, 17435
Applications, hearings, determinations, etc.:
Agriculture Department, 17436

Public Health Service
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
NOTICES
Indian Health Service facilities; inpatient and outpatient medical care; 1993 CY reimbursement rates, 17422

Resolution Trust Corporation
NOTICES
Coastal Barrier Improvement Act; property availability:
Forges Field Development, MA, 17438
Oak Summit, CA, 17439

Securities and Exchange Commission
RULES
Electronic Data Gathering, Analysis, and Retrieval System (EDGAR):
Investment and business development companies and institutional investment managers; operational phase implementation

Correction. 17327
NOTICES
Meetings; Sunshine Act, 17469
Self-regulatory organizations; proposed rule changes:
Boston Stock Exchange, Inc., 17462
Applications, hearings, determinations, etc.:
Public utility holding company filings, 17463
Thomson Fund Group et al., 17464

Selective Service System
NOTICES
Health care personnel delivery system; development, 17439

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
Ohio. 17372

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Federal Aviation Administration
See Maritime Administration
NOTICES
Aviation proceedings:
Agreements filed; weekly receipts, 17466
Certificates of public convenience and necessity and foreign air carrier permits; weekly receipts, 17465

Separate Parts In This Issue

Part II
Department of Education, 17471

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

10 CFR
2.....17321

14 CFR
71.....17322
73.....17323
97 (2 documents).....17324, 17325

17 CFR
200.....17327
202.....17327
229.....17327
230.....17327
239.....17327
240.....17327
249.....17327
250.....17327
259.....17327
270.....17327
274.....17327

Proposed Rules:
12.....17369

21 CFR
1.....17328
5.....17341
101 (3 documents).....17328, 17341, 17343
529.....17346
558.....17346

30 CFR

Proposed Rules:
935.....17372

33 CFR

Proposed Rules:
334 (2 documents).....17373, 17374

34 CFR

Proposed Rules:
685.....17472

46 CFR
252.....17346

47 CFR
73.....17349
76.....17350

Proposed Rules:
97.....17375

50 CFR
217.....17364
227.....17364
675 (2 documents).....17366, 17367

Proposed Rules:
17.....17376

Rules and Regulations

Federal Register
Vol. 58, No. 62
Friday, April 2, 1993

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

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150–AE59

Policy and Procedure for NRC Enforcement Actions; Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement: Modification and request for comments.

SUMMARY: The NRC is modifying Supplement VI of its Enforcement Policy to revise certain of the examples of severity levels for violations associated with the quality management program required by 10 CFR 35.32. The examples of severity levels are used in the enforcement process to provide guidance in determining the safety and regulatory significance of a particular violation.

DATES: This revised policy statement is effective on April 2, 1993. Submit comments on or before May 3, 1993. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date. Comments may be considered in future revisions of the statement of policy.

ADDRESSES: Send comments to: 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 20852, between 7:30 a.m. and 4:15 p.m., Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street, NW., (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 504–2741.

SUPPLEMENTARY INFORMATION: On July 25, 1991, the Commission published in the **Federal Register** (56 FR 34121) a final rule, effective January 27, 1992, requiring persons subject to the requirements of 10 CFR Part 35 to establish a quality management program and meet certain reporting requirements for misadministrations. As part of that Notice, the Commission modified its Enforcement Policy to provide examples in Supplement VI of severity levels for potential violations associated with the new requirements. The examples of severity level are used in the enforcement process to provide guidance in determining the safety and regulatory significance of a particular violation. The enforcement action taken is, in part, based upon the severity level decision. As a result of comments on the rulemaking, NRC has reconsidered the severity level examples for misadministrations.

The NRC is revising examples B.3, C.6, and D.4 of Supplement VI, which are the examples of violations of Severity Levels II, III, and IV, respectively. The basic purpose and thrust of the revisions is to provide greater emphasis, and attach greater importance, to violations which are indicative of or flow from deficiencies of a programmatic nature. Such deficiencies are preventable and are more likely to have a widespread or severe impact than are isolated mistakes involving human error made in the treatment of individual patients. The revisions also reflect a reduced Severity Level assignment for individual violations which represent isolated mistakes or errors of limited consequences that qualify as reportable misadministrations but are not indicative of or due to any programmatic failure or weakness.

The current examples for Severity Levels II and III, examples B.3 and C.6, reflect the assignment of Severity Level based on whether or not a misadministration occurred and the magnitude of overdose involved. Under the current examples, any failure to follow quality management program procedures resulting in an overdose of 50 percent or more is automatically a Severity Level II event; any misadministration not involving an overdose of 50 percent or more is automatically a Severity Level III event, regardless of whether there is an overexposure or underexposure.

Neither of these examples considers the causes of the misadministration. These examples do not provide for any assessment of the scope or magnitude of any programmatic deficiencies, nor do they depend, in any way, on whether or not the misadministration represented an isolated and inconsequential event resulting purely from human error. While the consequences of a misadministration are important, as reflected in example A.4 for Severity Level I which addresses misadministrations involving death or serious injury to a patient, it is appropriate in less consequential misadministrations to give consideration to the root cause in determining the severity level. This approach to enforcement is more likely to focus licensee attention on the need to address programmatic deficiencies with corrective action. Therefore, examples B.3 and C.6 are being revised to consider the degree of programmatic weakness in the causes of a misadministration.

Under revised example B.3, Severity Level II is assigned whenever a misadministration occurs as a result of a substantial failure to implement the quality management program required by 10 CFR 35.32, regardless of whether or not an overdose of 50 percent or more is involved. The assignment of Severity Level II is no longer dependent on the occurrence of an overdose of at least 50 percent.

Under revised example C.6, Severity Level III is assigned: (1) Whenever there is a substantial failure to implement the quality management program required by 10 CFR 35.32 even if there is no resulting misadministration; (2) if programmatic weakness in implementation of the quality management program results in a misadministration; or (3) if a misadministration is not reported.

Example D.3, the example for a Severity Level IV violation, is being revised to include instances where failure to follow the quality management program, including procedures, results in a reportable misadministration provided that such failures are isolated, have limited consequences, and do not demonstrate a

programmatic weakness in the implementation of the quality management program. A lower Severity Level may be assigned to those events where simple human error results in an isolated violation despite the development and implementation of a fully adequate quality management program as required by 10 CFR 35.32, including appropriate instruction, training, policies and procedures, written directives, and supervision. However, such violations involving misadministrations with potential for residual consequences will be considered for a Severity Level III categorization.

The Commission, nonetheless expects that all violations of NRC regulations and the licensee's quality management programs will be addressed with appropriate corrective actions so as to provide a high degree of confidence that byproduct material or radiation from byproduct material is administered to patients only as intended and directed by authorized user physicians. In this regard, the Commission emphasizes that all such violations are of concern, and that repetitive Severity Level IV violations may result in escalation of the sanctions applied, and could lead to the imposition of civil penalties or other sanctions, *e.g.*, suspension or revocation of a license, as the Commission may determine to be either necessary or appropriate to enforce compliance.

The determination of severity level based on the degree of programmatic weaknesses will be fact dependent. While generally a single failure that resulted in a misadministration would not be indicative of a programmatic weakness, depending on the circumstances, it may. For example, the failure to train one technician may indicate a programmatic weakness for a small program or where the technician not trained is the sole technician on a weekend shift.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Civil penalty, Enforcement, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Violations, and Waste treatment and disposal.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS

1. The authority citation for part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10134(f)); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161b, i, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat 1246 (42 U.S.C. 5846). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 and Table 1A of Appendix C also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99–240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.).

2. Appendix C, Supplement VI is amended by revising examples B.3, C.6, and D.3 to read as follows:

Appendix C—General Statement of Policy and Procedure for NRC Enforcement Actions

* * * * *

Supplement VI—Fuel Cycle and Materials Operations

* * * * *

B. Severity Level II—Violations involving for example:

* * * * *

3. A substantial programmatic failure in the implementation of the quality management program required by 10 CFR 35.32 that results in a misadministration.

C. Severity Level III—Violations involving for example:

* * * * *

6. Substantial failure to implement the quality management program as required by § 35.32 that does not result in a misadministration; failure to report a misadministration; or programmatic weakness in the implementation of the quality management program that results in a misadministration.

* * * * *

D. Severity Level IV—Violations involving for example:

* * * * *

3. Failure to follow the quality management program, including procedures, whether or not a misadministration occurs, provided the failures are isolated, do not demonstrate a programmatic weakness in the implementation of the QM program, and have limited consequences if a misadministration is involved; failure to conduct the required program review; or failure to take corrective actions as required by § 35.32; or

* * * * *

Dated at Rockville, Maryland, this 26th day of March 1993.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93–7522 Filed 4–1–93; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 92–ANM–23]

Amendment to Coppertown Control Zone; Coppertown, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Coppertown Control Zone, Coppertown, Montana, from full-time to part-time. A reduction in personnel staffing of the Butte Flight Service Station has resulted in weather observations not being available 24 hours-a-day. This action will bring publications up-to-date giving continuous information to the aviation public.

EFFECTIVE DATE: 0901 utc May 27, 1993.

FOR FURTHER INFORMATION CONTACT: James Riley, ANM–537, Federal Aviation Administration, Docket No. 92–ANM–23, 1601 Lind Avenue SW., Renton, Washington 98055–4056, Telephone (206) 227–2537.

SUPPLEMENTARY INFORMATION:

History

On December 7, 1992, the FAA proposed to amend part 71 of the Federal Aviation Regulation (14 CFR part 71) to change the status of the Coppertown control zone from full-time to part-time (57 FR 57709).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Accordingly, the rule is adopted as proposed. The coordinates for this Airspace Docket are based on North American Datum 83. Control Zones are published in Section 71.171 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The control zone listed in this document will be published subsequently in the Order.

The Rule

This amendment of part 71 of the Federal Aviation Regulations changes the status of the Coppertown Control Zone, Coppertown, Montana, from full-time to part-time. A reduction in personnel staffing at the Butte Flight Service Station has resulted in weather observations not being available 24 hours-a-day, and, therefore, full-time control zone service is not available. This amendment allows for changes in the hours of effectiveness by issuance of Notices to Airmen when minor variations in time of designation are anticipated.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Incorporation by reference.

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.171 Designation of Control Zones

* * * * *

ANM MT CZ Coppertown, MT [Revised]
Butte, Bert Mooney, Airport , MT (lat. 45°57'12" N, long. 112°29'48" W)
Coppertown VORTAC (lat. 46°01'58" N, long. 112°44'50" W)

Within a 4.3 mile radius of the Bert Mooney Airport, and within 1.8 miles each side of the Coppertown VORTAC 115° radial extending from the 4.3-mile radius to the VORTAC, and within 2.7 miles each side of the Bert Mooney Airport Runway 15 localizer course extending from the 4.3-mile radius to 11.4 miles northwest of the airport. This control zone shall be effective during the specified dates and times established in advance by a Notice to Airmen. The effective date and time thereafter, will be continuously published in the airport/facility directory.

* * * * *

Issued in Seattle, Washington, on March 16, 1993.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division.

[FR Doc. 93–7743 Filed 4–1–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 73

[Airspace Docket No. 93–ANM–15]

Amendment To Using Agency for Restricted Areas R–5701, R–5706, R–6701, R–6707

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the name of the using agency for Restricted Areas R–5701 and R–5706 in Oregon, and R–6701 and R–6707 in the State of Washington. Currently, the Commander, Medium Attack Tactical Electronic Warfare Wing, Naval Air Station, Whidbey Island, WA, is the designated using agency for these restricted areas. As a result of reorganization within the United States Navy, the new using agency is U.S. Navy, Commanding Officer, NAS Whidbey Island, Oak Harbor, WA.

EFFECTIVE DATE: 0901 UTC, May 27, 1993.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Military Operations Program Office (ATM–420), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–7686.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 73 of the Federal Aviation Regulations changes the name of the using agency for Restricted Areas R–5701 and R–5706 located in Oregon, and R–6701 and R–6707 located in the State of Washington. Currently, the Commander, Medium Attack Tactical Electronic Warfare Wing, Naval Air Station, Whidbey Island, WA, is the designated using agency for these restricted areas. As a result of reorganization within the United States Navy, the new using agency is U.S. Navy, Commanding Officer, NAS Whidbey Island, Oak Harbor, WA. This action is an editorial change only and does not affect the designated boundaries, altitudes, times of designation, or activities conducted in these restricted areas. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public is not particularly interested. Sections 73.57 and 73.67 of part 73 of the Federal Aviation Regulations were republished in Handbook 7400.8 dated November 1, 1991.

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

is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

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

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

§ 73.57 [Amended]

2. Section 73.57 is amended as follows:

R–5701 Boardman, OR [Amended]

By removing "Using agency. Commander, Medium Attack Tactical Electronic Warfare Wing, NAS Whidbey Island, WA," and substituting the following:

"Using agency. U.S. Navy, Commanding Officer, NAS Whidbey Island, Oak Harbor, WA."

R–5706 Boardman, OR [Amended]

By removing "Using agency. Commander, Medium Attack Tactical Electronic Warfare Wing, NAS Whidbey Island, WA," and substituting the following:

"Using agency. U.S. Navy, Commanding Officer, NAS Whidbey Island, Oak Harbor, WA."

§ 73.67 [Amended]

3. Section 73.67 is amended as follows:

R–6701 Admiralty Inlet, WA [Amended]

By removing "Using agency. Commander, Medium Attack Tactical Electronic Warfare Wing, NAS Whidbey Island, WA," and substituting the following:

"Using agency. U.S. Navy, Commanding Officer, NAS Whidbey Island, Oak Harbor, WA."

R–6707 Queets, WA [Amended]

By removing "Using agency. Commander, Medium Attack Tactical Electronic Warfare Wing, NAS Whidbey Island, WA," and substituting the following:

"Using agency. U.S. Navy, Commanding Officer, NAS Whidbey Island, Oak Harbor, WA."

Issued in Washington, DC, on March 24, 1993.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93–7742 Filed 4–1–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 27216; Amdt. No. 1539]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the

close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches, Weather.

Issued in Washington, DC, on March 26, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective May 27, 1993*

Decatur, AR, Crystal Lake, VOR/DME RWY 13, Amdt. 8
Huntsville, AR, Huntsville-Madison County Regional, VOR/DME RWY 12, Amdt. 1
Siloam Springs, AR, Smith Field, VOR–A, Amdt. 8
Siloam Springs, AR, Smith Field, VOR/DME RNAV RWY 18, Amdt. 1
Springdale, AR, Springdale Muni, VOR RWY 18, Amdt. 13
Springdale, AR, Springdale Muni, VOR/DME RWY 36, Amdt. 7
Springdale, AR, Springdale Muni, ILS RWY 18, Amdt. 4
Statesboro, GA, Statesboro, Muni, LOC RWY 32, Amdt. 4
Statesboro, GA, Statesboro, Muni, NDB RWY 32, Amdt. 4
Coeur D'Alene, ID, Coeur D'Alene Air Terminal, VOR RWY 1, Amdt. 1, Cancelled
Coeu D'Alene, ID, Coeur D'Alene Air Terminal, VOR RWY 1, Amdt. 1, Orig.
West Union, IA, George L. Scott Muni, NDB RWY 35, Amdt. 4
West Union, IA, George L. Scott Muni, VOR/DME–A, Amdt. 3
New Orleans, LA, Lakefront, VOR–A, Amdt. 16
New Orleans, LA, Lakefront, VOR–B, Amdt. 8
New Orleans, LA, Lakefront, VOR RWY 18R, Amdt. 3
New Orleans, LA, Lakefront, VOR/DME RWY 36L, Amdt. 6
New Orleans, LA, Lakefront, ILS RWY 18R, Amdt. 11
New Orleans, LA, New Orleans Intl (Moisant Field), LOC BC RWY 10, Amdt. 13
New Orleans, LA, New Orleans Intl (Moisant Field), NDB RWY 10, Amdt. 25
New Orleans, LA, New Orleans Intl (Moisant Field), ILS RWY 1, Amdt. 15
New Orleans, LA, New Orleans Intl (Moisant Field), ILS RWY 10, Amdt. 1
New Orleans, LA, New Orleans Intl (Moisant Field), ILS RWY 28, Amdt. 3
Charlotte, MI, Fitch H. Beach, VOR RWY 20, Amdt. 10
Eaton Rapids, MI, Skyway Estates, VOR–A, Amdt. 1
Grand Ledge, MI, Abrams Muni, VOR–A, Amdt. 5
Grand Rapids, MI, Kent County Intl, NDB RWY 26L, Amdt. 19
Grand Rapids, MI, Kent County Intl, ILS RWY 26L, Amdt. 19
Ionia, MI, Ionia County, VOR–A, Orig.
Ionia, MI, Ionia County, VOR RWY 27, Amdt. 6, Cancelled
Jackson, MI, Jackson County-Reynolds Field, VOR RWY 6, Amdt. 19
Jackson, MI, Jackson County-Reynolds Field, VOR RWY 14, Amdt. 19
Jackson, MI, Jackson County-Reynolds Field, VOR RWY 24, Amdt. 21
Jackson, MI, Jackson County-Reynolds Field, VOR RWY 32, Amdt. 17
Jackson, MI, Jackson County-Reynolds Field, NDB RWY 24, Amdt. 14
Jackson, MI, Jackson County-Reynolds Field, ILS 24, Amdt. 14
Lansing, MI, Capital City, VOR RWY 6, Amdt. 24
Lansing, MI, Capital City, VOR RWY 24, Amdt. 8
Lansing, MI, Capital City, NDB RWY 28L, Amdt. 24
Lansing, MI, Capital City, ILS RWY 10R, Amdt. 9
Lansing, MI, Capital City, ILS RWY 28L, Amdt. 25
Lansing, MI, Capital City, RADAR–1, Amdt. 14
Mason, MI, Mason Jewett Field, VOR–A, Amdt. 3
Chappell, NE, Billy G. Ray Field, NDB RWY 30, Amdt. 2
Orangeburg, SC, Orangeburg Muni, NDB RWY 5, Amdt. 3A, Cancelled
Orangeburg, SC, Orangeburg Muni, NDB RWY 5, Orig.
Wise, VA, Lonesome Pine, SDF/DME RWY 24, Amdt. 3

* * * *Effective March 19, 1993*

Seattle, WA, Boeing Field/King County Intl, ILS RWY 13R, Amdt. 27.

[FR Doc. 93–7740 Filed 4–1–93; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 27217; Amdt. No. 1540]

Standard Instrument Approach Procedures: Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The Provisions of this amendments state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled. The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPs criteria were applied to only these specific conditions existing at the affected airports.

This amendment to part 97 contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the US Standard for Terminal Instrument Approach Procedures (TERPs). Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard Instrument, Incorporation by reference.

Issued in Washington, DC on March 26, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

NFDC TRANSMITTAL LETTER

Effective	State	City	Airport	FDC No.	SIAP
02/22/93	NJ	Linden	Linden Airport	3/0922	VOR/DME–D ORIG...
03/12/93	AL	Troy	Troy Muni	3/1284	NDB RWY 7 AMDT 10...
03/12/93	AL	Troy	Troy Muni	3/1285	ILS RWY 7 AMDT 7...
03/12/93	OH	Hillsboro	Highland County	3/1294	VOR/DME–A AMDT 1...
03/12/93	SC	Sumter	Sumter Muni	3/1282	NDB RWY 22 AMDT 2A...
03/16/93	KS	Hutchinson	Hutchinson Muni	3/1388	VOR/DME RWY 21 AMDT 5...
03/16/93	KS	Hutchinson Muni	Hutchinson Muni	3/1389	VOR RWY 3 AMDT 18...
03/18/93	GA	Atlanta	Fulton County Airport-Brown Field.	3/1484	ILS RWY 8, AMDT 15...
03/18/93	SC	Manning	Santee Cooper Regional	3/1465	NDB RWY 1 AMDT 1...
03/18/93	SC	Manning	Santee Cooper Regional	3/1467	VOR/DME–A AMDT 3...
03/19/93	AR	Rogers	Rogers Municipal-Carter Field	3/1492	NDB RWY 19 ORIG–A...
03/19/93	MI	Bay City	James Clements Muni	3/1508	VOR–A AMDT 11...
03/19/93	MI	Gladwin	Charles C. Zettel Memorial	3/1509	NDB RWY 27 AMDT 3...
03/19/93	MN	Ely	Ely Muni	3/1513	VOR/DME RWY 30 AMDT 3A...
03/19/93	MN	Ely	Ely Muni	3/1515	VOR RWY 30 AMDT 5A...
03/19/93	MN	Ely	Ely Muni	3/1516	VOR/VOR RWY 12 AMDT 5A...
03/22/93	KS	Augusta	Augusta Muni	3/1573	VOR/DME RNAV RWY 36 ORIG...
03/22/93	MI	Wixom	Spencer Field	3/1554	VOR–A AMDT 1...
03/22/93	MO	Sedalia	Sedalia Memorial	3/1545	NDB RWY 18 AMDT 7A...
03/22/93	WV	Beckley	Raleigh County Memorial	3/1558	VOR RWY 10 AMDT 12...
03/22/93	WV	Beckley	Raleigh County Memorial	3/1559	VOR RWY 19 AMDT 3...
03/23/93	MI	Midland	Jack Barstow	3/1576	VOR–A AMDT 5...
03/23/93	MI	Owosso	Owosso Community	3/1578	VOR RWY 28 AMDT 5...
03/24/93	FL	Jacksonville	Jacksonville Intl	3/1602	LOC BC RWY 31 AMDT 8...
03/24/93	IN	Peru	Peru Muni	3/1595	VOR RWY 1AMDT 5...
03/24/93	MN	Thief River Falls	Thief River Falls Regional	3/1596	VOR/DME RWY 31 AMDT 3...
03/24/93	MN	Thief River Falls	Thief River Falls Regional	3/1597	ILS RWY 31 AMDT 2...
03/24/93	MN	Thief River Falls	Thief River Falls Regional	3/1598	NDB RWY 31 AMDT 1...
03/24/93	MN	Thief River Falls	Thief River Falls Regional	3/1599	VOR RWY 13 AMDT 8...
03/24/93	MN	Thief River Falls	Thief River Falls Regional	3/1600	VOR/DME RWY 13 AMDT 2...
03/24/93	MN	Thief River Falls	Thief River Falls Regional	3/1601	VOR RWY 31 AMDT 8...
03/24/93	OH	West Union	Alexander Salamon	3/1603	NDB RWY 23 AMDT 3...
03/25/93	MI	Detroit	Willow Run	3/1610	ILS RWY 5R AMDT 14...
03/25/93	MI	Marlette	Marlette	3/1611	VOR/DME–A AMDT 5...
09/19/93	MN	Ely	Ely Muni	3/1514	VOR/DME RWY 12 AMDT 3A...

[FR Doc. 93–7741 Filed 4–1–93; 8:45 am]
BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 202, 229, 230, 239, 240, 249, 250, 259, 270, and 274

[Release Nos. 33–6984; 34–32056; 35–25771; IC–19364]

Rulemaking for EDGAR System—Investment Companies and Institutional Investment Managers and Public Utility Holding Companies; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Correction to interim rules.

SUMMARY: This document contains corrections to the interim rules that were published Thursday, March 18, 1993 (58 FR 14848 and 14999). Those rules relate to the implementation of the Electronic Data Gathering, Analysis and Retrieval ("EDGAR") system.

EFFECTIVE DATE: These rules are effective April 26, 1993 except provisions relating to Financial Data Schedules which are effective November 1, 1993.

FOR FURTHER INFORMATION CONTACT: Ruth Armfield Sanders, Staff Attorney, at (202) 272–7714 and Richard T. Miller, Staff Attorney, at (202) 504–2268, Division of Investment Management.

SUPPLEMENTARY INFORMATION:

Background

The interim rules that are the subject of these corrections implement mandated electronic filing on the EDGAR system for registrants whose filings are processed by the Division of Investment Management and for those making filings with respect to such registrants. Development and implementation of the EDGAR system was effected pursuant to Section 35A of the Securities Exchange Act of 1934 (15 U.S.C. 78*ll*).

Correction of Publication

Accordingly, the publication on March 18, 1993 of the interim rules, which were the subject of FR Doc. 93–4806 and 93–4807, is corrected as follows:

1. On page 14848, second column, beginning on the fifth line of the **DATES** caption, the parenthetical is removed and in its place add the following: "contained in § 229.601(a)(1); § 230.483(e); Form S–6 (§ 239.16); § 270.20a-4; Form N-SAR (§ 274.101); Form N–2 (§§ 239.14 and 274.11a-1); Form N–1 (§§ 239.15 and 274.11); N–1A (§§ 239.15A and 274.11A); Form N–3 (§§ 239.17a and 274.11b); Form N–4 (§§ 239.17b and 274.11c) and Form N–5 (§§ 239.24 and 274.5)".

§ 200.30 [Corrected]

2. On page 14857, first column, beginning in the 10th line of the regulatory text of § 200.30–5(j) the words "rule 12(b) of Regulation S-T (§ 232.12(b) of this chapter)" is corrected to read "Regulation S-T".

3. On page 14999, second column, beginning in the second line (fifth line of the **DATES** caption), the parenthetical is removed and in its place add the following: "contained in Form U5S (§ 259.5s); Form U–1 (§ 259.101); Form

U–13–60 (§ 259.313); and Form U–3A–2 (§ 259.402)".

Dated: March 29, 1993.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–7695 Filed 4–1–93; 8:45 am]

BILLING CODE 6010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 1 and 101

[Docket Nos. 90N–0135, 91N–0162, 78P–0091, 87P–0194/CP, and 90P–0052]

RIN 0905–AD08

Food Labeling: Mandatory Status of Nutrition Labeling and Nutrient Content Revision, Format for Nutrition Label; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the Federal Register of January 6, 1993 (58 FR 2079). The document amended the regulations to require nutrition labeling on most foods that are regulated by FDA. The document was published with some inadvertent typographical and editorial errors. This document corrects those errors.

DATES: Effective May 8, 1994.

FOR FURTHER INFORMATION CONTACT: Virginia L. Wilkening, Center for Food Safety and Applied Nutrition (HFS–165), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4561.

In FR Doc. 92–31501, beginning on page 2079 in the Federal Register of Wednesday, January 6, 1993, the following corrections are made:

1. On page 2079, in the first column, under the caption "DATES:", in lines 1 and 9, "February 14, 1994" is corrected to read "May 8, 1994"; and under the caption "FOR FURTHER INFORMATION CONTACT:", beginning in line 2, the mail code "(HFF–200)" is corrected to read "(HFS–165)".

2. On page 2081, in the first column, in the second full paragraph, in line 9, a closing parenthesis is added after the word "acids"; and in the second column, in the first full paragraph, in line 21, a closing parenthesis is added after "(ii)".

3. On page 2097, in the second column, in the second full paragraph, in the fourth line from the bottom, the word "carcinogenicity" is corrected to read "cariogenicity".

4. On page 2099, in the third column, in the third full paragraph, beginning in the second line from the bottom, the phrase "mannitol) or is GRAS (e.g., xylitol, sorbitol)" is corrected to read "mannitol or xylitol) or is GRAS (e.g., sorbitol)".

5. On page 2105, in the third column, in the fifth full paragraph, beginning in line 8, the phrase "Division of Nutrition, Center for Food Safety and Applied Nutrition (HFF–260)" is corrected to read "Office of Food Labeling (HFS–150), Center for Food Safety and Applied Nutrition".

6. On page 2113, in the third column, beginning in the sixth line from the bottom, the phrase "Nutrient Surveillance Branch (HFF–266)" is corrected to "Office of Food Labeling (HFS–150)".

7. On page 2129, in the third column, in the first full paragraph, in line 10, the phrase ",as provided for by § 101.9(d)(8)" is removed and a period is added after the word "values".

8. On page 2132, in the first column, in the first full paragraph, in the third line from the bottom, "§ 101.9(d)(9)" is corrected to read "§ 101.9(d)(10)".

9. On page 2138, in the first column, in the second full paragraph, in line 9, "§ 101.9(d)(ii)" is corrected to read "§ 101.9(d)(11)".

10. On page 2142, in the second column, in the second full paragraph, in the fourth line from the bottom, the word "carcinogenicity" is corrected to read "cariogenicity"; and in the third column, after the second full paragraph, in heading number "5.", the phrase "Source of" is corrected to read "Source of ————————".

11. On page 2143, in the second column, in the first full paragraph, in line 8, the word "added" is added after the word "any".

12. On page 2157, in the first column, in the first full paragraph, beginning in the sixth line from the bottom, the phrase "Office of Nutrition and Food Sciences (HFF–200)" is corrected to read "Office of Food Labeling (HFS–150)".

13. On page 2164, in the first column, in the first full paragraph, beginning in the fifth line from the bottom, the phrase "Division of Nutrition (HFF–260), Office of Nutrition and Food Sciences" is corrected to read "Office of Food Labeling (HFS–150)".

§ 101.9 [Corrected]

The following corrections are made in § 101.9 *Nutrition labeling of food*:

14. On page 2175, in the second column, beginning in the sixth line from the bottom in paragraph (c)(1)(i)(A), the phrase "Division of Nutrition, Center for Food Safety and Applied Nutrition (HFF–260)," is corrected to read "Office of Food Labeling (HFS–150), Center for Food Safety and Applied Nutrition".

15. On page 2177, in the first column, beginning in line 14 of paragraph (c)(6)(iii), the phrase "(e.g., mannitol) or is generally recognized as safe (e.g., xylitol, sorbitol)" is corrected to read "(e.g., mannitol or xylitol) or is generally recognized as safe (e.g., sorbitol)"; in the third column, beginning in the 18th line from the bottom of paragraph (c)(7)(ii), the phrase "Division of Nutrition, Center for Food Safety and Applied Nutrition (HFF–260)" is corrected to read "Office of Food Labeling (HFS–150), Center for Food Safety and Applied Nutrition".

16. On page 2178, in the first column, in paragraph (c)(8)(i), beginning in line 7, the phrase "RDI's in paragraph (c)(8)(iv) of this section that" is corrected to read "RDI's that"; in paragraph (c)(8)(ii), in the last line, the phrase "minerals that are:" is corrected to read "minerals need not be declared if neither the nutrient nor the component is otherwise referred to on the label or in labeling or advertising and the vitamins and minerals are:"; and in paragraph (c)(8)(ii)(B), beginning in line 3, the phrase "statement need not be declared if neither the nutrient nor the component is otherwise referred to on the label or in labeling or advertising" is corrected to read "statement".

17. On page 2179, in the second column, in paragraph (d)(8), in line 6, the phrase "Iron 4%) as shown" is corrected to read "Iron 4%) or may be listed in two columns as shown"; in paragraph (d)(9)(i), in line 4, the word "value" is corrected to read "values"; in paragraph (d)(9)(ii), in line 4, "(d)(5)(ii)" is corrected to read "(d)(7)(ii)"; beginning in line 5, the phrase "and the DRV established in paragraph (c)(7)(iii) of this section shall be inserted on the same line in the numeric columns" is corrected to read "and a value of 50 g shall be inserted on the same line in the column headed '2,000' and a value of 65 g in the column headed '2,500'"; and in paragraph (d)(9)(iii), in line 2, "(d)(5)(i)" is corrected to read "(d)(7)(i)".

18. On page 2180, in paragraph (d)(12), the sample label is corrected to read as follows:

BILLING CODE 4160–01–F

Nutrition Facts

Serving Size 1 cup (228g)
Servings Per Container 2

Amount Per Serving

Calories 260 Calories from Fat 120

	% Daily Value*
Total Fat 13g	**20%**
Saturated Fat 5g	**25%**
Cholesterol 30mg	**10%**
Sodium 660mg	**28%**
Total Carbohydrate 31g	**10%**
Dietary Fiber 0g	**0%**
Sugars 5g	
Protein 5g	

Vitamin A 4% • Vitamin C 2%

Calcium 15% • Iron 4%

* Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:

	Calories:	2,000	2,500
Total Fat	Less than	65g	80g
Sat Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g

Calories per gram:
Fat 9 • Carbohydrate 4 • Protein 4

19. On page 2181, in the first column, in paragraph (e), beginning in line 10, the phrase "are established in paragraph (c)(8)(iv) of this section" is corrected to read "are established".

20. On page 2182, in paragraph (e)(5), the sample label is corrected to read as follows:

Nutrition Facts

Serving Size 1/12 cake (80g)
Servings Per Container 12

Amount Per Serving	Mix	Baked
Calories	190	280
Calories from Fat	45	140
	% Daily Value**	
Total Fat 5g*	**8%**	**24%**
Saturated Fat 2g	**10%**	**13%**
Cholesterol 0mg	**0%**	**23%**
Sodium 300mg	**13%**	**13%**
Total Carbohydrate 34g	**11%**	**11%**
Dietary Fiber 0g	**0%**	**0%**
Sugars 18g		
Protein 2g		
Vitamin A	0%	0%
Vitamin C	0%	0%
Calcium	6%	8%
Iron	2%	4%

* Amount in Mix

** Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:

	Calories:	2,000	2,500
Total Fat	Less than	65g	80g
Sat Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g

Calories per gram:
Fat 9 • Carbohydrate 4 • Protein 4

21. On page 2183, in the first column, in paragraph (f)(2)(ii), in line 2, "(f)(1)" is corrected to read "(f)"; in paragraph (f)(2)(iv), in line 1, the phrase "minerals that are" is corrected to read "minerals listed in paragraph (c)(8)(iv) of this section"; in the third column, in paragraph (g)(8), beginning in the second line from the bottom, the phrase "Division of Nutrition, Center for Food Safety and Applied Nutrition (HFF–260)," is corrected to read "Office of Food Labeling (HFS–150), Center for Food Safety and Applied Nutrition".

22. On page 2184, in the first column, in paragraph (g)(9), beginning in the fourth line from the bottom, and in the second column, in paragraph (h)(3)(iv), beginning in the fifth line from the bottom, the phrase "Office of Nutrition and Food Sciences (HFF–200)" is corrected to read "Office of Food Labeling (HFS–150)".

23. On page 2185, in the first column, in paragraph (j)(4), in line 12, the word "Foods" is corrected to read "Examples of foods"; and in the third column, in paragraph (j)(13)(ii)(A), in line 7, the phrase "if the package shape or size" is corrected to read "if the product has a total surface area available to bear labeling of 40 or less square inches and the package shape or size".

24. On page 2187, Nutrition Facts, the sample label is corrected to read as follows:

Nutrition Facts

Serv. Size 1/3 cup (56g)
Servings about 3
Calories 80
Fat Cal. 10

*Percent Daily Values (DV) are based on a 2,000 calorie diet.

Amount/serving	% DV*	Amount/serving	% DV*
Total Fat 1g	2%	**Total Carb.** 0g	0%
Sat.Fat 0g	0%	Fiber 0g	0%
Cholest. 10mg	3%	Sugars 0g	
Sodium 200mg	8%	**Protein** 17g	

Vitamin A 0% • Vitamin C 0% • Calcium 0% • Iron 6%

25. On page 2189, in appendix B to part 101, the illustration is corrected to read as follows:

Appendix B to Part 101

Examples of Graphic Enhancements used by the FDA

A.Overall

1. Nutrition Facts Label is boxed with all black or one color type printed on a white or neutral ground.

B. Typeface and size

1. The "Nutrition Facts" label uses 6 point or larger Helvetica Black and/or Helvetica Regular type. In order to fit some formats the typography may be kerned as much as -4, (tighter kerning reduces legibility).
2. Key nutrients & their % Daily Value are set in 8 point Helvetica Black (but "%" is set in Helvetica Regular).
3. "Nutrition Facts" is set in either Franklin Gothic Heavy or Helvetica Black to fit the width of the label flush left and flush right.
4. "Serving Size" and "Servings per container" are set in 8 point Helvetica Regular with 1 point of leading.
5. The table labels (for example; "Amount per Serving") are set 6 point Helvetica Black.
6. Absolute measures of nutrient content (for example; "1g") and nutrient subgroups are set in 8 point Helvetica Regular with 4 points of leading.
7. Vitamins and minerals are set in 8 point Helvetica Regular, with 4 points of leading, separated by 10 point bullets.
8. All type that appears under vitamins and minerals is set in 6 point Helvetica regular with 1 point of leading.

C. Rules

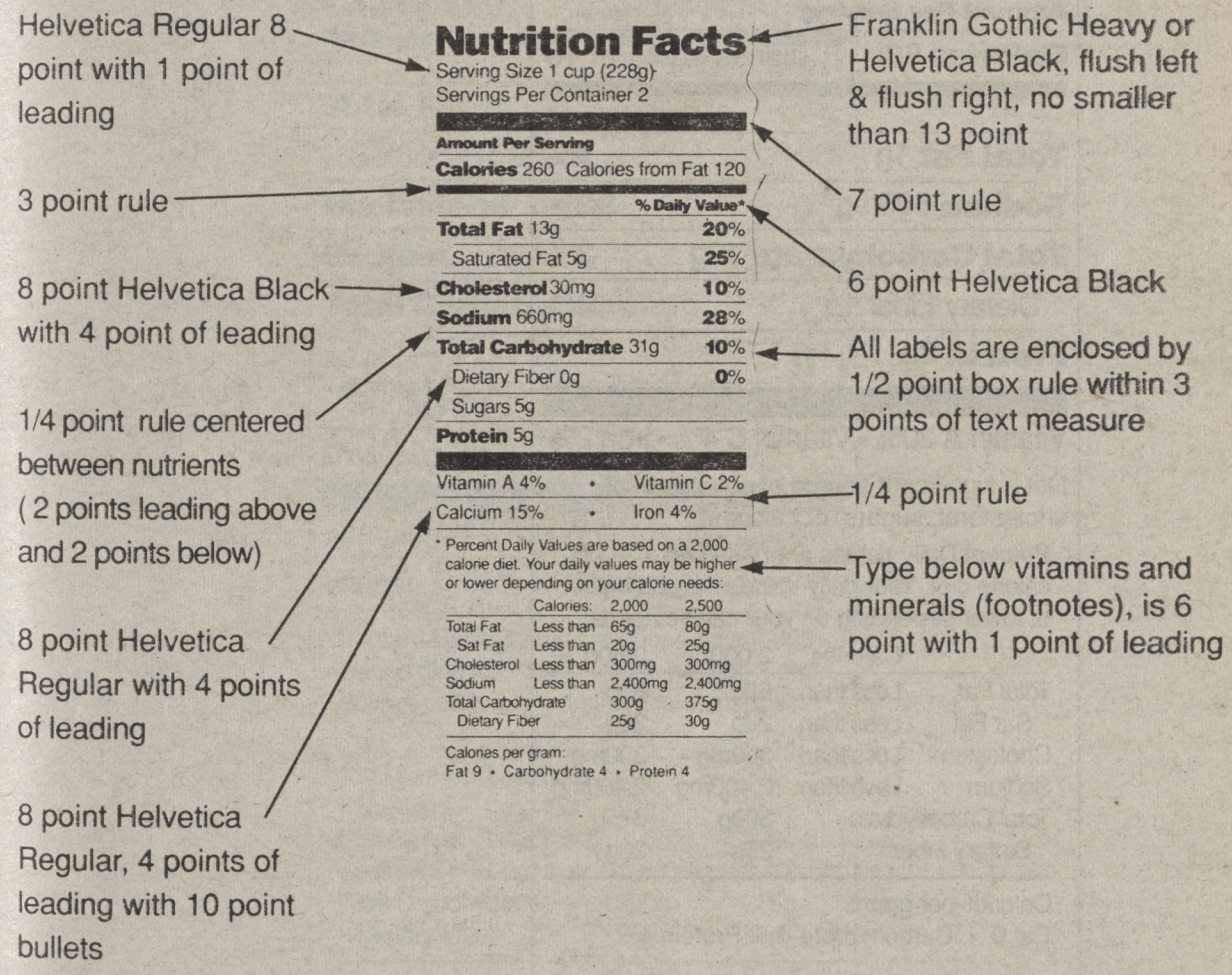
1. A 7 point rule separates large groupings as shown in example. A 3 point rule separates calorie information from the nutrient information.
2. A hairline rule or 1/4 point rule separates individual nutrients, as shown in the example. Descenders do not touch rule. The top half of the label (nutrient information) has 2 points of leading between the type and the rules, the bottom half of the label (footnotes) has 1 point of leading between the type and the rules.

D. Box

1. All labels are enclosed by 1/2 point box rule within 3 points of text measure.

26. On page 2190, appendix B to part 101, the sample label is corrected to read as follows:

Appendix B to Part 101



27. On page 2192, appendix A, the sample label is corrected to read as follows:

Appendix A:
Shortened Format (See comment 8)—Vegetable Soup

Nutrition Facts

Serving Size 1 cup (245g)
Servings Per Container 2

Amount Per Serving

Calories 60 Calories from Fat 10

	% Daily Value*
Total Fat 1g	**2%**
Sodium 800mg	**33%**
Total Carbohydrate 10g	**3%**
Dietary Fiber 1g	**4%**
Protein 2g	

Vitamin A 20% • Vitamin C 4% • Iron 2%

Not a significant source of saturated fat, cholesterol, sugars, or calcium.

* Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:

	Calories:	2,000	2,500
Total Fat	Less than	65g	80g
Sat Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g

Calories per gram:
Fat 9 • Carbohydrate 4 • Protein 4

28. On page 2193, in the table "Appendix B.—True Protein Digestibility Value of Common Foods," in the "Product" column, in line 13, the entry for "Cereal" is removed; in the "True digestibility" and "References" columns, in lines 14, 15, and 16, for the products "Oat, Quick Oatmeal," "Oat, Oatmeal," and "Oats, Rolled" are corrected to read "89" and "2", "82" and "2", and "90" and "3", respectively; and the illegible values in the "True digestibility" column in lines 29 and 31, for the products "Bread, White" and "Wheat, Bran" are corrected to read "99" and "75", respectively.

29. On page 2194, in appendix B, in the "References" column, in line 35, for the entry "Sunflower," the reference number "2" is corrected to read "4".

30. On page 2196, appendix C, the sample label is corrected to read as follows:

Appendix C:
Sweet potatoes, Canned, Vacuum packed

Nutrition Facts

Serving Size 2/3 cup (133g)
Servings Per Container 4

Amount Per Serving

Calories 90	Calories from Fat 0
	% Daily Value*
Total Fat 0g	**0%**
Saturated Fat 0g	**0%**
Cholesterol 0mg	**0%**
Sodium 55mg	**2%**
Total Carbohydrate 21g	**7%**
Dietary Fiber 2g	**8%**
Sugars 5g	
Protein 2g	

Vitamin A 160% (100% as Beta Carotene)

Vitamin C 40% • Calcium 2% • Iron 4%

* Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:

	Calories:	2,000	2,500
Total Fat	Less than	65g	80g
Sat Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g

Calories per gram:
Fat 9 • Carbohydrate 4 • Protein 4

31. On page 2197, appendix D, the sample label is corrected to read as follows:

Appendix D

Nutrition Facts

Serving Size 1 cup (228g)
Servings Per Container 2

Amount Per Serving

Calories 260 Calories from Fat 120

	% Daily Value*
Total Fat 13g	**20%**
Saturated Fat 5g	**25%**
Cholesterol 30mg	**10%**
Sodium 660mg	**28%**
Total Carbohydrate 31g	**10%**
Dietary Fiber 0g	**0%**
Sugars 5g	
Protein 5g	

Vitamin A 4% • Vitamin C 2%

Calcium 15% • Iron 4%

* Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:

	Calories:	2,000	2,500
Total Fat	Less than	65g	80g
Sat Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g

Calories per gram:
Fat 9 • Carbohydrate 4 • Protein 4

32. On page 2198, appendix D: Footnote to side, the sample label is corrected to read as follows:

Appendix D:
Footnote to side

Nutrition Facts

Serving Size 1 cup (228g)
Servings Per Container 2

Amount Per Serving

Calories 260 Calories from Fat 120

	% Daily Value*
Total Fat 13g	**20%**
Saturated Fat 5g	**25%**
Cholesterol 30mg	**10%**
Sodium 660mg	**28%**
Total Carbohydrate 31g	**10%**
Dietary Fiber 0g	**0%**
Sugars 5g	
Protein 5g	

Vitamin A 4% • Vitamin C 2%
Calcium 15% • Iron 4%

*Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:

	Calories:	2,000	2,500
Total Fat	Less than	65g	80g
Sat Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g

Calories per gram:
Fat 9 • Carbohydrate 4 • Protein 4

33. On page 2199, appendix E, the sample label is corrected to read as follows:

Appendix E:
Sample labels with dual declaration

Nutrition Facts

Serving Size 1/12 cake (80g)
Servings Per Container 12

Amount Per Serving	Mix	Baked
Calories	190	280
Calories from Fat	45	140
	% Daily Value**	
Total Fat 5g*	**8%**	**24%**
Saturated Fat 2g	**10%**	**13%**
Cholesterol 0mg	**0%**	**23%**
Sodium 300mg	**13%**	**13%**
Total Carbohydrate 34g	**11%**	**11%**
Dietary Fiber 0g	**0%**	**0%**
Sugars 18g		
Protein 2g		
Vitamin A	0%	0%
Vitamin C	0%	0%
Calcium	6%	8%
Iron	2%	4%

*Amount in Mix

**Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:

	Calories:	2,000	2,500
Total Fat	Less than	65g	80g
Sat Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g

Calories per gram:
Fat 9 • Carbohydrate 4 • Protein 4

34. On page 2202, appendix F: Simplified format (Soft Drink), the sample label is corrected to read as follows:

Appendix F:
Simplified format (Soft Drink)

Nutrition Facts

Serving Size 1 can (360 mL)

Amount Per Serving

Calories 140

	% Daily Value*
Total Fat 0g	**0%**
Sodium 20mg	**1%**
Total Carbohydrate 36g	**12%**
Sugars 36 g	
Protein 0g	**0%**

* Percent Daily Values are based on a 2,000 calorie diet.

35. On page 2205, Appendix H: Tabular Display, the sample label is corrected to read as follows:

Appendix H:
Tabular Display

Nutrition Facts

Serv. Size 1/3 cup (56g)
Servings about 3
Calories 80
Fat Cal. 10
*Percent Daily Values (DV) are based on a 2,000 calorie diet.

Amount/serving	% DV*	Amount/serving	% DV*
Total Fat 1g	**2%**	**Total Carb.** 0g	**0%**
Sat.Fat 0g	**0%**	Fiber 0g	**0%**
Cholest. 10mg	**3%**	Sugars 0g	
Sodium 200mg	**8%**	**Protein** 17g	

Vitamin A 0% • Vitamin C 0% • Calcium 0% • Iron 6%

BILLING CODE 4160-01-C

Dated: March 29, 1993.
Michael R. Taylor,
Deputy Commissioner for Policy.
[FR Doc. 93–7672 Filed 3–30–93; 4:07 pm]
BILLING CODE 4160–01–F

21 CFR Parts 5 and 101

[Docket Nos. 91N–0384 and 84N–0153]

RIN 0905–AD08 and 0905–AB68

Food Labeling: Nutrient Content Claims, General Principles, Petitions, Definition of Terms; Definitions of Nutrient Content Claims for the Fat, Fatty Acid, and Cholesterol Content of Food; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of January 6, 1993 (58 FR 2302). The document amended the food labeling regulations to: Provide definitions for specific nutrient content claims using the terms "free," "low," "lean," "extra lean," "good source," "high," "reduced," "light" or "lite," "less," "fewer," and "more" and provide for their use on the food label; provide for the use of implied nutrient content claims; define and provide for the use of the term "fresh;" and address the use of the terms "natural" and "organic." The document was published with some inadvertent typographical and editorial errors. This document corrects those errors.

EFFECTIVE DATE: May 8, 1994, except §§ 101.10 and 101.13(q)(5) concerning restaurant firms consisting of 10 or less individual restaurant establishments for whom these sections will become effective on May 8, 1995.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Campbell, Center for Food Safety and Applied Nutrition (HFS–155), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5229.

In FR Doc. 92–31504, appearing on page 2302 in the **Federal Register** of Wednesday, January 6, 1993, the following corrections are made:

1. On page 2302, in the first column, under the caption "**EFFECTIVE DATE:**", in line 1, the date "February 14, 1994" is corrected to read "May 8, 1994"; and beginning in line 6, the date "February 14, 1995" is corrected to read "May 8, 1995"; and under the caption "**FOR FURTHER INFORMATION CONTACT:**", beginning in line 2, the mail code "(HFF–312)" is corrected to read "(HFS–155)".

2. On page 2303, in the third column, in the first full paragraph, in line 10, the word "distribution" is corrected to read "distinction".

3. On page 2305, in the third column, in the third full paragraph, in line 6, "(r)(2)(A)(iv)" is corrected to read "(r)(2)(A)(v)".

4. On page 2310, in the second column, in the second full paragraph, in the second line from the bottom, the phrase "III.B.c.vi." is corrected to read "III.B.1.c.vi.".

5. On page 2312, in the third column, in the second full paragraph, in line 8, "(r)(2)(A)(iv)" is corrected to read "(r)(2)(A)(v)"; and in line 12, "or (f)" is corrected to read "or § 101.13(f)".

6. On page 2314, in the third column, in the second full paragraph, in line 9, "i.e.," is corrected to read "e.g.,".

7. On page 2315, in the second column, in the first full paragraph, in line 8, the words "customarily consumed" are added after the word "amount".

8. On page 2323, in the first column, in the fourth full paragraph, in line 8, "§ 101.13(e)" is corrected to read "§ 101.13(d)".

9. On page 2327, in the third column, in the second full paragraph, in line 8, "III.B.c.ii." is corrected to read "III.B.1.c.ii.".

10. On page 2330, in the second column, in the second full paragraph, in line 2, the phrase "no percent fat free" is corrected to read " ——percent fat free".

11. On page 2335, in the second column, in line 29, "§ 101.62(c)(4)" is corrected to read "§ 101.60(c)(4)".

12. On page 2340, in the second column, in the second full paragraph, in line 4, and in the second line from the bottom of the third full paragraph, the phrase "less than 20 mg" is corrected to read "20 mg or less".

13. On page 2341, in the third column, in the third full paragraph, the first sentence is removed.

14. On page 2345, in the third column, in the fourth full paragraph, in line 9, the phrase "required by" is corrected to read "required in part by"; and the heading "c. *relative claims*" is corrected to read "C. *Relative Claims*".

15. On page 2346, in the third column, in the second full paragraph, in line 10, a period is added after the word "food".

16. On page 2356, in the third column, in the third line from the bottom, "said th" is corrected to read "said that".

17. On page 2361, in the third column, in the fourth full paragraph, in line 9, the word "more" is added before the word "unsaturated".

18. On page 2362, in the second column, beginning in the fifth line from the bottom, the phrase "percent reduction, reductions from a certain class of reference foods," is corrected to read "percentage definitions, differences in the amount of nutrient compared to a certain class of reference foods, i.e.,"; and in the third column, in line 6, the word "reductions" is corrected to read "differences".

19. On page 2365, in the second column, in the fourth full paragraph, in line 11, the phrase "reference the" is corrected to read "the reference".

20. On page 2369, in the second column, in line 1, the words "or no" are removed; and in line 5, the phrase "saturated fat free" is corrected to read "low saturated fat".

21. On page 2370, in the third column, in the second full paragraph, in line 4, the words "made with" are added before the word "corn".

22. On page 2373, in the third column, in the fourth full paragraph, in line 10, the following sentence is added after the second sentence: "Alternatively such statement may not characterize the level of a nutrient or otherwise be misleading."

23. On page 2376, in the second column, in the second full paragraph, in line 1, the number "52" is corrected to read "256".

24. On page 2377, in the third column, the first full paragraph is corrected by starting a new paragraph in line 16 before the number "250".

25. On page 2378, in the third column, in the first full paragraph, in line 4, the phrase "of sugar and sodium" is corrected to read "of sugar, sodium, and salt".

26. On page 2384, in the first column, in the second full paragraph, in line 7, "185" is corrected to read "183"; in the third column, in line 12, "(§ 101.56(d)(2)(i))" is corrected to read "(§ 101.56(d)(1)(ii)(A))"; and in line 18, "§ 101.56(d)(2)(ii)" is corrected to read "§ 105.56(d)(1)(ii)(B)".

27. On page 2385, in the first column, in line 3, "roducts" is corrected to read

"products"; and in the second full paragraph, in line 3, "o" is corrected to read "to".

28. On page 2388, in the second column, in the first full paragraph, in the last line, the date "February 14, 1995" is corrected to read "May 8, 1995".

29. On page 2392, in the second column, in the first full paragraph, in line 8, the word "*State*" is corrected to read "*States*".

30. On page 2395, in the second column, in line 6, "288–81" is corrected to read "2880–81".

31. On page 2406, in the third column, in the first full paragraph, in line 9, the phrase "in comment 334" is corrected to read "in comment 332".

32. On page 2409, in the second column, in reference 1, in line 2, the word "draft" is added after the word "NCEP"; and in line 5, the date "April 7, 1991" is corrected to read "March 27, 1991".

33. On page 2410, in the first column, in reference 17, in line 5, the words "(Population Panel)" are removed; in reference 21, in line 2, the words "for Proposal," are removed and " No. 3-" is added in their place; in the second column, in reference 24, in line 1, "8–17" is corrected to read "8–16"; in reference 33, in line 3, the phrase "associate ed., 2d ed." is corrected to read "associate ed., Pediatric Nutrition Handbook, 2d ed."; and in Reference 34, in line 3, "p. 254" is corrected to read "pp. 242–245".

§ 101.13 [Corrected]

The following corrections are made in § 101.13 *Nutrient content claims—general principles*:

34. On page 2412, in the first column, in paragraph (i)(1), in line 7, "10 g" is corrected to read "3 g"; in paragraph (i)(2), in the last line, the phrase "of an inch;" is corrected to read "of an inch; or"; and in paragraph (i)(3), in line 6, the phrase "required; or" is corrected to read "required."; and in the second column, in paragraph (j)(2)(i), in line 5, the phrase "the nutrient has been modified" is corrected to read "the nutrient in the labeled food differs"; and in the third column, in paragraph (m)(1)(ii), in line 4, "(l)(1)(ii)(E)" is corrected to read "(m)(1)(ii)(E)".

35. On page 2413, in the first column, in paragraph (p)(1), in line 1, the phrase "specified the" is corrected to read "specified, the"; in the second column, in paragraph (q)(5)(i), beginning in line 4, the citation "(d)(1)(ii)(C)" is corrected to read "(d)(1)(ii)(D)"; and in line 5, the citation "(d)(2)(ii)(C)" is corrected to read "(d)(2)(iii)(C)".

§ 101.54 [Corrected]

The following corrections are made in § 101.54 *Nutrient content claims for "good source," "high," and "more"*:

36. On page 2414, in the first column, in paragraph (a), in line 10, the word "and" is corrected to read "or"; in paragraph (b)(1), in line 3, the word "and" is corrected to read "or"; in the second column, in paragraph (e)(1)(i), beginning in line 2, the phrase "for protein, vitamins, or minerals" is corrected to read "for vitamins or minerals"; beginning in line 3, the phrase "for dietary fiber or potassium" is corrected to read "for protein, dietary fiber, or potassium"; in paragraph (e)(1)(iii)(A), in line 3, the phrase "was increased" is corrected to read "is greater"; in the third column, in paragraph (e)(2)(i), beginning in line 2, the phrase "for protein, vitamins, or minerals" is corrected to read "for vitamins or minerals"; and beginning in line 3, the phrase "for dietary fiber or potassium" is corrected to read "for protein, dietary fiber, or potassium".

§ 101.56 [Corrected]

The following corrections are made in § 101.56 *Nutrient content claims for "light" or "lite"*:

37. On page 2414, in the third column, in paragraph (a), in line 4, the word "and" is corrected to read "or"; and in paragraph (a)(3), beginning in line 2, the phrase "with § 101.9, § 101.10, or § 101.36, where applicable" is corrected to read "with § 101.9 or § 101.10, where applicable".

38. On page 2415, in the second column, in paragraph (d)(2), the paragraph number "(d)(2)(i)" is corrected to read "(2)(i)"; in the third column, in paragraph (g), beginning in line 10, the phrase "information on the label" is corrected to read "information required to accompany a relative claim shall appear on the label".

§ 101.60 [Corrected]

The following corrections are made in § 101.60 *Nutrient content claims for the calorie content of foods*:

39. On page 2416, in the first column, in paragraph (b)(2), in line 5, the word "and" is corrected to read "or"; paragraphs (b)(2)(i), (b)(2)(ii), and (b)(2)(iii) are redesignated as paragraphs (b)(2)(i)(A), (b)(2)(i)(B) and (b)(2)(ii); in newly redesignated paragraph (b)(2)(i)(B), in the bottom line, the phrase "form); and" is corrected to read "form)."; in the second column, in paragraph (b)(4)(ii)(A), in line 3, the phrase "have been reduced" is corrected to read "differ between the two foods"; and in paragraph (b)(5)(ii)(A), in line 3, the phrase "have been reduced" is corrected to read "differ between the two foods".

40. On page 2417, in the first column, in paragraphs (c)(4)(ii)(A), in line 3, and in paragraph (c)(5)(ii)(A), in line 3, the phrase "has been reduced" is corrected to read "differs between the two foods".

§ 101.61 [Corrected]

The following corrections are made in § 101.61 *Nutrient content claims for the sodium content of foods*:

41. On page 2417, in the second column, in paragraph (a), in line 1, the word "and" is corrected to read "or"; in paragraph (b)(2), in line 3, the word "and" is corrected to read "or"; in the third column, in paragraph (b)(3), in line 3, the word "and" is corrected to read "or"; in paragraph (b)(4), in line 5, the word "and" is corrected to read "or"; and in paragraph (b)(5), in line 3, the word "and" is corrected to read "or".

42. On page 2418, in the first column, in paragraph (b)(6)(ii)(A), in line 3, the phrase "has been reduced" is corrected to read "differs from the labeled food"; and in paragraph (b)(7)(ii)(A), in line 3, the phrase "has been reduced" is corrected to read "differs from the reference food".

§ 101.62 [Corrected]

The following corrections are made in § 101.62 *Nutrient content claims for fat, fatty acid, and cholesterol content of foods*:

43. On page 2418, in the third column in paragraph (b)(2), in line 4, the word "and" is corrected to read "or"; and in paragraph (b)(3), in line 3, the word "and" is corrected to read "or".

44. On page 2419, in the first column, in paragraph (b)(4)(ii)(A), in line 3, the phrase "has been reduced" is corrected to read "differs between the two foods"; in paragraph (b)(5)(ii)(A), in line 3, "has been reduced" is corrected to read "differs between the two foods"; in paragraph (b)(6)(ii), in line 1, the phrase "percent of reduction" is corrected to read "percent declared"; in the second column, in paragraph (c), in line 21 "0.5 g or less" is corrected to read "less than 0.5 g"; in the third column, in paragraph (c)(4), in line 7, "§ 101.13(j)(1)(i)(A)" is corrected to read "§ 101.13(j)(1)(i)"; and in paragraph (c)(4)(ii)(A), in line 3, the phrase "was reduced" is corrected to read "differs between the two foods".

45. On page 2420, in the first column, in paragraph (c)(5)(ii)(A), in line 3, the phrase "has been reduced" is corrected to read "differs between the two foods"; in the second column, in paragraph (d)(1)(ii), in line 4, the phrase "serving,

per" is corrected to read "serving, or per".

46. On page 2421, in the first column, in paragraph (d)(2)(ii)(B), in line 3, the word "and" is added after the semicolon.

47. On page 2422, in the first column, in paragraph, (d)(4), in line 5, "§ 101.13(j)(1)(i)(A)" is corrected to read "§ 101.13(j)(1)(i)"; and in paragraph (d)(4)(i), in line 5, "300 g" is corrected to read "30 g".

§ 101.65 [Corrected]

The following corrections are made in § 101.65 *Implied nutrient content claims and related label statements*:

48. On page 2423, in the second column, in paragraph (b), in line 10, the phrase "are not subject" is corrected to read ",as such, are not subject"; in the third column, in paragraph (c)(3), in line 7, the phrase "a good source of" is corrected by adding quotation marks before and after the phrase "good source".

§ 101.69 [Corrected]

The following corrections are made in § 101.69 *Petitions for nutrient content claims*:

49. On page 2424, in the second column, in paragraph (m)(1), beginning in line 10, the phrase "Regulations and Industry Activities Branch (HFF–312)" is corrected to read "Office of Food Labeling (HFS–150)".

50. On page 2425, in the first column, in paragraph (n)(1), beginning in line 9, "Regulations and Industry Activities Branch (HFF–312)" is corrected to read "Office of Food Labeling (HFS–150)"; in the third column, in paragraph (o)(1), beginning in line 11, "Regulations and Industry Activities Branch (HFF–312)" is corrected to read "Office of Food Labeling (HFS–150)".

Dated: March 29, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–7671 Filed 3–30–93; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 101

[Docket No. 91N–0097]

RIN 0905–AD08

Food Labeling: Health Claims and Label Statements: Dietary Lipids and Cancer; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of January 6, 1993 (58 FR 2787). The document authorized the use on labels and labeling of certain foods of health claims relating to an association between dietary fat and cancer. The document was published with some inadvertent typographical and editorial errors. This document corrects those errors.

EFFECTIVE DATE: May 8, 1993.

FOR FURTHER INFORMATION CONTACT: Helen HeChong Lee, Center for Food Safety and Applied Nutrition (HFS–226), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5558.

In FR Doc. 92–31520, appearing on page 2787 in the **Federal Register** of Wednesday, January 6, 1993, the following corrections are made:

1. On page 2787, in the first column, in the subject heading, the word "Fat" is corrected to read "Lipids".

2. On page 2790, in the second column, in the first full paragraph, beginning in line 6, the third and fourth sentences are removed and the following text is added in its place: "As discussed in the lipids/cancer proposal, although the totality of scientific evidence supports the relationship between low fat intakes and reduced risk of some cancers, there have been no dietary intervention studies examining the quantitative relationship between reduction in fat intake and altered cancer risks. Therefore, it is not yet possible to conclude how much reduction in fat intake is necessary to reduce the risk of cancer in the United States."; and in the third column, in the second full paragraph, in line 8, the word "fat" is corrected to read "energy intake".

3. On page 2793, in the second column, in the second full paragraph, in line 13, the word "energy" is added after the word "differential".

§ 101.73 [Corrected]

4. On page 2801, in the first column, in § 101.73 *Health claims: dietary fat and cancer*, in the section heading the word "*fat*" is corrected to read "*lipids*".

5. On page 2804, in Table 1, in the third entry under the "Results" column, in line 10, "MUFA" is removed.

6. On page 2805, in Table 1, in the third entry under the "Comments" column beginning in line 8, the text is corrected by removing the third sentence.

7. On page 2809, in Table 2, in the first entry under the "Objectives/Tumor Types" column, "*N*-nitromethylurea-induced" is corrected to read "*N*-nitrosomethylurea-induced"; in the "Results" column in the same entry, the word "significance" is corrected both times it occurs to read "significantly"; in the second entry under the "Objectives/Tumor Types" column, the word "affects" is corrected to read "effects"; and under the "Results" column, the subtable "MCF–7 carcinoma MDA–MB231 carcinoma" is corrected to read as follows:

MCF–7 carcinoma MDA–MB231 carcinoma

Mean carcinoma		Volume (Cm3)	
		(A)	(B)
I	3.4	0.5	0.2
II	4.0	1.5	0.4
III	2.4	1.2	0.1
IV	2.4	0.8	
V	0.2	0.6	0.0
Significance:			
I, II, III, IV vs. II		I vs. II, III II vs. V	II vs. V

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8. The portion of Table 2, appearing on page 2811 is corrected to read as follows:

TABLE 2
Lipids and Cancer: Animal Studies

Study	Objectives/ Tumor Types	Experimental Animals	Methods	Results	Comments
Lasekan et al., 1990 (Ref. 124)	To compare effects of safflower and olive oils on DMBA-induced mammary tumorigenesis	Female Weanling Sprague-Dawley rats 25/groups	Diet: 20 wt% fat High linoleic acid SO: SL diet High oleic acid SO: SO diet Olive oil: OO diet OO diet w/ linoleic acid supplementation : OL diet Linoleic content SL 14.6 (wt%) SO 3.4 OO 1.1 OL 3.4 Rats were fed the diets for 16 weeks, and 7, 12-DMBA-induced tumorigenesis measured	No difference in lag time or incidence OO diet significantly lowered tumor yield compared to SO or OL diets Linoleic supplementation of the OO diet (makes OL diet) significantly enhanced the yield; no difference in yield between OO and OL diets Diet / Tumor/rat / statistics SL 3.5 a,b SO 5.0 a OO 3.0 b OL 5.1 a (statistical: different letters in the statistics column show a significant difference)	Isocaloric diets; no difference in body weight or food intakes among groups OO diet which was limited in linoleic acid content resulted in a significantly lower tumor yield. This result was abolished by supplemental linoleic acid; the results support a linoleic acid requirement of about 4% by weight for induced mammary tumor genesis in rodents
Hirose et al., 1990 (Ref. 125)	The effects of diets supplemented with perilla oil (n-3 linoleic rich) and soybean and safflower oils (n-6, linoleic-rich) on DMBA-induced mammary and colon carcinogenesis	Female SD rats 5-week old 10/groups	Diet: 10% perilla oil 10% SBO 10% SO SO SBO perilla oil 18:2n-6 74 52.6 15.9% 20:4n-6 - 0.3 0.1% 18:3n-3 0.1 .7 13.7 Rats were fed the diets for 13 weeks after the injection of initiator (7, 12-DMBA) and promotor (1, 2-dimethylhydrazine, DMH). Incidence and development of tumor measured	Mammary Perilla oil significantly lowered tumor yield compared to SBO or SO (4.4, 6.5, 5.7, tumors per rat: perilla oil, SBO, or SO, respectively) No difference in yield between SBO and SO. No difference in incidence among groups Colon perilla oil significantly lowered tumor incidence compared to SOB or SO (4, 9, or 9% incidence: perilla oil, SBO, or SO). No difference in incidence between SO and SBO No difference in yield among groups	Perilla oil may not have provided adequate linoleic acid for tumor growth

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Table 2--continued

Study	Objectives/ Tumor Types	Experimental Animals	Methods	Results	Comments
Bunce and Abou-El-Ela, 1990 Ref 135	To measure eicosanoid synthesis and ornithine decarboxylase activity in mammary tumors in rats fed varying levels of n-3 and n-6 fatty acids	Virgin female Sprague-Dawley rats 50-day old 25 groups	Diet CO PO BCO BO MO (wt% per diet) I 20 - - - - II - 20 - - - III - - 20 - - IV - - - 20 - V 15 - - - 5 VI 10 - - - 10 VII 5 - - - 15 VIII - - - 10 n-6FA n-3FA (% per diet) I 12.1 0 II 16.8 0 III 11.3 3 IV 12.6 0 V 9.3 1.4 VI 6.5 2.9 VII 3.6 1.2 VIII 6.7 2.9 Rats were administered i.g. 7, 12-DMBA and fed diets for 112 days Incidence and multiplicity of the tumor examined. Prostaglandin (PGE, LTB4, and LTC4) synthesis and ornithine decarboxylase (ODC) activity also tested	Incidence of adenocarcinoma: significantly lower in groups III, VI, and VII than groups II, IV, and VIII; n-3 FA level or n-6 FA n-3FA ratio did not consistently affect the incidence Tumor yield (number/rat) was significantly lower in group II than groups IV and III; n-3 or n-6 FA did not consistently affect the yield No difference in latency period among groups	Diets provided adequate linoleic acid for growth of the animal as well as the tumor
O'Neill et al., 1991 Ref 142)	To measure modulation of colonic nuclear aberrations and microcapsule-trapped gastro-intestinal metabolism in benzopyrene treated mice consuming human diets	Male C57/B6 mice 6-week old 36/6 groups	Diet: I & II III IV V Unit Fat 15 15 45 15 energy % Protein 2.7 7.1 2.7 2.7 wt% Fiber 2.1 2.1 2.1 5.6 wt% Fiber: nonstarch polysaccharide. Protein: beef protein Mice were fed the diets for 3 weeks and received benz(a)pyrene by gavage. Colonic nuclear aberration was examined histologically and by using HPLC	Benz(a)pyrene increased the nuclear aberrations by 8-fold The extent of benz(a)pyrene-induced nuclear aberrations was decreased to 2-to 3-fold by increased fiber or fat in the diet	FA composition in the diet not reported and the adequacy of dietary EFA is not known Nuclear aberration, not cancer development, was measured

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9. The portion of Table 2, appearing on page 2813 is corrected to read as follows:

10. On page 2816, in Table 2, in the first entry under the "Comments" column, in line 6, the word "assayed" is corrected to read "passaged".

11. On page 2817, in Table 2, in the first entry under the "Objectives/Tumor Types" column, in line 2, "suspectibility" is corrected to read "susceptibility".

12. On page 2819, in Table 2, under the "Methods" column, in the second line, "land" is corrected to read "lard".

Dated: March 29, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–7670 Filed 3–30–93; 4:07 pm]

BILLING CODE 4160–01–F

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21 CFR Part 529

Certain Other Dosage Form New Animal Drugs; Isoflurane

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Abbott Laboratories. The ANADA provides for the use of a generic isoflurane for induction and maintenance of anesthesia in horses and dogs.

EFFECTIVE DATE: April 2, 1993.

FOR FURTHER INFORMATION CONTACT: Larry D. Rollins, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8612.

SUPPLEMENTARY INFORMATION: Abbott Laboratories, Chemical and Agricultural Products Division, 1401 Sheridan Rd., North Chicago, IL 60064, filed ANADA 200–070, which provides for the use of a generic isoflurane (99.9 percent isoflurane solution) for induction and maintenance of anesthesia in horses and dogs.

Approval of ANADA 200–070 for Abbott Laboratories' isoflurane is a generic copy of Anaquest's isoflurane in NADA 135–773. The ANADA is approved as of March 11, 1993, and the regulations are amended in 21 CFR 529.1186 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

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

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

List of Subjects in 21 CFR Part 529

Animal drugs.

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 529 is amended as follows:

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 529 continues to read as follows:

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

§ 529.1186 [Amended]

2. Section 529.1186 *Isoflurane* is amended in paragraph (b) by removing "No. 010019" and adding in its place "Nos. 010019 and 000074".

Dated: March 24, 1993.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 93–7665 Filed 4–1–93; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Fenbendazole and Lincomycin; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the final rule that appeared in the **Federal Register** of August 5, 1992 (57 FR 34515), which amended the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Hoechst-Roussel Agri-Vet Co. The document was published with an inadvertent error that referred to lincomycin as a Category II drug. This document corrects the error.

EFFECTIVE DATE: August 5, 1992.

FOR FURTHER INFORMATION CONTACT: Steven D. Vaughn, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8643.

SUPPLEMENTARY INFORMATION: In FR Doc. 92–18469, appearing on page 34515, in the **Federal Register** of Wednesday, August 5, 1992, on page 34516, the last paragraph in the first column is corrected to read as follows:

"These are new animal drugs used in Type A medicated articles to make Type C medicated feeds. While lincomycin is a Category I drug, fenbendazole is a Category II drug, and thus, as provided in 21 CFR 558.4(e), the Category II requirements relative to an approved medicated feed application apply. Therefore, as provided in 21 CFR 558.3 and 558.4(b), an approved Form FDA 1900 is required for making a Type C medicated feed containing fenbendazole in combination with lincomycin as in the approved subject NADA and in §§ 558.258 and 558.325 as amended."

Dated: March 29, 1993.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 93–7664 Filed 4–1–93; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 252

[Docket No. R–146]

RIN 2133–AA99

Operating-Differential Subsidy for Bulk Cargo Vessels Engaged in World-Wide Services; Calculation of Maintenance and Repair Subsidy Rates

AGENCY: Maritime Administration, DOT.

ACTION: Final rule.

SUMMARY: This rule modifies the methodology for determining and paying operating-differential subsidy (ODS) for maintenance and repair (M&R) expenses, not compensated by insurance, incurred by subsidized operators of bulk cargo vessels that receive ODS for M&R under their ODS contracts. It eliminates the current requirements for establishing a per diem ODS rate for the payment of M&R expenses that is based on historical costs, and reinstates a procedure previously set forth in the regulations

that requires payment of ODS for M&R expenses actually incurred. The payments are subject to findings by the Maritime Administration (MARAD) that, in accordance with the Merchant Marine Act, 1936, as amended (the Act), the M&R expenses incurred are fair and reasonable, as initially determined by MARAD, subject to audit by the Office of the Inspector General of the Department of Transportation. These amendments are intended to foster economic growth for U.S.-flag vessel operators receiving M&R subsidy by facilitating earlier payment of actual M&R subsidy.

EFFECTIVE DATE: This rule is effective January 1, 1993.

FOR FURTHER INFORMATION CONTACT: Arthur B. Sforza, Director, Office of Ship Operating Assistance, Maritime Administration, Washington, DC 20590, Tel. (202) 366–2323.

SUPPLEMENTARY INFORMATION: Section 603(b) of the Act (46 App. U.S.C. 1173(b)) provides, among other things, for the payment of ODS for the fair and reasonable cost to the operator of M&R not compensated by insurance that was incurred in the operation of subsidized U.S.-flag vessels in the foreign commerce of the United States. Section 603(f) (46 App. U.S.C. 1173(f)) provides that ODS for M&R expenses shall be paid at 90 percent of ODS accrued, pending audit of the expenses, whereupon the remaining 10 percent shall be paid. The Act does not contain any specific procedures for determining ODS for M&R expenses, nor does it provide clarification of payment procedures. The language of the Act, however, clearly indicates that ODS for M&R shall be paid for all fair and reasonable expenses actually incurred. The regulations at 46 CFR part 252 were amended in 1986 to incorporate, among other things, a per diem ODS rate system for M&R, using historical costs rather than actual expenses incurred and accrued by the subsidized operators.

Prior to the 1986 amendments, the system for determining and paying ODS for M&R expenses was set forth in the regulations as follows. The difference between U.S. and foreign M&R costs was established as a percentage differential rate (PDR) based on cost estimates received from U.S. and foreign shipbuilding centers for a standard set of repair specifications for a typical bulk cargo vessel in international trade. Because of the time required to accumulate the cost estimates prepared by the various shipbuilding centers, final PDRs for a given year were not completed for approximately 18 months following the close of that year. In the interim, the subsidized operators billed ODS for M&R, based on actual expenses incurred, using the latest PDR incorporated in their ODS contracts at the time. As required by the Act, the subsidized operators billed the ODS monthly, at 90 percent of the M&R subsidy accrued, for voyages completed during the month.

MARAD paid the final 10 percent after: (1) Making a determination that, as required by the Act, the expenses were fair and reasonable; (2) completion of the audit of the expenses; and (3) computation of the ratio of subsidized vs. nonsubsidized days during the subsidized year. The computation of the ratio of subsidized vs. non-subsidized days was required to ensure that only expenses attributable to subsidized periods were allowed for subsidy payment. A subsequent adjustment in payments was made upon determination of the final PDR for M&R applicable to that year, and represented the difference between the final PDR and the PDR initially used to bill ODS for M&R during the year.

When the ODS regulations at 46 CFR part 252 were amended in November 1986, the ODS rates for M&R became effective for calendar year 1988. Under the procedure now in effect, the methodology for calculating the PDR for M&R did not change. However, rather than providing for payment of ODS for actual expenses incurred in the subsidized calendar year, the regulations now require the establishment of a per diem rate based on expenses incurred during an historical period immediately preceding the subsidized calendar year, ranging from 24 to 36 months in length, and including the most recent expenses for drydocking. The expenses actually incurred in the historical period must still be adjudged fair and reasonable by MARAD, as required by the Act, and are audited for MARAD by the Office of the Inspector General, Department of Transportation.

The expenses included in the historical period are divided by the number of operating days in the period to derive a subsidizable per diem expense. That per diem expense is then escalated to the subsidizable calendar year through use of an index that produces a nominal escalation rate. The latest PDR for M&R calculated is applied to the per diem expense to obtain a final per diem ODS amount. The operators bill the per diem ODS amount monthly at 100 percent, but only for days that the vessels are engaged in subsidized service.

The intent of the M&R regulations, as amended in 1986 and now in effect, was to eliminate the delay in determining final ODS payment amounts for M&R expenses and also to quantify definitively such amounts so as to provide the subsidized operators with a level of certainty for future planning purposes about the amount of ODS receivable. When the amendment to the regulations was initially published, comments received generally supported the foregoing goals. However, the comments also reflected a general concern that, as the vessels get older and require increasing amounts of maintenance and repair, the level of M&R expenses would increase at a rate that would invalidate the use of historical M&R expenses, even when escalated by using the index defined in the regulations, particularly for vessels carrying corrosive liquid cargoes.

Several operators viewed this result as being inconsistent with the Act, which requires full reimbursement for fair and reasonable expenses incurred. They requested that the former system for determining ODS for M&R, as previously described, be retained. Ultimately, the subsidized bulk vessel operators accepted the methodology contained in the amended regulations on the assumption that M&R expenses incurred would, in large measure, be recouped over time under a continuing program for payment of ODS.

Having several years of experience with the per diem system of subsidy calculation and payment, the subsidized bulk vessel operators have expressed their renewed concerns about the fairness of the current system for determining the M&R component of ODS. In a number of discussions with MARAD staff, several operators have reemphasized their belief that the current system for determining ODS for M&R will work an increasing economic hardship on the subsidized bulk vessel operators as their vessels grow older. Furthermore, the operators are convinced that they will not be fully compensated for the increasing M&R expenses (especially the major expenses related to drydockings) that they will incur on their aging vessels and, therefore, will suffer significant adverse economic impact. The current system also harms the operators' ability to compete effectively with foreign operators because it unduly influences the operators' decisions as to when and where to repair their ships. This condition exists because the timing of drydocking under the present system affects the calculation of the constructed per diem subsidy. The operators view these circumstances as contrary to the

intent of the Act and have repeatedly asked for a return to the former system for determining and paying ODS for M&R.

The arguments presented by the operators are compelling. Therefore, consistent with the intent of the Act, this rule eliminates the per diem methodology for determining and paying ODS for M&R and reinstates the previous provisions of the rule that set forth the former system for making such payments, with two changes as described below.

In accomplishing the transition from the current system for determining and paying ODS for M&R, the subsidized bulk vessel operators would remain under the current per diem system until commencement of the next drydocking period following the effective date of this rule. Upon entry of each subsidized vessel into the shipyard, payment under the per diem system would cease for that vessel. Thereafter, the operator would be allowed to bill ODS for M&R expenses actually incurred for the vessel.

Under the former system, initial billings of ODS for M&R were made at 90 percent of ODS accrued, pending completion of the necessary determinations by MARAD, as previously described, and audits of expenses. Rather than requiring initial billings at 90 percent, this rule provides that initial billings will be at a percentage of ODS as negotiated between MARAD and the operator of each of the subsidized bulk vessels (not to exceed the statutory limit of 90 percent). This change is necessary since examination of the actual operating experience of the subsidized bulk vessel operators shows that, for a number of vessels, the ratio of subsidized vs. nonsubsidized days is too low to allow initial billings at 90 percent of ODS. To allow billings at 90 percent in these instances could result in an unwarranted overpayment of ODS. MARAD's computation of the ratio of subsidized vs. nonsubsidized days has historically been linked to the calendar year in which the last voyage terminated. The rule is being amended to formally enunciate this procedure.

Also, as previously discussed, the former system for paying ODS for M&R requires an adjustment to the ODS paid to reflect the difference between the PDR initially used to bill ODS for M&R expenses in a year, i.e., the latest PDR incorporated in the ODS contract, and the final PDR for M&R applicable to that year, as subsequently calculated. The amendments in this rule provide that ODS for M&R expenses shall be billed utilizing the latest PDR calculated by MARAD staff, which shall be considered the final PDR for M&R payment purposes. This will maintain the concept embodied in the per diem system of making final ODS payments for M&R with no subsequent adjustment to reflect a recalculation of the PDR.

Comments

A Notice of Proposed Rulemaking (NPRM) regarding these changes in the calculation of maintenance and repair subsidy rates for bulk vessels was published in the **Federal Register** November 6, 1992 at 57 FR 53083. One response was received on behalf of Ocean Chemical Carriers, Inc. and Ocean Chemical Transport, Inc. This comment was entirely supportive of the NPRM.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

This rulemaking has been reviewed under Executive Order 12291, and it has been determined that this is not a major rule. It will not result in an annual effect on the economy of $100 million or more. There will be no increase in production costs or prices for consumers, individual industries, Federal, State, or local governments, agencies, or geographic regions. Furthermore, it will not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rulemaking does not involve any change in important Departmental policies, and it is considered nonsignificant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). Because the economic impact should be minimal, further regulatory evaluation is not necessary.

In summary, this rule amends an existing regulation by modifying the requirements of a 1986 amendment that established a per diem ODS rate for the payment of M&R expenses that is based on historical costs. In lieu thereof, it reinstates former provisions in the regulations for the payment of ODS on the basis of M&R expenses actually incurred by the subsidized operator. The 1986 amendments were intended to accelerate final ODS payments for M&R and to definitively quantify such payments. For these reasons, the 1986 amendment was accepted by the subsidized operators notwithstanding their expressed concerns that, as their vessels grew older, the level of M&R expenses for the vessels would increase at a rate that would invalidate the use of historical costs, even when escalated by using the index defined in regulations. The impact on vessels that carry corrosive liquid cargoes is particularly disadvantageous. The acceptance of the 1986 amendment by the operators was based on the assumption that they would substantially recoup, over time, M&R expenses that they had incurred. This has not been the case. This rule will ensure payment for M&R expenses actually incurred.

The rule is being made effective retroactively to January 1, 1993, because the new rate year for computation of the M&R component of ODS begins on that date.

Federalism

MARAD has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism assessment.

Regulatory Flexibility Act

MARAD certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

Environmental Assessment

MARAD has considered the environmental impact of this rulemaking and has concluded that there is no impact and that an environmental impact statement is not required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act

This rulemaking contains no new or revised reporting requirements that require approval by the Office of Management and Budget pursuant to provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The reporting requirements in § 252.23 have received OMB approval under control numbers 2133–024 and 2133–005.

List of Subjects in 46 CFR Part 252

Grant programs—transportation, Maritime carriers, Reporting and recordkeeping requirements.

Accordingly, MARAD amends 46 CFR part 252 as follows:

PART 252—[AMENDED]

1. The citation of authority for part 252 is revised to read as follows:

Authority: 46 app. U.S.C. 1114(b), 1117, 1121, 1171, 1172, 1173, and 1175; 49 CFR 1.66.

§ 252.30 [Amended]

2. Section 252.30 is amended as follows:

a. In paragraph (a), by adding to the first sentence of text before the period, the words "except for the ODS rates applicable to maintenance and repair expenses, as described separately in § 252.32".

b. In paragraph (a), by adding in the third sentence, after "ODSA", the parenthetical "(with the exception of ODS rates applicable to maintenance and repair expenses)".

§ 252.32 [Amended]

3. Section 252.32 is amended as follows:

a. In paragraph (a), by revising the heading "*Basis for subsidy.*" to read "*Subsidy items.*"; and by removing the entire text of the paragraph after "46 CFR part 272," and adding in its place the words "incurred by the operator during the calendar year."

b. In paragraph (b), by revising the heading and introductory text to read as set forth below.

c. In paragraph (b)(3), by removing all the sentences after the third sentence and adding in their place the sentence "If such information is unavailable, repairing practices shall be determined on the basis of the industry as a whole."

d. In paragraph (b)(4), by revising the paragraph heading, to read "*M&R subsidy rate.*"

e. In the table in paragraph (b)(4), by removing in the heading the words "U.S.–FOREIGN COST DIFFERENTIAL, 1985" and adding in their place the words "MAINTENANCE and REPAIR SUBSIDY RATE"; and by removing in the first column the words "U.S.-foreign cost differential" and adding in their place the words "Subsidy rate".

f. By revising paragraph (c) introductory text to read as set forth below.

§ 252.32 Maintenance (upkeep) and repairs.

* * * * *

(b) *Subsidy rate.* The subsidy rate for maintenance and repair shall be the U.S.-foreign cost differential determined from price estimates of representative items of maintenance and repair work and by using the repair practices of the foreign-flag competition. See paragraph (b)(4) of this section for an example calculation.

* * * * *

(c) *Data submission requirement.* The operator is required to submit a Subsidy Repair Summary (Form MA–140) quarterly, in accordance with 46 CFR part 272.

* * * * *

§ 252.40 [Amended]

4. Section 252.40 is amended by designating the existing text as paragraph (a) and adding paragraph (b) to read as follows:

§ 252.40 Payment of subsidy.

* * * * *

(b) *Maintenance and repair subsidy.* In the case of payments for maintenance and repair subsidy only, the subsidized operator shall submit an initial voucher and include for payment in such voucher a percentage of the ODS payable for the period covered by the voucher, which percentage shall be negotiated between MARAD and the subsidized operator, but in no instance shall exceed 90 percent. Upon the completion of MARAD's determinations that the expenses are fair and reasonable, MARAD's computation of the ratio of subsidized vs. nonsubsidized days during the calendar year in which the last voyage terminated, and the Office of the Inspector General's audit of subsidizable expenses, the subsidized operator shall submit a final voucher for an adjustment of the amount of subsidy paid.

By Order of the Acting Maritime Administrator.

Dated: March 30, 1993.

James E. Saari,

Secretary, Maritime Administration.

[FR Doc. 93–7719 Filed 4–1–93; 8:45 am]

BILLING CODE 4910–81–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92–195; RM–7091, RM–7146, RM–8123, RM–8124]

Radio Broadcasting Services; Beverly Hills, Chiefland, Holiday, Micanopy, and Sarasota, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 292C3 for Channel 246A at Beverly Hills, Florida, and modifies the construction permit of Station WXOF, Beverly Hills, Florida, to specify operation on Channel 292C3; Channel 246C2 for Channel 292A at Holiday, Florida, and modifies the license of Station WLVU, Holiday, Florida, to specify operation on Channel 246C2; Channel 247C2 for Channel 249A at Micanopy, Florida, and modifies the license of Station WRRX, Micanopy, Florida, to specify operation on Channel 247C2; Channel 293C2 for Channel 292A at Sarasota, Florida and modifies the license of Station WSRZ, Sarasota, Florida, to specify operation on Channel 293C2; and Channel 300A for Channel 247A at Chiefland, Florida, and modifies the construction permit of Station WLQH, Chiefland, Florida, to specify operation on Channel 300A. See 57 FR 42537, published September 15, 1992. The reference coordinates for the Channel 292C3 allotment at Beverly Hills, Florida, are 28–44–09 and 82–29–56; the Channel 246C2 allotment at Holiday, Florida, are 28–16–51 and 82–42–52; the Channel 247C2 allotment at Micanopy, Florida, are 29–38–55 and 82–25–30; the Channel 293C2 allotment at Sarasota, Florida, are 27–27–49 and 82–40–01; and Channel 300A at Chiefland, Florida, are 29–31–00 and 82–53–11. With this action, this proceeding is terminated.

EFFECTIVE DATE: May 10, 1993.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92–195, adopted March 9, 1993, and released March 29, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida is amended by removing Channel 246A and adding Channel 292C3 at Beverly Hills; removing Channel 247A and adding Channel 300A at Chiefland; removing Channel 292A and adding Channel 246C2 at Holiday; removing Channel 249A and adding Channel 247C2 at Micanopy; and removing Channel 292A and adding Channel 293C2 at Sarasota.

Federal Communications Commission.

Michael C. Ruger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 93–7621 Filed 4–1–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 76

[MM Docket Nos. 92–259, 90–4, 92–295; FCC 93–144]

Cable Act of 1992—Must-Carry and Retransmission Consent Provisions

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, through this Report and Order, adopts the rules needed to implement the mandatory television broadcast signal carriage ("must-carry") and retransmission consent provisions of the Cable Television Consumer Protection and Competition Act of 1992 (Cable Act of 1992" or "1992 Act"). The 1992 Cable Act requires the Commission to adopt rules establishing carriage rights for commercial and noncommercial broadcast television stations. This action is taken in order to comply with the 1992 Act.

EFFECTIVE DATE: Sections 76.58(a) and 76.59 are effective April 2, 1993; §§ 76.56 and 76.58(e) are effective June 2, 1993; §§ 76.64 and 76.302 are effective June 17, 1993; all other provisions are effective May 3, 1993.

FOR FURTHER INFORMATION CONTACT: Marcia Glauberman, Mass Media Bureau, Policy and Rules Division, (202) 632–5414 or Jonathan Levy, Office of Plans and Policy, (202) 653–5940.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in MM Docket No. 92–259, FCC 93–144, adopted March 11, 1993, and released March 29, 1993. The complete text of this document is available for inspection and copying during normal business hours in the FCC reference Center, 1919 M Street, NW., Washington, DC., and also may be purchased from the Commission's copy contractor, International Transcription Service (ITS), at (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Synopis of the Report and Order

1. By this Report and Order ("Order"), the Commission adopts the rules needed to implement the mandatory television broadcast signal carriage ("must-carry") and retransmission consent provisions of the Cable Television Consumer Protection and Competition Act of 1992 ("Cable Act of 1992" or "1992 Act"). On November 5, 1992, the Commission adopted a Notice of Proposed Rule Making ("Notice"), 57 FR 56298 (November 27, 1992), in the proceeding to consider two provisions of the Cable Act of 1992 concerning the carriage of broadcast signals by cable television systems and other "multichannel video programming distributors". The first of these, set forth in Sections 4 and 5 of the 1992 Act, concerns mandatory signal carriage ("must-carry") rights of commercial and noncommercial television broadcasting stations that are "local" to the area served by a cable system. The second provision, set forth in Section 6 of the 1992 Act, is one that prohibits cable operators and other multichannel video programming from carrying the signals of broadcast stations without first obtaining their consent in certain circumstances. While each of the provisions is distinct and functions in a separate fashion, they are related in that, once every three years commercial broadcasters must now choose whether their relationship with local cable systems will be governed by the must-carry rules or retransmission consent requirement. The Commission decided to address these two matters in a single rulemaking proceeding, based primarily on administrative convenience.[1]

2. *Implementation Schedule.* The rules and requirements described herein are subject to a number of different implementation and effective dates. On the date of publication of this summary of the Report and Order, the Commission will begin to accept petitions for special relief for modifying the local television markets of commercial broadcast stations. Starting on that date, cable operators must notify broadcast licensees and cable subscribers at least 30 days before deleting any broadcast television from carriage or repositioning any such signal. On May 3, 1993, cable operators must designate their principal headend, send a certified letter identifying that principal headend to all qualified noncommercial educational stations and notify by certified mail those local stations, commercial and noncommercial, that may not be entitled to carriage because they either fail to meet the signal strength requirement or may cause increased copyright liability to the cable system. Cable systems must begin carriage of the complement of commercial must-carry signals on June 2, 1993. On that date, a cable operator must send by certified mail a list of the broadcast television signals carried on its system, and their channel positions, to all local broadcasters, commercial and noncommercial, including those not designated as must-carry signals and those not carried on its system. If a cable operator authorizes subscribers to install additional receiver connections, but does not provide such equipment, the operator also must notify subscribers on the need for and the use of such equipment by June 2, 1993. By June 17, 1993, local stations must elect whether they want retransmission consent or must-carry rights and, for those selecting must-carry status, state their preferred channel position. In addition, on that date, cable operators must place in their public files a list identifying the must-carry signals and the designated location of their principal headend. On October 6, 1993, the retransmission consent and channel positioning provisions of the rules become effective, and all stations must be carried pursuant to their provisions, on that date.

3. Carriage of Noncommercial Educational Television Stations. Under section 615(l)(1) of the 1992 Act, a noncommercial educational (NCE) station qualifies for must-carry rights if it is licensed by the Commission as an NCE station and if it is owned and operated by a public agency, nonprofit foundation, or corporation or association that is eligible to receive a community service grant from the Corporation for Public Broadcasting.[2] An NCE station is also considered qualified if it is owned and operated by a municipality and transmits predominately noncommercial programs for educational purposes. In the Order, the Commission determined that a municipally-owned station will be deemed to transmit predominately noncommercial programming for

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[1] On December 23, 1992, a three-judge court of the U.S. District Court for the District of Columbia held that it will hear only constitutional challenges to the must-carry rules pursuant to section 23 of the Cable Act of 1992, which provides that challenges to the constitutionality of sections 4 and 5 shall be heard by a district court of three judges. Turner Broadcasting Systems, Inc. v. Federal Communications Commission, No. 92 Civ. 2247 (D. D.C. Dec. 23, 1992). Thus, constitutional challenges to the retransmission consent and other provisions of the 1992 Act will be considered separately. As these matters are currently under court review, we will not address them here.

[2] The statutory must-carry requirements for NCE stations became effective on December 4, 1992, the general effective date of the Cable Act of 1992. On December 9, 1992, the U.S. District Court for the District of Columbia issued a "Standstill Order" that contemplates that during the pendency of the District Court case the Commission will take the full 120 days permitted under the statute to resolve any complaint filed by an NCE station. *Turner Broadcasting Systems, Inc.* v. *Federal Communications Commission*, CA Nos. 92–2247, *et al.* (D.D.C. Dec. 9, 1992).

educational purposes if it broadcasts such programming, as it is defined in § 73.621 of the Commission's Rules, for at least 50 percent of its broadcast week.

4. Section 615(l)(1) of the 1992 Cable Act provides that the term qualified NCE station also includes the translator of any NCE station with five watts or higher power serving the franchise area, a full-service station or translator licensed to a channel reserved for noncommercial educational use, and such stations and translators operating on channels not so reserved as the Commission determines are qualified NCE stations. In the Order, the Commission concludes that stations and translators on non-NCE channels will be considered qualified if they meet the qualification criteria set forth in Section 5 of the 1992 Cable Act.

5. Section 615(l)(2) of the 1992 Act defines a qualified local NCE station as an NCE station licensed to a principal community whose reference point, as defined in § 76.53 of the Commission's Rules, is within 50 miles of the principal headend of the cable system, or whose Grade B service contour, as defined in § 73.683(a) of the Commission's Rules, encompasses the principal headend of the cable system. The Notice proposed that a cable operator with multiple headend facilities should be permitted to select which of those headends will serve as its "principal headend," as long as the choice is not intended to circumvent the system's must-carry obligations. The Commission concludes that a cable system with multiple headends may select its own principal headend. It will require an operator to designate its principal headend by May 3, 1993, and notify all qualified NCE stations of this choice on that date. The Commission expects that the principal headend will generally be the headend serving the most subscribers, accommodating the most signal proceeding equipment, or lying closet to the geographical center of the system. The Commission will require an operator to place in its public file the location of its designated principal headend by June 17, 1993. A cable operator may change its principal headend only for good cause (*e.g.*, where the system adds communities that necessitate redesignation or relocation of its headend). An operator making any subsequent change in its principal headend must notify all stations carried on its system pursuant to the must-carry rules at least 60 days before the change takes place, and include the new designation in its public file.

6. The 1992 Cable Act requires cable operators to carry all qualified local NCE television stations requesting carriage, except that systems with 12 or fewer usable activated channels, must carry the signal of one qualified local NCE station and systems with 13 to 36 usable activated channels, must carry up to three qualified local NCE stations. Cable systems with 36 or fewer channels that operate beyond the presence of a qualified local NCE station are further required to import and carry a qualified NCE station. In addition, section 615(c) requires that cable operators continue to provide carriage to all qualified local NCE television stations whose signals were carried on their systems as of March 29, 1990, regardless of the proximity of those stations to the system's principal headend. Further, section 615(h) provides that qualified NCE signals shall be available to every subscriber as part of the cable system's lowest priced service tier that includes the retransmission of local commercial television broadcast signals.

7. As proposed in the Notice, the Commission adopts the 1992 Cable Act definition of "activated channels" as "channels engineered at the headend of a cable system for the provision of services generally available to residential subscribers of the cable system, regardless of whether such services actually are provided, including any channel designated for public, educational, or governmental use." It also adopts the statutory definition of "usable activated channels" as "activated channels of a cable system, except those channels whose use for the distribution of broadcast signals would conflict with technical and safety regulations as defined by the Commission."

8. In the Order, the Commission concludes that, if a cable system with 36 or fewer channels receives requests for carriage of qualified local NCE stations in excess of its must-carry obligations, the cable system may select which signals to carry. The 1992 Cable Act exempts medium and large capacity systems from carriage of certain duplicating signals. Section 615(b)(3)(C) provides that a cable operator with 13 through 36 channels shall not be required to carry the more than one local NCE station affiliated with the same state public television network, if the programming of one station substantially duplicates the programming of another such station. Similarly, section 615(e) provides that systems with more that 36 channels shall not be required to carry the signals of additional local NCE stations if the programming of those stations substantially duplicates the programming of a qualified local NCE station requesting carriage. The Commission adopts a two-part test for these purposes. First, the amount of duplicative (simultaneous or non-simultaneous) prime time weekly programming broadcast over the course of a three-month period will be calculated. Second, the amount of duplicative (simultaneous or non-simultaneous) weekly programming broadcast outside of prime time over the course of the same three-month period will be determined. The end of the three-month period must fall within 30 days prior to the date the cable system notifies the NCE station that it is denying or discontinuing carriage based on substantial duplication. Only if the station duplicates more than 50 percent of the other station's weekly programming in both of these respects will it be denied must-carry status. The Commission will use the definition of "prime time" in § 76.5(n) of the Commission's Rules (*i.e.*, 5–10 PM in the central time zone and 6–11 PM in all other time zones; stations in mountain time zone may choose either). For application of this test, if a station broadcasts a program in prime time that is broadcast on another station during the day, the two broadcasts will not be considered duplicative. Moreover, programs broadcast in foreign languages will not be considered duplicative of the same programs broadcast in English and only identical episodes of a series will be considered duplicative.

9. In the Notice, the Commission sought comment on implementation of section 615(d) of the Act, which permits a cable operator to place a qualified NCE station on a channel reserved for PEG programming when no other channel capacity exists. The Commission declines to adopt stringent requirements regarding the use of PEG channels for NCE must-carry purposes. The Commission concludes that adoption of additional PEG channel requirements and procedures here would infringe upon the discretion given to franchising authorities under this Section of the 1992 Act and under Section 611 of the Communications Act. Thus, the Commission defers at this time to the judgment of franchising authorities with respect to the procedures to be used to delineate the rights of must-carry NCE stations and PEG channel users, respectively.

10. Section 615(k) of the 1992 Act requires a cable operator, upon request by any person, to identify the NCE signals carried on its system in fulfillment of must-carry requirements. The Notice sought comment on procedures for providing this information and whether the

Commission should require a cable operator to retain a list in its public file of all stations carried on its system pursuant to the must-carry rules. The Commission will require that, by June 17, 1993, a cable operator shall include in its public file a list of the NCE stations carried on its system pursuant to the must-carry rules, including the call sign, city of license, broadcast channel number and cable channel position on the system for each must-carry station, and whether the station was carried on the cable system on March 29, 1990. The Commission also will require that this list be provided in writing within 30 days in response to a written inquiry.

11. *Carriage of Commercial Television Stations.* Section 614(a) requires each cable operator to carry local commercial television stations and qualified low power television stations. Pursuant to Section 614(b), most cable operators must set aside up to one-third of their usable activated channel capacity for the carriage of local commercial stations, although systems with 12 or fewer usable activated channels are only required to carry at least three such stations. In addition, such cable systems with 12 or fewer channels are exempt from the commercial must-carry requirements if they serve 300 or fewer subscribers, as long as they do not delete from carriage any signal of a broadcast television station.

12. Since the Cable Act of 1992 gives the Commission minimal discretion in implementing the general must-carry obligation provisions, these statutory provisions will be added to the Commission's Rules and will be effective on June 2, 1993. In addition, the Commission adopts October 5, 1992, the date this Act was enacted, as the date for judging whether a system with 12 or fewer channels and 300 or fewer subscribers need only carry those broadcast stations that it carried on that date.

13. For purposes of these must-carry obligations, a "local commercial television station" is defined in section 614(h)(1)(A) of the 1992 Act as any full power commercial television broadcast station licensed by the Commission that is located in the same television market as the cable system. The term does not include: (1) Low power television stations, television translator stations, or passive repeaters; (2) a television broadcast station that would be considered a distant signal under section 111 of the Copyright Act, unless such station agrees to indemnify the cable operator for any copyright liability resulting from carriage on the cable system; or (3) a television broadcast station that does not deliver to the principal headend of a cable system either a signal level of −45dBm for UHF signals or −49dBm for VHF signals at the input terminals of the signal processing equipment, unless such station agrees to be responsible for the costs of delivering to the cable system a signal of good quality or a baseband video signal. The Commission adds this specific statutory definition of a local commercial television station entitled to must-carry rights to its rules. However, the Commission will require cable operators to notify by certified mail by May 3, 1993, those local signals that may not be entitled to carriage because they either (1) fail to meet the signal strength requirement or (2) may cause increased copyright liability. In addition, on the date cable systems begin carrying their complement of commercial must-carry signals, June 2, 1993, cable operators will be required to send by certified mail to all local broadcast stations a list of all broadcast television signals carried on their systems and their channel positions. This notification must be sent to all local television stations, including those not designated as must-carry signals and those not carried on the system.

14. In response to the questions in the Notice about the statutory requirements to make all must-carry signals available to all subscribers and all cable-connected television sets, the Commission believes that the 1992 Act is clear in its requirement that all local commercial television stations carried in fulfillment of the must-carry requirements must be provided to every cable subscriber and must be viewable on all television sets that are connected to the cable system by a cable operator or for which the cable operator provides a connection. The Act further states that, if a cable operator authorizes subscribers to install additional receiver connections, but does not provide such connections or the equipment and materials for such connections, the operator must notify such subscribers of all broadcast stations carried on the cable system which cannot be viewed via cable without a converter box. Thus, the Commission will require cable operators provide such notification to all affected subscribers by June 2, 1993. The notice must explain the circumstances under which additional equipment is needed, whether the equipment is available from the cable operator or available from local stores and provide information regarding installation of such equipment. The Commission will permit cable operators to include this notice in a monthly billing statement. In addition, the Commission will require cable operators to provide new subscribers with such notification at the time of the initial installation and all affected subscribers once a year of the need for additional equipment to receive the must-carry signals.

15. Consistent with its decision regarding identification of NCE stations carried to fulfill the must-carry requirements, the Commission also will require that, by June 17, 1993, a cable operator must place in its public file a list of the local commercial broadcast stations carried on its system pursuant to section 614. For each must-carry signal, the list must identify the call sign, city of license, broadcast channel number and channel position on the cable system. In response to a written request for the system's list identifying its must-carry signals, a cable operator will be required to respond within 30 days, in writing.

16. The 1992 Act provides that a local commercial television station will be entitled to must-carry status on all cable systems located in the same Area of Dominant Influence (ADI), as defined by Arbitron, as the station. The *Notice* requested comment regarding the appropriate procedures for accommodating the sporadic changes that occur in ADI assignments from year to year, for determining the relevant market for stations located outside the continental U.S. and for determining the market of cable systems serving communities in multiple ADIs. The Commission will establish a scheme whereby ADI designations will be set for a three-year period designed to coincide with the three-year election time frame for the must-carry/retransmission consent election. The current list of ADIs will be in effect for the initial election period. For the next election period in 1996, the Commission will use the list published in the Spring of 1995; for the election in 1999, the applicable list of ADIs will be the one published in the Spring of 1998, etc. Thus, each broadcast television station will be considered local in those counties listed in the same ADI to which it is assigned. Each station also will be considered a must-carry station in its home county, even if that station is assigned to an ADI different from that of its home county. For Alaska and Hawaii, the Commission believes that Nielsen's DMAs, which are developed in a manner similar to the ADIs, should be used. Furthermore, the Commission will consider Puerto Rico, U.S. Virgin Islands and Guam each to be a separate individual ADI.

17. The Commission believes it is appropriate to require a cable operator

to provide the subscribers in each community its serves with the broadcast television stations that are local to that community. Thus, in situations where a cable system serves communities in more than one county and those counties are assigned to different ADIs, the cable operator will be subject to different must-carry obligations depending on the location of the community served. Where it is technically possible, the cable operator may offer different must-carry channel line-ups in different communities based on the location. Alternatively, if the cable operator is unable to alter its channel line-up on a community-by-community basis, the commercial stations in the multiple ADIs will be considered local to all the communities for must-carry purposes.

18. Section 614(h)(1)(C) of the 1992 Act permits the Commission to add communities to or subtract communities from a station's television market to better reflect marketplace conditions following a written request. The Commission also may determine that particular communities are part of more than one television market. The statute specifies that, when considering requests to modify a television station's market, the Commission shall afford particular attention to the value of localism by taking into account such factors as (1) whether the station, or similarly situated stations, have been historically carried on the cable system or systems within such community; (2) whether the station provides coverage or other local service to the community; (3) whether any other station qualified for carriage provides coverage of news or programming of local interest; and (4) the local viewing patterns in both cable and noncable homes in the community. The Commission sought comment on the procedural aspects of requests for modifications to ADI markets and whether more specific or additional criteria are needed to implement this provision.

19. The Commission concludes that requests for modification of a station's ADI market should be made in accordance with the procedures specified in § 76.7 of its rules for special relief filings. It will allow either broadcasters or cable operators to file market modification requests, since either party may have legitimate interests in such matters, and will begin accepting such requests immediately. In order not to restrict the types of evidence that can be submitted, the Commission declines to adopt additional criteria. Consistent with section 614(h)(C)(iii), cable operators will be required to maintain the status quo with regard to signal carriage.

20. Section 614(f) requires the Commission to make revisions needed to update the list of top 100 television markets and their designated communities in § 76.51 of the existing rules, as part of the implementation of these must-carry provisions. This list was derived largely from Arbitron's 1970 prime time household rankings. The Commission notes that since Congress specifically directed the Commission to use current ADI markets for determining must-carry rights, it appears that updating the Section 76.51 list would primarily affect copyright liability under the compulsory license, although it would also have some impact on the application of the Commission's territorial exclusivity, syndicated exclusivity and network nonduplication rules.

21. On the basis of the record, the Commission does not believe that a major update of the § 76.51 market list is necessary. Wholesale changes in or reranking the markets on the list would have significant implications under the copyright law and the Commission's broadcast and cable program exclusivity rules that the Commission is not prepared to make on the present record. Therefore, at this time, the Commission will only update the existing list by adding the following designated communities: (1) Rename the Columbus, Ohio, market to include Chillicothe; (2) add New London to the Hartford-New Haven-New Britain-Waterbury, Connecticut, market; and (3) change the Atlanta, Georgia, market to Atlanta-Rome. The Commission will consider further revisions to this list on a case-by-case basis under an expedited rulemaking procedure whereby it will issue a notice of proposed rulemaking based on the submitted petition without first seeking public comment on whether it should do so.

22. The Notice asked commenters to consider the potential effects of any modifications to current market designations on other existing rules and potential conflicts caused by using different geographic areas for must-carry rules and other purposes. The Commission believes that it has alleviated many concerns by making only minor, well-documented revisions to the existing top 100 market list. Since market rankings will remain the same, the zones of exclusivity protection will be unchanged for each market, except in those few cases where additional designated communities are now named. Thus, the Commission will not modify its syndicated exclusivity or network nonduplication rules at this time. With respect to copyright matters, the Commission believes that Congress intended for its updated § 76.51 list to be applied to assess copyright liability, since ADIs are used for market designations for must-carry purposes.

23. The 1992 Act requires the Commission to define the term "network" for purposes of applying the must-carry provisions in situations where the programming schedules of two or more stations are similar. In the Notice, the Commission observed that section 614(b)(2) and one part of Section 614(b)(5) address duplicating network affiliates and the second part of Section 614(b)(5) addresses any duplicating local commercial signal and proposed a source-neutral definition that incorporated the substantial duplication concept for purposes of both sections 614(b)(2) and 614(b)(5). Upon evaluation, the Commission now believes that it is appropriate to treat the provisions of sections 614(b)(2) and section 614(b)(5) separately as the two provisions are intended to accommodate different situations and are addressed separately in the statute and its legislative history.

24. Specifically, the Commission will adopt the definition of a "network" applicable to the filing of network affiliation agreements (§ 73.3613(a)(i)) of "an entity that offers programming on a regular basis for 15 or more hours per week to at least 25 affiliates in 10 or more states." To define "substantial duplication" for the application of section 614(b)(5), the Commission uses the guidance provided in the legislative history that indicates that this term is intended to refer to the "simultaneous transmission of identical programming on two stations" and which "constitutes a majority of the programming on each station." Accordingly, two stations will be considered to substantially duplicate each other "if they simultaneously broadcast identical programming for more than 50 percent of the broadcast week." Moreover, for purposes of this definition, identical programming means the identical episode of the same program series.

25. Pursuant to section 614(a) of the 1992 Act, a cable system's signal carriage obligation includes carriage of "qualified" low power television (LPTV) stations in certain limited circumstances where full power stations are absent. An LPTV station, as defined in section 614(h)(2), qualifies for must-carry rights if the station conforms to the Commission's LPTV rules, broadcasts for at least the minimum number of hours required of commercial broadcast stations by the Commission, and adheres to certain Commission

requirements regarding non-entertainment programming and employment. However, an LPTV station will not be qualified unless the Commission determines that the provision of programming by such station would address local news and informational needs not being adequately served by full power television stations, because such full power stations are distant from the LPTV station's community of license. In addition, the LPTV station must comply with the Commission's interference regulations for LPTV stations; it must be within 35 miles of the cable system's principal headend and deliver to the headend a good quality over-the-air signal; its community of license and the franchise area of the cable system must both have been located outside of the largest 160 Metropolitan Statistical Areas (MSAs) on June 30, 1990, and the population of the LPTV station's community of license on that date must not have exceeded 35,000; and there cannot be any full power television station licensed to any community within the county or other political subdivision (of a State) served by the cable system.

26. The Notice first inquired whether a case-by-case determination by the Commission of an LPTV station's qualification for must-carry status would be required. In the Order, the Commission decided that the statutory definition of a qualified LPTV station is sufficiently rigorous to eliminate the need for such Commission determinations. As a general rule, the Commission believes that an LPTV station asserting must-carry rights must provide the cable operator with the same evidence regarding its must-carry qualifications (including its role in addressing community needs) that the station would present to the Commission should its request for carriage be denied. The cable operator will then be obligated to give full consideration to the request, and to respond to the LPTV station within the time frames specified herein. In the event an LPTV station asserting must-carry rights is denied carriage, the station must follow the procedures detailed herein with respect to remedies for denial of carriage.

27. Cable systems are required to carry a qualified LPTV station only if there are not sufficient full power local commercial television stations to fulfill the cable operator's must-carry obligations under section 614(b). Assuming this requirement is met, section 614(c)(1) provides that a cable system with 35 or fewer channels must carry one qualified LPTV station and other systems must carry two such signals.

28. A cable operator required to carry more than one signal of a qualified LPTV station may place the additional station on public, educational or governmental (PEG) channels not in use for their designated purposes, subject to approval by the franchising authority. Consistent with the discussion regarding the use of PEG channels for NCE carriage, the Commission will defer all such decisions to the franchising authority.

29. Section 614(g) provides that a cable operator will neither be required to carry nor be prohibited from carrying the signal of a commercial television station that is predominantly used for the transmission of sales presentations or program length commercials until the Commission completes a related proceeding to determine whether such broadcast television stations serve the public interest, convenience, and necessity and are entitled to must-carry status. On January 14, 1993, the Commission initiated such a proceeding.[3] Until a final definition of "predominantly utilized for the transmission of sales presentations or program length commercials" is adopted in MM Docket No. 93–8, an interim definition is needed in order to implement section 614(g).

30. In the Notice, the Commission sought comment on whether an appropriate interim definition would be one that considers channels to be "predominantly utilized" for such purposes if more than 50 percent of their programming week consists of sales presentations or program length commercials. The Commission concludes that its proposed definition is appropriate for use during the interim period because it is simple to apply. It declines, however, to adopt commenters' suggestion to use the definition of commercial matter in Section 76.225 to describe such programming, as it also describes traditional commercials. The Commission believes that it is generally understood that the programming in question includes sales presentations longer than traditional commercials inserted in programming.

31. Manner of Carriage. Pursuant to sections 614(b)(3)(A) and 615(g)(1) of the 1992 Act, cable operators are faced with three broad categories of carriage content obligation. First, cable operators are mandated to carry must-carry signals in their entirety, including the primary video, accompanying audio and line 21 closed caption transmissions of both qualified local commercial and NCE stations. Second, cable operators are required, where technically feasible, to carry program-related material on the vertical blanking interval (VBI) or subcarriers of both types of stations. Third, with respect to local qualified NCE stations, cable operators, where technically feasible, must carry program-related material that may be necessary for the receipt of programming by handicapped persons or for educational or language purposes. Lastly, the 1992 Act gives cable operators discretion to carry any other information in a station's VBI or subcarriers.

32. With respect to determining what is program-related material, the Commission believes the best guidance is to be found in the factors enumerated in the copyright decision *WGN Continental Broadcasting* v. *United Video*, 685 F.2d 218 (7th Cir. 1982). There, the Court held that the copyright of a television program include program material encoded in the VBI when "related images" are involved. With regard to the "technical feasibility" of the carriage of program-related material in the VBI or on subcarriers, the Commission generally concludes that such carriage should be considered "technically feasible" if it does not require the cable operator to incur additional expenses and to change or add equipment in order to carry such material. However, the Commission would consider signal carriage to be "technically feasible" if only nominal costs, additions or changes of equipment are necessary.

33. The 1992 Act permits a cable operator, where appropriate and technically feasible, to remove signal enhancements, such as ghost-cancelling information carried in a commercial station's VBI if the cable operator employs such technology at the cable system's headend. Thus, the Commission determined that ghost-cancelling technology can only be stripped from the television signal if the cable operator applies an adequate alternative methodology at the headend. It also believes that the same treatment should apply to NCE stations.

34. Section 614(b)(6) provides that the signals of local commercial television stations carried pursuant to the new must-carry rules must be carried on either (1) the same channel on which the station is broadcast over the air, (2) the cable channel on which it was carried on July 19, 1985, or (3) the cable channel on which it was carried on January 1, 1992. Similarly, section 615(g)(5) requires that NCE signals

[3] See Notice of Proposed Rule Making in MM Docket 93–8, 58 FR 7875 (February 10, 1993).

carried pursuant to must-carry requirements must appear on the cable system channel number on which the qualified local NCE station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, at the election of the station. In either case, the station is entitled to choose among these alternatives or to select another channel that is mutually agreed upon by the station and cable operator.

35. In the Order, the Commission observes that the Act clearly contemplates that the broadcaster, not the cable operator, gets to select which of the channel positioning alternatives will apply in its case. The Commission will require stations to indicate their choice of channel position when they initially elect retransmission consent or must-carry status, although cable operators will have until October 6, 1993, to fulfill such requests. In the interim, channel positioning will be at the discretion of the cable operator.

36. With respect to conflicts between the carriage or channel positioning rights of a must-carry signal and prior agreements between cable operators and cable programming services, the Commission finds that the provisions of the 1992 supersede any such contracts. Moreover, the Commission declines to adopt a formal priority structure for resolving conflicting channel position claims among broadcasters at this time. Nonetheless, the Commission suggests that parties give consideration to maintaining current channel positions to avoid disruptions.

37. The notice solicited comment on whether the Commission's recently adopted Cable Technical Report and Order[4] satisfies the requirements for signal quality standards specified in the 1992 Act. The Commission believes its current technical standards, when taken as a whole, ensure no material degradation occurs on any video signal delivered to a subscriber. The notice also cited the requirement adopted in the Cable Technical Report and Order that cable operators must make reasonable efforts and use good engineering practices and proper equipment to guard against unnecessary degradation of broadcast television signals. Given that the Commission's current technical standards adopted in the Cable Technical Report and Order require a cable operator to provide to the subscriber a good quality signal for all classes of cable channels, including broadcast channels, without material degradation, the Commission is not convinced that additional requirements for broadcast television stations are needed at this time. The Commission continues to believe that its technical standards, considered as a whole, currently ensure that cable systems will deliver a good quality picture to subscribers.

38. A broadcast television station is not entitled to must-carry status if it does not deliver a good quality signal to the cable system's headend. The Commission states that it expects cable operators to cooperate with broadcasters in such cases and to provide the relevant data for the broadcaster to determine whether it wishes to pay for the signal improvements required to attain must-carry status. The Commission concludes that it is the television station's obligation to bear the cost of delivery of a good quality signal, including equipment improvement expenses.

39. Procedures. The 1992 Act requires a cable operator to provide written notice to a local television station, and subscribers in the case of NCE stations, at least 30 days prior to either deleting from carriage or repositioning that station on the system. In addition, a cable operator may not delete or reposition a local commercial station during a ratings period. In the Notice, the Commission sought comment on the implementation of these provisions, including whether it should require cable operators to notify subscribers of changes in commercial must-carry signal carriage, as is required by the Act for NCE stations. In the Notice, the Commission also proposed to prohibit deletion or channel repositioning solely during the four national four-week ratings periods—roughly February, May, July and November. Generally, the Commission adopts the proposed notification requirements, including notification of subscribers about changes in the carriage of both commercial and noncommercial stations. Furthermore, consistent with the Commission's March 11, 1993, action in its customer service proceeding (Report and Order in MM Docket No. 92–263, FCC 93–145) cable operators will be required to notify any broadcaster 30 days prior to deletion or repositioning of its signal.

40. Under the 1992 Act, a cable operator is generally prohibited from accepting or requesting compensation for carriage or channel positioning of a television station, NCE or commercial, carried in fulfillment of the must-carry requirements. However, as discussed above, a station may be required to bear the costs associated with delivering a good quality signal or a baseband video signal to the principal headend of the cable system. Moreover, the cable operator may accept payments as indemnification for any increased copyright liability resulting from carriage of commercial must-carry stations that would be considered distant signals for copyright purposes. In this regard, the Commission expects cooperation between cable operators and broadcasters to ensure that operators are compensated for the cost of carriage of "distant" must-carry signals and that broadcast licensees pay only their fair share. Thus, a broadcaster will only be responsible for the increased copyright costs associated with carriage of its station as a must-carry signal.

41. Section 614(d)(1) and section 615(j) of the 1992 Act provide for the resolution of carriage and channel positioning disputes between a broadcast station and a cable operator. The Act requires a local commercial station to notify the cable operator of an alleged violation, and further requires the cable operator to respond within 30 days, prior to that station filing a complaint with the Commission. An NCE station is permitted to file a complaint with the Commission prior to notifying the cable operator. Once a complaint is filed, the Commission has 120 days to either dismiss the complaint or take remedial action. The Notice sought comment on whether the special relief provisions of § 76.7 should be used, with modified time periods and the difference in treatment of local commercial stations and NCE stations.

42. The Commission believes that the special relief procedures of § 76.7 provide the best method of expediting complaints filed pursuant to sections 614(d)(1) and 615(j) because time is of the essence under 120-day statutory limit. Therefore, the Commission is amending § 76.7 to accommodate the filing of complaints, which will be exempt from the fee provisions of § 76.7.

43. In the Order, the Commission recommends that commercial station's initial notification to the cable operator of an alleged failure to comply with its must-carry obligations be made with the same level of specificity, raising all issues, as the station would raise before the Commission if the request should be denied. This initial notification will act as a condition precedent to a commercial station filing a complaint with the Commission, and will serve as a primary part of the pleadings in the event a complaint is filed. The Commission also believes the cable operator's response to a commercial

[4] See Report and Order in MM Docket Nos. 91–169 and 85–38, 57 FR 11000 (April 1, 1992), (Cable Technical Report and Order) and Memorandum Opinion and Order in MM Docket Nos. 91–169 and 85–38, 57 FR 61009 (December 23, 1992) (Cable Technical Reconsideration).

station should contain the same level of specificity as the cable operator would raise before the Commission in defense of a complaint against it. This initial response will serve as a primary part of the pleadings in the event a complaint is filed by an aggrieved commercial station.

44. With respect to an NCE station, although the statute gives the NCE station the right to directly file a complaint with the Commission, it is anticipated, though not required, that if there is any question relating to the carriage obligations of the cable system, the NCE station will make inquiries of the cable system prior to filing a complaint. In the event the NCE station chooses to notify a cable operator of an alleged failure to comply with the Act, the Commission believes it appropriate that it uses the procedures outlined for commercial stations. If the NCE station chooses to avail itself of the plain language of the statute and file a complaint directly with the Commission, the NCE station must serve the cable system as provided in § 76.7 of the Commission's rules.

45. The Notice proposed a 30- or 60-day time limit from the triggering action in which to allow stations to file complaints. The Commission believes that a time limit for the filing of a must-carry or channel positioning complaint is appropriate and concludes that it is appropriate that a station be required to file its complaint within sixty (60) days of an "affirmative action" by a cable operator which directly affects the rights and interests of the station. An affirmative action for these purposes includes a notice from the cable operator of its intent to discontinue carriage or reposition the channel, or a denial from a cable operator in response to a demand by the station for either carriage or channel position.

46. The Act requires the Commission to make a determination regarding a must-carry complaint within 120 days after it is filed. Thus, the Notice suggested that cable operators be given ten (10) days to respond to a complaint filed with the Commission by either a commercial or an NCE station in order to meet this deadline. The Commission believes that the twenty (20) day opportunity to reply or oppose a complaint set forth in that rule will be sufficient time for cable operators to react to either a commercial or NCE station complaint. These amended provisions of 76.7 will be applied to all complaints.

47. The Act provides that the Commission shall require a cable system that has failed to meet its must-carry obligation to carry the affected commercial station for at least 12 months. With respect to NCE stations, the Act states that the Commission shall determine the needed remedial actions. The Commission believes that 45 days is an appropriate amount of time for the cable operator to implement any order of the Commission; however, the Commission reserves the right to reduce or extend such period of time where warranted by the circumstances of a particular case. Although the statute appears to contemplate remedial action on behalf of NCE stations be determined on a case-by-case basis, the Commission anticipates that orders relating to such complaints will also carry a 45-day deadline.

48. Retransmission consent. The new section 325(b) of the Communications Act provides that, as of October 6, 1993, no cable system or other multichannel video programming distributor shall retransmit the signal of any broadcasting station unless the multichannel distributor has the express authority of the originating station or, in the case of a cable system, a television broadcasting station has elected to assert must-carry rights. The new subsection contains four exceptions. The retransmission consent requirements do not apply to: (1) Noncommercial broadcasting stations; (2) home satellite dish reception of superstations provided that the signal was retransmitted by a satellite carrier on May 1, 1991; (3) home satellite dish reception of network stations, provided that reception is by an unserved household; and (4) cable or other multichannel distributor retransmission of superstations provided that the signal was obtained from a satellite carrier and the originating station was a superstation as of May 1, 1991.

49. The Commission finds that retransmission consent requirements do apply to commercial radio signals and to low power television signals, unless a low power television signal is being carried pursuant to the must-carry rules. Retransmission consent requirements also apply to distant commercial television signals that are not superstations, notwithstanding the fact that television stations cannot opt for must-carry rights with respect to cable systems outside their local market. However, the retransmission consent requirements do not apply to foreign stations.

50. The Commission determines that "multichannel video programming distributor" should be defined to include satellite master antenna television systems, but that a pure video dial tone provider is not a multichannel distributor. Rather, customers of a pure video dialtone provider would be responsible for meeting retransmission consent obligations. The Commission also determines that provision of local broadcast signals by master antenna television facilities or VHF/UHF antennas on individual dwellings is not subject to retransmission consent, provided that these signals are available without charge at the residents' option. To ensure that these conditions are met, the facilities in question must be the property of the building owner or individual subscriber.

51. The statute requires commercial television broadcast stations to make an election between must-carry and retransmission consent rights within one year of the date of enactment of the 1992 Act and every three years thereafter. The Commission adopts the following schedule for implementing the must-carry and retransmission consent requirements.

52. Effective April 2, 1993, cable operators will be required to give subscribers 30 days notice of deletion or repositioning of any television broadcast station carried. As of May 3, 1993, cable systems must notify qualified noncommercial educational stations of the location of their principal headend and notify any local television stations that may not be entitled to must-carry status due to failure to meet signal strength requirements or imposition of increased copyright liability on cable systems.

53. On June 2, 1993, cable systems must begin carriage of their complement of commercial must-carry signals. Cable operators will not be required to conform to the channel positioning rules until the retransmission consent requirements go into effect. By June 17, 1993, local commercial television stations will be required to make their initial election of must-carry or retransmission consent status, and stations electing must-carry must notify cable operators of their preferred channel positions. The retransmission consent and channel positioning requirements will take effect on October 6, 1993. Subsequent election deadlines are October 1 of 1996, 1999, etc. Those elections will take effect on January 1 of 1997, 2000 etc.

54. The Commission notes that cable operators wishing to drop signals due to a failure to reach retransmission consent agreements will be required to notify subscribers by September 6, 1993 and that the lead time for preparing such notifications for insertion in subscriber bills and for making necessary equipment changes may be even longer. Therefore, the Commission expects that, in general, retransmission consent

agreements will be concluded by early August of 1993.

55. Stations will be required to make the same election for cable systems with overlapping franchise areas. If a station fails to make an election by the deadline, the default election will be must-carry. Stations will be required to place copies of all election statements in their public files and to send each cable operator in the local market a copy of the station's election statement with respect to that operator. New television stations must make their initial must-carry/retransmission consent elections within 30 days of commencing regular broadcasts, and this initial election will take effect 90 days after it is made.

56. The Commission, rejecting its tentative conclusion, finds that the requirement in new section 614(b)(3)(B) that cable operators must "carry the entirety of the program schedule of any television station carried on the cable system" (subject to Commission rules on sports broadcasting, syndicated exclusivity, and network nonduplication) applies to all television stations carried, including retransmission consent and must-carry stations. Moreover, local television signals carried pursuant to retransmission consent agreements count against the must-carry signal complement required.

57. The Commission determines that retransmission consent is a new right, created by the Communications Act, that vests in a broadcasters' signal. This right is distinct from copyright, which applies to the programming carried on the signal. Broadcasters may bargain away their retransmission consent rights. However, in order to maintain the Congressionally-mandated distinction between retransmission consent and copyright, the Commission finds that any bargaining must be for retransmission consent rights in the entire signal and not for individual programs carried on the signal. Thus, any retransmission rights acquired will be for the entire signal of a broadcast station. The Commission expects purely contractual disputes to be resolved in the courts, but broadcast stations and, in certain circumstances, television networks, may file complaints with the Commission regarding alleged violations of section 325(b).

58. With respect to ensuring that retransmission consent fees do not result in basic service tier rates that are not reasonable, the Commission determines that its rate regulation proceeding is the appropriate forum for addressing reasonableness of retransmission consent rates. Accordingly, the Commission declines to adopt specific regulations limiting retransmission consent rates.

59. The new retransmission consent rules also prohibit exclusive retransmission consent agreements. The Commission will revisit this issue in three years. Additionally, the Commission concludes that television broadcast stations that elect retransmission consent may exercise network nonduplication rights and denies a petition from the National Cable Television Association to revisit the network nonduplication rules.

Final Regulatory Flexibility Analysis

60. Pursuant to the Regulatory Flexibility Act of 1980, the Commission's final analysis is as follows:

I. Need and Purpose of this Action

This action is taken to implement the provisions of the Cable Television Consumer Protection and Competition Act of 1992 pertaining to the mandatory carriage of broadcast signals ("must-carry") and retransmission consent.

II. Summary of Issues Raised by Comments in Response to the Initial Regulatory Flexibility Analysis

No comments were received in response to the request for comments to the Initial Regulatory Flexibility Analysis, however comments received in response to the Notice of Proposed Rule Making indicate that smaller cable systems that primarily serve rural areas are concerned about their ability to compete effectively under the same regulatory scheme as that applied to larger cable systems. Concerns focus generally on the smaller system's ability to financially meet technical requirements and to effectively negotiate for retransmission rights in its market.

III. Significant Alternatives Considered and Rejected

None. The Act is specific with regard to the must-carry and retransmission rights available to broadcasters and the resulting obligation on cable systems. The Act provides that rights and obligations are proportionate to the size of the business.

61. The Secretary shall cause a copy of the Report and Order, including the Final Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, Public Law No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

Ordering Clauses

62. Accordingly, *it is ordered*, That pursuant to authority contained in Section 4(i) and (j), and 303 of the Communications Act of 1934, as amended, and the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102–385, part 76 of the Commission's Rules, 47 CFR part 76, is amended as set forth in below.

63. *It is further ordered*, That pursuant to the need to avoid disruption to cable subscribers and broadcast television stations during the transition to the new broadcast signal carriage rules and the authority contained in the Administrative Procedure Act, 5 U.S.C. 553(d)(3), section 76.58(a) and 76.59 of the rules set forth below will be effective April 2, 1993.

64. *It is further ordered*, That §§ 76.56 and 76.58(e) of the rules set forth below will be effective June 2, 1993.

65. *It is further ordered*, That §§ 76.64 and 76.302 of the rules set forth below will be effective June 17, 1993.

66. *It is further ordered*, That all other sections of the rules set forth below will be effective May 3, 1993.

67. *It is further ordered*, That the Petition for Rule Making filed by the National Cable Television Association on January 19, 1993, is denied.

68. *It is further ordered*, That MM Docket No. 90–4 is terminated.

69. *It is further ordered*, That MM Docket No. 92–295 is terminated.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Amendatory Text

Part 76 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 76—CABLE TELEVISION SERVICE

1. The authority citation for part 76 is revised to read as follows:

Authority: 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309, 532, 533, 535, 543, 552.

2. Section 76.5 is amended by revising paragraph (b) and adding paragraphs (nn), (oo) and (pp) to read as follows:

§ 76.5 Definitions.

* * * * *

(b) *Television station; television broadcast station.* Any television broadcast station operating on a channel regularly assigned to its community by § 73.606 of this chapter, and any

television broadcast station licensed by a foreign government: *Provided, however,* That a television broadcast station licensed by a foreign government shall not be entitled to assert a claim to carriage, program exclusivity, or retransmission consent authorization pursuant to subpart D or F of this part, but may otherwise be carried if consistent with the rules on any service tier.

* * * * *

(nn) *Activated channels.* Those channels engineered at the headend of a cable system for the provision of services generally available to residential subscribers of the cable system, regardless of whether such services actually are provided, including any channel designated for public, educational or governmental use.

(oo) *Usable activated channels.* Those activated channels of a cable system, except those channels whose use for the distribution of broadcast signals would conflict with technical and safety regulations. See part 76, subpart K.

(pp) *Principal headend.* (1) The headend, in the case of a cable system with a single headend or,

(2) In the case of a cable system with more than one headend, the principal headend designated by the cable operator, except that such designation shall not undermine or evade the requirements of subpart D of this part. The designation of a principal headend shall be made by May 3, 1993, and each cable system shall place in its public file the location of its designated principal headend by June 17, 1993, as provided in § 76.302. Except for good cause, an operator may not change its choice of principal headend.

3. Section 76.7 is revised in its entirety to read as follows:

§ 76.7 Special relief and must-carry complaint procedures.

(a)(1) *Petitions for special relief.* On petition by a cable television system operator, a franchising authority, an applicant, permittee, or licensee of a television broadcast or translator station, or by any other interested person, the Commission may waive any provision of the rules relating to cable television systems, impose additional or different requirements, or issue a ruling on a complaint or disputed question.

(2) *Complaints filed pursuant to § 76.61.* In response to a complaint filed by a television broadcast station under § 76.61 (must-carry complaint), the Commission may order a cable television system operator to commence or resume carriage of the complaining station, or position or reposition the complaining station's channel on the cable television system, pursuant to subpart D of this part.

(b) The petition for special relief or must-carry complaint may be submitted informally, by letter, but shall be accompanied by a certificate of service on any cable television system operator, franchising authority, station licensee, permittee, or applicant, or other interested person who may be directly affected if the relief requested is granted.

(c)(1) The petition for special relief or must-carry complaint shall state the relief requested. It shall state fully and precisely all pertinent facts and considerations relied on to demonstrate the need for the relief requested and to support a determination that a grant of such relief would serve the public interest. Factual allegations shall be supported by affidavit of a person or persons with actual knowledge of the facts, and exhibits shall be verified by the person who prepares them.

(2) A petition for special relief or must-carry complaint shall set forth all steps taken by the parties to resolve the problem, except where the only relief sought is a clarification or interpretation of the rules.

(3) An original and two (2) copies of the petition for special relief or must-carry complaint, and all subsequent pleadings shall be filed in accordance with § 0.401(a) of this chapter, except the petitions for special relief requiring fees as set forth at part 1, subpart G of this chapter must be filed in accordance with § 0.401(b) of this chapter. Must-carry complaints filed pursuant to § 76.61 are not covered by part 1, subpart G of this chapter and do not require fees.

(4)(i) Must-carry complaints filed pursuant to § 76.61(a) (Complaints regarding carriage of local commercial television stations) shall be accompanied by the notice from the complainant to the cable television system operator (§ 76.61(a)(1)), and the cable television system operator's response (§ 76.61(a)(2)), if any. If no timely response was received, the complaint should so state.

(ii) Must-carry complaints filed pursuant to § 76.61(b) (Complaints regarding carriage of qualified local NCE television stations) should be accompanied by any relevant correspondence between the complainant and the cable television system operator.

(iii) No must-carry complaint filed pursuant to § 76.61 will be accepted by the Commission if filed more than sixty (60) days after the date of the specific event described in this paragraph. Must-carry complaints filed pursuant to § 76.61(a) or § 76.61(b) should affirmatively state the specific event upon which the complaint is based, and shall establish that the complaint is being filed within sixty (60) days of such specific event. With respect to must-carry complaints filed pursuant to § 76.61(a), the specific event shall be

(A) The denial by a cable television system operator of a request for carriage or channel position contained in the notice required by § 76.61(a)(1), or

(B) The failure to respond to such notice within the time period allowed by § 76.61(a)(2). With respect to must-carry complaints filed pursuant to § 76.61(b), the specific event shall be when the complainant first believes that the cable television system operator has failed to comply with the applicable provisions of subpart D of this part.

(d) Interested persons may submit comments or oppositions to a petition for special relief or a must-carry complaint within twenty (20) days after the date of public notice of the filing of such petition or complaint. For good cause shown in the petition for special relief or must-carry complaint, the Commission may, by letter or telegram to known interested persons, specify an altered time for such submissions. Comments or oppositions shall be served on the petitioner or complainant and on all persons listed in petitioner's or complainant's certificate of service, and shall contain a detailed full showing, supported by affidavit, of any facts or considerations relied on.

(e) The petitioner or complainant may file a reply to the comments or oppositions within ten (10) days after their submission, which shall be served on all persons who have filed pleadings and shall also contain a detailed full showing, supported by affidavit, of any additional facts or considerations relied on. For good cause shown, the Commission may specify a shorter time for the filing of reply comments.

(f) The Commission, after consideration of a petition for special relief and the responsive pleadings, may determine whether the public interest would be served by the grant, in whole or in part, or denial of the request, or may issue a ruling on the complaint or dispute. The Commission will resolve must-carry complaints pursuant to paragraphs (a)(4) and (b)(2) of § 76.61. The Commission may specify other procedures, such as oral argument, evidentiary hearing, or further written submissions directed to particular aspects, as it deems appropriate. In the event that an evidentiary hearing is required, the Commission will determine, on the basis of the pleadings

and such other procedures as it may specify, whether temporary relief should be afforded any party pending the hearing and the nature of any such temporary relief.

(g) On a finding that the public interest so requires, the Commission may determine that a system community unit operating or proposing to operate in a community located outside of the 48 contiguous states shall comply with provisions of subparts D, F, and G of this part in addition to the provisions thereof otherwise applicable.

Note: Each party filing a petition, comments, opposition or other pleading pursuant to § 76.7 is responsible for the continuing accuracy and completeness of all information in such document. The provisions of § 1.65 of this chapter are wholly applicable to pleadings involving § 76.7, except that where specific provisions of the latter conflict with the former, the specific provisions of § 76.7 are controlling, e.g., where requirements for service on specified parties of certain information may vary.

4. Section 76.51 is amended by revising the names of markets ranked numbers 18, 19 and 27, and by adding a note at the end of the section, to read as follows:

§ 76.51 Major television markets.

* * * * *

(18) Atlanta-Rome, Ga.

(19) Hartford-New Haven-New Britain-Waterbury-New London, Ct.

* * * * *

(27) Columbus-Chillicothe, Ohio

* * * * *

Note: Requests for changes to this list shall be made in the form of a petition for rulemaking pursuant to § 1.401 of this chapter, except that such petitions shall not be subject to the public notice provisions of § 1.403 of this chapter.

5. Section 76.55 is added to subpart D to read as follows:

§ 76.55 Definitions applicable to the must-carry rules.

For purposes of the must-carry rules set forth in this subpart, the following definitions apply:

(a) *Qualified noncommercial educational (NCE) television station.* A qualified NCE television station is any television broadcast station which

(1)(i) Under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as an NCE television broadcast station and which is owned and operated by a public agency, nonprofit foundation, corporation, or association; and

(ii) Has as its licensee an entity which is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) of the Communications Act of 1934, as amended; or

(2) Is owned and operated by a municipality and transmits noncommercial programs for educational purposes, as defined in Section 73.612 of this chapter, for at least 50 percent of its broadcast week.

(3) This definition includes:

(i) The translator of any NCE television station with five watts or higher power serving the franchise area,

(ii) A full-service station or translator if such station or translator is licensed to a channel reserved for NCE use pursuant to § 73.606 of this chapter, or any successor regulations thereto, and

(iii) Such stations and translators operating on channels not so reserved but otherwise qualified as NCE stations.

(b) *Qualified local noncommercial educational (NCE) television station.* A qualified local NCE television station is a qualified NCE television station:

(1) That is licensed to a community whose reference point, as defined in § 76.53 is within 50 miles of the principal headend, as defined in § 76.5(pp), of the cable system; or

(2) Whose Grade B service contour encompasses the principal headend, as defined in § 76.5(pp), of the cable system.

(c) *Local commercial television station.* A local commercial television station is any full power television broadcast station, other than a qualified NCE television station as defined in paragraph (a) of this section, licensed and operating on a channel regularly assigned to its community by the Commission that, with respect to a particular cable system, is within the same television market, as defined below in paragraph (e) of this section, as the cable system, except that the term local commercial television station does not include:

(1) Low power television stations, television translator stations, and passive repeaters with operate pursuant to part 74 of this chapter.

(2) A television broadcast station that would be considered a distant signal under the capable compulsory copyright license, 17 U.S.C. 111, if such station does not agree to indemnify the cable operator for any increased copyright liability resulting from carriage on the cable system; or

(3) A television broadcast station that does not deliver to the principal headend, as defined in § 76.5(pp), of a cable system either a signal level of −45dBm for UHF signals or −49dBm for VHF signals at the input terminals of the signal processing equipment, *i.e.*, the input to the first active component of the signal processing equipment relevant to the signal at issue, if such station does not agree to be responsible for the costs of delivering to the cable system a signal of good quality or a baseband video signal.

(d) *Qualified low power station.* A qualified low power station is any television broadcast station conforming to the low power television rules contained in part 74 of this chapter, only if:

(1) Such station broadcasts for at least the minimum number of hours of operation required by the Commission for full power television broadcast stations under part 73 of this chapter;

(2) Such station meets all obligations and requirements applicable to full power television broadcast stations under part 73 of this chapter, with respect to the broadcast of nonentertainment programming; programming and rates involving political candidates, election issues, controversial issues of public importance, editorials, and personal attacks; programming for children; and equal employment opportunity; and the Commission determines that the provision of such programming by such station would address local news and informational needs which are not being adequately served by full power television broadcast stations because of the geographic distance of such full power stations from the low power station's community of license;

(3) Such station complies with interference regulations consistent with its secondary status pursuant to part 74 of this chapter;

(4) Such station is located no more than 35 miles from the cable system's principal headend, as defined in § 76.5(pp), and delivers to that headend an over-the-air signal of good quality;

(5) The community of license of such station and the franchise area of the cable system are both located outside of the largest 160 Metropolitan Statistical Areas, ranked by population, as determined by the Office of Management and Budget on June 30, 1990, and the population of such community of license on such date did not exceed 35,000; and

(6) There is no full power television broadcast station licensed to any community within the county or other equivalent political subdivision (of a State) served by the cable system.

(e) *Television market.* For purposes of the must-carry rules:

(1) A local commercial broadcast television station's market shall be defined as its Area of Dominant

Influence (ADI) as determined by Arbitron and published in its Television ADI Market Guide or any successor publication, as noted below, except that for areas outside the contiguous 48 states the area of dominant influence may be defined using Nielsen's Designated Market Area (DMA), where applicable, and that Puerto Rico, the U.S. Virgin Islands and Guam will each be considered one ADI;

(2) A cable system's television market(s) shall be the one or more ADIs in which the communities it serves are located;

(3) In addition, the county in which a station's community of license is located will be considered within its market.

Note: For the 1993 must-carry/retransmission consent election, the ADI assignments specified in the 1991–1992 *Television ADI Market Guide*, available from the Arbitron Ratings Co., 312 Marshall Ave., Laurel, MD, will apply. ADI assignments will be updated at three-year intervals. For the 1996 election period, the 1994–1995 ADI list will be used; the applicable list for the 1999 election will be the 1997–1998 list, etc.

(f) *Network.* For purposes of the must-carry rules, a commercial television network is an entity that offers programming on a regular basis for 15 or more hours per week to at least 25 affiliates in 10 or more states.

6. Section 76.56 is added to subpart D to read as follows:

§ 76.56 Signal carriage obligations.

(a) *Carriage of qualified noncommercial educational stations.* A cable television system shall carry qualified NCE television stations in accordance with the following provisions:

(1) Each cable operator shall carry on its cable television system any qualified local NCE television station requesting carriage, except that

(i) Systems with 12 or fewer usable activated channels, as defined in § 76.6(oo), shall be required to carry the signal of one such station;

(ii) Systems with 13 to 36 usable activated channels, as defined in § 76.5(oo), shall be required to carry at least one qualified local NCE station, but not more than three such stations; and

(iii) Systems with more than 36 usable activated channels shall be required to carry the signals of three qualified local NCE educational television stations; however a cable system with more than 36 channels shall not be required to carry stations whose programming substantially duplicates the programming of another qualified local NCE station.

Note: For purposes of this paragraph, a station will be deemed to "substantially duplicate" the programming of another station if it broadcasts the same programming, simultaneous or non-simultaneous, for more than 50 percent of prime time, as defined in § 76.5(n), and more than 50 percent outside of prime time over a three-month period.

(2)(i) In the case of a cable system with 12 or fewer channels that operates beyond the presence of any qualified local NCE stations, the cable operator shall import one qualified NCE television station.

(ii) A cable system with between 13 and 36 channels that operates beyond the presence of any qualified local NCE stations, the cable operator shall import at least one qualified NCE television station.

(3) A cable system with 12 or fewer usable activated channels shall not be required to remove any programming service provided to subscribers as of March 29, 1990, to satisfy these requirements, except that the first available channel must be used to satisfy these requirements.

(4) A cable system with 13 to 36 usable activated channels which carries the signal of a qualified local NCE station affiliated with a State public television network shall not be required to carry more than one qualified local NCE station affiliated with such network, if the programming of such additional stations substantially duplicates, as defined in the note in paragraph (a)(1) of this section, the programming of a qualified local NCE television station receiving carriage.

(5) Notwithstanding the requirements of paragraph (a)(1) of this section, all cable operators shall continue to provide carriage to all qualified local NCE television stations whose signals were carried on their systems as of March 29, 1990. This requirement may be waived with respect to a particular cable operator and a particular NCE station, upon the written consent of the cable operator and the station.

(b) *Carriage of local commercial television stations.* Effective June 2, 1993, a cable television system shall carry local commercial broadcast television stations in accordance with the following provisions:

(1) A cable system with 12 or fewer usable activated channels, as defined in § 76.5(oo), shall carry the signals of at least three local commercial television stations, except that if such system had 300 or fewer subscribers on October 5, 1992, it shall not be subject to these requirements as long as it does not delete from carriage any broadcast television station.

(2) A cable system with more than 12 usable activated channels, as defined in § 76.5(oo), shall carry local commercial television stations up to one-third of the aggregate number of usable activated channels of such system.

(3) If there are not enough local commercial television stations to fill the channels set aside under paragraphs (b)(1) and (b)(2) of this section, a cable operator of a system with 35 or fewer usable activated channels, as defined in § 76.5(oo), shall, if such stations exist, carry one qualified low power television station and a cable system with more than 35 usable activated channels shall carry two qualified low power stations.

(4) Whenever the number of local commercial television stations exceeds the maximum number of signals a cable system is required to carry under paragraph (b)(1) or (b)(2) of this section, the cable operator shall have discretion in selecting which such stations shall be carried on its cable system, except that

(i) Under no circumstances shall a cable operator carry a qualified low power station in lieu of a local commercial television station; and

(ii) If the cable operator elects to carry an affiliate of a broadcast network, as defined in § 76.55(f), such cable operator shall carry the affiliate of such broadcast network whose community of license reference point, as defined in § 76.53, is closest to the principal headend, as defined in § 76.5(pp), of the cable system.

(5) A cable operator is not required to carry the signal of any local commercial television station that substantially duplicates the signal of another local commercial television station that is carried on its cable system, or to carry the signals of more than one local commercial television station affiliated with a particular broadcast network, as defined in § 76.55(f). However, if a cable operator declines to carry duplicating signals, such cable operator shall carry the station whose community of license reference point, as defined in § 76.53, is closest to the principal headend of the cable system. For purposes of this paragraph, substantially duplicates means that a station regularly simultaneously broadcasts the identical programming as another station for more than 50 percent of the broadcast week. For purposes of this definition, only identical episodes of a television series are considered duplicative and commercial inserts are excluded from the comparison. When the stations being compared are licensed to communities in different time zones, programming aired by a station within one hour of the identical program being

broadcast by another station will be considered duplicative.

(6) A cable operator is not required to carry on any tier, and is not prohibited from carrying on any tier, the signal of any commercial television station whose programming week consists of more than 50 percent sales presentations or program length commercials.

(c) *Use of public, educational, or governmental (PEG) channels.* A cable operator required to carry more than one signal of a qualified low power station or to add qualified local NCE stations in fulfillment of these must-carry obligations may do so, subject to approval by the franchising authority pursuant to Section 611 of the Communications Act of 1934, as amended, by placing such additional station on public, educational, or governmental channels not in use for their designated purposes.

(d) *Availability of signals.* (1) Local commercial television stations carried in fulfillment of the requirements of this section shall be provided to every subscriber of a cable system. Such signals shall be viewable via cable on all television receivers of a subscriber which are connected to a cable system by a cable operator or for which a cable operator provides a connection.

(2) Qualified local NCE television stations carried in fulfillment of the carriage obligations of a cable operator under this section shall be available to every subscriber as part of the cable system's lowest priced service tier that includes the retransmission of local commercial television broadcast signals.

(3) If a cable operator authorizes subscribers to install additional receiver connections, but does not provide the subscriber with such connections, or with the equipment and materials for such connections, the operator shall notify such subscribers of all broadcast stations carried on the cable system which cannot be viewed via cable without a converter box and shall offer to sell or lease such a converter box to such subscribers. Such notification must be provided by June 2, 1993, and annually thereafter and to each new subscriber upon initial installation. The notice, which may be included in routine billing statements, shall identify the signals that are unavailable without an additional connection, the manner for obtaining such additional connection and instructions for installation.

(e) *Identification of must-carry signals.* A cable operator shall respond in writing within 30 days to any written request by any person for the identification of the signals carried on its system in fulfillment of the requirements of this section. Pursuant to § 76.302, a cable operator must place a list of the broadcast television signals carried in fulfillment of these must-carry obligations in its public file.

(f) Carriage of additional broadcast television signals on such system shall be at the discretion of the cable operator, subject to the retransmission consent rules, § 76.64. A cable system may also carry any ancillary service transmission on the vertical blanking interval or the aural baseband of any television broadcast signal, including, but not limited to, multichannel television sound and teletext.

7. Section 76.57 is added to subpart D to read as follows:

§ 76.57 Channel positioning.

(a) At the election of the licensee of a local commercial broadcast television station carried in fulfillment of the must-carry obligations, a cable operator shall carry such signal on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, or on the channel on which it was carried on January 1, 1992.

(b) At the election of the licensee of a qualified local NCE broadcast television station carried in fulfillment of the must-carry obligations, a cable operator shall carry such signal on the cable system channel number on which the qualified NCE television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985.

(c) Any signal carried in fulfillment of the must-carry obligations may be carried on such other channel number as is mutually agreed upon by the station and the cable operator.

(d) At the time a local commercial station elects must-carry status pursuant to § 76.64, such station shall notify the cable system of its choice of channel position as specified in paragraphs (a)–(c) of this section. A qualified NCE stations shall notify the cable system of its choice of channel position when it requests carriage. Channel positioning requests from local commercial stations shall be fulfilled by the cable operator no later than October 6, 1993.

Note: Any existing agreement for channel position between a local commercial station entitled to must-carry status and a cable operator entered into prior to June 26, 1990, may continue through the expiration of such agreement.

8. Section 76.58 is added to subpart D to read as follows:

§ 76.58 Notification.

(a) Effective April 2, 1993, a cable operator shall provide written notice to any broadcast television station at least 30 days prior to either deleting from carriage or repositioning that station. Such notification shall also be provided to subscribers of the cable system.

Note: No deletion or repositioning of a local commercial television station shall occur during a period in which major television ratings services measure the size of audiences of local television stations. For this purpose, such periods are the four national four-week ratings periods—generally including February, May, July and November—commonly known as audience sweeps.

(b) By May 3, 1993, a cable operator must notify all qualified NCE stations of its designated principal headend by certified mail.

(c) A cable operator shall provide written notice by certified mail to all stations carried on its system pursuant to the must-carry rules at least 60 days prior to any change in the designation of its principal headend, and shall include the new designation in its public file.

(d) By May 3, 1993, a cable operator must notify all local commercial and NCE stations that may not be entitled to carriage because they either

(1) Fail to meet the standards for delivery of a good quality signal to the cable system's principal headend or

(2) May cause an increased copyright liability to the cable system.

(e) By June 2, 1993, a cable operator must send by certified mail a copy of a list of all broadcast television stations carried by its system and their channel positions to all local commercial and noncommercial television stations, including those not designated as must-carry stations and those not carried on the system.

9. Section 76.59 is added to subpart D to read as follows:

§ 76.59 Modification of television markets.

(a) The Commission, following a written request from a broadcast station or a cable system, may deem that the television market of a particular commercial television broadcast station should include additional communities within its television market or exclude communities from such station's television market. In this respect, communities may be considered part of more than one television market.

(b) Such requests for modification of a television market shall be submitted in accordance with § 76.7, petitions for special relief.

(c) A cable operator shall not delete from carriage the signal of a commercial

television station during the pendency of any proceeding pursuant to this section.

10. Section 76.60 is revised in its entirety to read as follows:

§ 76.60 Compensation for carriage.

A cable operator is prohibited from accepting or requesting monetary payment or other valuable consideration in exchange either for carriage or channel positioning of any broadcast television station carried in fulfillment of the must-carry requirements, except that

(a) Any such station may be required to bear the costs associated with delivering a good quality signal or a baseband video signal to the principal headend of the cable system; or

(b) A cable operator may accept payments from stations which would be considered distant signals under the cable compulsory copyright license, 17 U.S.C. 111, as indemnification for any increased copyright liability resulting from carriage of such signal.

Note: A cable operator may continue to accept monetary payment or other valuable consideration in exchange for carriage or channel positioning of the signal of any local commercial television station carried in fulfillment of the must-carry requirements, through, but not beyond, the date of expiration of an agreement between a cable operator and a local commercial television station entered into prior to June 26, 1990.

11. Section 76.61 is added to subpart D to read as follows:

§ 76.61 Disputes concerning carriage.

(a) *Complaints regarding carriage of local commercial television stations.* (1) Whenever a local commercial television station or a qualified low power television station believes that a cable operator has failed to meet its carriage or channel positioning obligations, pursuant to §§ 76.56 and 76.57, such station shall notify the operator, in writing, of the alleged failure and identify its reasons for believing that the cable operator is obligated to carry the signal of such station or position such signal on a particular channel.

(2) The cable operator shall, within 30 days of receipt of such written notification, respond in writing to such notification and either commence to carry the signal of such station in accordance with the terms requested or state its reasons for believing that it is not obligated to carry such signal or is in compliance with the channel positioning and repositioning and other requirements of the must-carry rules. If a refusal for carriage is based on the station's distance from the cable system's principal headend, the operator's response shall include the location of such headend. If a cable operator denies carriage on the basis of the failure of the station to deliver a good quality signal at the cable system's principal headend, the cable operator must provide a list of equipment used to make the measurements, the point of measurement and a list and detailed description of the reception and over-the-air signal processing equipment used, including sketches such as block diagrams and a description of the methodology used for processing the signal at issue, in its response.

(3) A local commercial television station or qualified low power television station that is denied carriage or channel positioning or repositioning in accordance with the must-carry rules by a cable operator may file a complaint with the Commission in accordance with the procedures set forth in § 76.7 relating to must-carry complaints. In addition to the requirements of § 76.7, such complaint shall specifically allege the manner in which such cable operator has failed to meet its obligations and the basis for such allegations.

(4) If the Commission determines that a cable operator has failed to meet its must-carry obligations, the Commission shall order that, within 45 days of such order or such other time period as the Commission may specify, the cable operator reposition the complaining station or, in the case of an obligation to carry a station, commence or resume carriage of the station and continue such carriage for at least 12 months. If the Commission determines that the cable operator has fully met the must-carry requirements, it shall dismiss the complaint.

(b) *Complaints regarding carriage of qualified local NCE television stations.* (1) Whenever a qualified local NCE television station believes that a cable operator has failed to comply with the signal carriage or channel positioning requirements, pursuant to §§ 76.56–76.57, the station may file a complaint with the Commission in accordance with the procedures set forth in § 76.7. In addition to the requirements of § 76.7, such complaint shall specifically allege the manner in which such cable operator has failed to comply with such requirements and state the basis for such allegations.

(2) If the Commission determines that a cable operator has failed to meet its must-carry obligations, the Commission shall order that, within 45 days of such order or such other period as the Commission may specify, the cable operator reposition the complaining station or, in the case of an obligation to carry a station, commence or resume carriage of the station and continue such carriage for a period of time the Commission deems appropriate for the specific case under consideration. If the Commission determines that the cable operator has fully met the must-carry requirements, it shall dismiss the complaint.

12. Section 76.62 is revised in its entirety to read as follows:

§ 76.62 Manner of carriage.

(a) Cable operators shall carry the entirety of the program schedule of any television station carried unless carriage of specific programming is prohibited, and other programming authorized to be substituted, under § 76.67 or subpart F of part 76.

(b) Each such television broadcast signal carried shall be carried without material degradation in compliance with technical standards set forth in subpart K of this part.

(c) Each local commercial television station whose signal is carried shall, to the extent technically feasible and consistent with good engineering practice, be provided no less than the same quality of signal processing and carriage provided for carriage of any other type of standard television signal.

(d) Each qualified local noncommercial educational television station whose signal is carried shall be provided with bandwidth and technical capacity equivalent to that provided to commercial television broadcast stations carried.

(e) Each commercial broadcast television station carried pursuant to § 76.56 shall include in its entirety the primary video, accompanying audio, and closed captioning data contained in line 21 of the vertical blanking interval and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers. Where appropriate and feasible, operators may delete signal enhancements, such as ghost-canceling, from the broadcast signal and employ such enhancements at the system headend or headends.

(f) Each qualified local NCE television station carried pursuant to § 76.56 shall include in its entirety the primary video, accompanying audio, and closed captioning data contained in line 21 of the vertical blanking interval and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers, that may be necessary for receipt of programming by handicapped persons or for educational or language purposes.

§ 76.63 [Removed]

14. Section 76.63 is removed.

15. Section 76.64 is added to subpart D to read as follows:

§ 76.64 Retransmission consent.

(a) After 12:01 a.m. on October 6, 1993, no multichannel video programming distributor shall retransmit the signal of any commercial broadcasting station without the express authority of the originating station, except as provided in paragraph (b) of this section.

(b) A commercial broadcast signal may be retransmitted without express authority of the originating station if—

(1) The distributor is a cable system and the signal is that of a commercial television station (including a low-power television station) that is being carried pursuant to the Commission's must-carry rules set forth in § 76.56;

(2) The multichannel video programming distributor obtains the signal from a satellite carrier and the originating station was a superstation on May 1, 1991; or

(3) The distributor is a satellite carrier and the signal is transmitted directly to a home satellite antenna, provided that:

(i) The broadcast station is not owned or operated by, or affiliated with, a broadcasting network and its signal was retransmitted by a satellite carrier on May 1, 1991, or

(ii) The broadcast station is owned or operated by, or affiliated with a broadcasting network, and the household receiving the signal is an unserved household.

(c) For purposes of this section, the following definitions apply:

(1) A satellite carrier is an entity that uses the facilities of a satellite or satellite service licensed by the Federal Communications Commission, to establish and operate a channel of communications for point-to-multipoint distribution of television station signals, and that owns or leases a capacity or service on a satellite in order to provide such point-to-multipoint distribution, except to the extent that such entity provides such distribution pursuant to tariff under the Communications Act of 1934, other than for private home viewing;

(2) A superstation is a television broadcast station other than a network station, licensed by the Federal Communications Commission that is secondarily transmitted by a satellite carrier;

(3) An unserved household with respect to a television network is a household that

(i) Cannot receive, through the use of a conventional outdoor rooftop receiving antenna, an over-the-air signal of grade B intensity of a primary network station affiliated with that network, and

(ii) Has not, within 90 days before the date on which that household subscribes, either initially or on renewal, received secondary transmissions by a satellite carrier of a network station affiliated with that network, subscribed to a cable system that provides the signal of a primary network station affiliated with the network.

(4) A primary network station is a network station that broadcasts or rebroadcasts the basic programming service of a particular national network;

(5) The terms "network station," and "secondary transmission" have the meanings given them in 17 U.S.C. 111(f).

(d) A multichannel video program distributor is an entity such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, a television receive-only satellite program distributor, or a satellite master antenna television system operator, that makes available for purchase, by subscribers or customers, multiple channels of video programming.

(e) Provision of local broadcast signals by master antenna television (MATV) facilities or by VHF/UHF antennas on individual dwellings is not subject to retransmission consent, provided that these signals are available without charge at the residents' option. That is, the antenna facilities must be owned by the individual subscriber or building owner and not under the control of the multichannel video programming distributor.

(f) Commercial television stations are required to make elections between retransmission consent and must-carry status according to the following schedule:

(1) The initial election must be made by June 17, 1993.

(2) Subsequent elections must be made at three year intervals; the second election must be made by October 1, 1996 and will take effect on January 1, 1997; the third election must be made by October 1, 1999 and will take effect on January 1, 2000, etc.

(3) Television stations that fail to make an election by the specified deadline will be deemed to have elected must carry status for the relevant three-year period.

(4) New television stations must make their initial election within 30 days of commencing regular broadcasts; such initial elections shall take effect 90 days after they are made.

(5) Television broadcast stations that become eligible for must carry status with respect to a cable system or systems due to a change in the market definition may, within 30 days of the effective date of the new definition, elect must-carry status with respect to such system or systems. Such elections shall take effect 90 days after they are made.

(g) If one or more franchise areas served by a cable system overlaps with one or more franchise areas served by another cable system, television broadcast stations are required to make the same election for both cable systems.

(h) On or before each must-carry/retransmission consent election deadline, each television broadcast station shall place copies of all of its election statements in the station's public file, and shall send via certified mail to each cable system in the station's defined market a copy of the station's election statement with respect to that operator.

(i) Notwithstanding a television station's election of must-carry status, if a cable operator proposes to retransmit that station's signal without according the station must-carry rights (*i.e.*, pursuant to § 76.56(f)), the operator must obtain the station's express authority prior to retransmitting its signal.

(j) A cable system that changes its technical configuration in such a way as to integrate two formerly separate cable systems must give 90 days notice of its intention to do so to any television broadcast stations that have elected must-carry status with respect to one system and retransmission consent status with respect to the other. If the system and the station do not agree on a uniform election 45 days prior to integration, the cable system may require the station to make such a uniform election 30 days prior to integration.

(k) Retransmission consent agreements between a commercial broadcast station and a multichannel video programming distributor shall be in writing and shall grant consent for retransmission of the station's entire signal. Broadcasters may assign their retransmission consent rights to another party, provided that the right assigned encompasses retransmission of the entire signal of the broadcast station.

§ 76.66 [Removed]

16. Section 76.66 is removed.

17. Section 76.92 is amended by adding paragraph (g) before the note to read as follows:

§ 76.92 Network non-duplication; extent of protection.

* * * * *

(g) A community unit is not required to delete the duplicating network programming of any qualified NCE television broadcast station that is carried in fulfillment of the cable television system's mandatory signal carriage obligations, pursuant to § 76.56.

* * * * *

18. Section 76.300 is amended by revising paragraph (a) to read as follows:

§ 76.300 Scope of applications.

(a) The provisions of §§ 76.302, 76.306, and 76.307 are applicable to all cable television systems.

* * * * *

19. Section 76.302 is added to subpart H to read as follows:

§ 76.302 Required recordkeeping for must-carry purposes.

(a) Effective June 17, 1993, the operator of every cable television system shall maintain for public inspection a file containing a list of all broadcast television stations carried by its system in fulfillment of the must-carry requirements pursuant to § 76.56. Such list shall include the call sign, community of license, broadcast channel number, cable channel number, and in the case of a noncommercial educational broadcast station, whether that station was carried by the cable system on March 29, 1990.

(b) The operator of every cable television system shall maintain for public inspection the designation and location of its principal headend.

(c) Such records must be maintained in accordance with the provisions of § 76.305(b).

(d) Upon written request from any person, a cable operator is required to provide the list of signals specified in paragraph (a) of this section in writing within 30 days of receipt of such request.

[FR Doc. 93–7702 Filed 4–1–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 217 and 227

[Docket No. 921184–3027]

Sea Turtle Conservation; Restrictions Applicable to Fishery Activities

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

ACTION: Temporary restrictions with request for comments.

SUMMARY: NMFS notifies owners and operators of vessels conducting gill net fishing from Cape Canaveral (Brevard County) to Jupiter Inlet (Palm Beach County) Florida, that, for the next 30 days, upon request, they must carry a NMFS-approved observer aboard such vessel(s). Owners and operators are also advised that authorized officers may conduct boardings and require the retrieval of nets to investigate incidental takes of sea turtles by gill net fisheries in this area. These actions are necessary to determine the level of incidental take of threatened and endangered sea turtles in gill net fisheries within this area. High stranding rates of green turtles along approximately 100 miles (161 km) of ocean beaches, the documented take of marine turtles entangled in gill nets, and the need to identify accurately the source of mortality justifies the immediate imposition of these requirements. NMFS may extend this requirement beyond 30 days and/or impose temporary sea turtle conservation measures on gill net fisheries as necessary to protect adequately sea turtles.

DATES: This action is effective from March 30, 1993 through April 29, 1993. Comments on this action must be submitted by April 29, 1993.

ADDRESSES: Requests for a copy of the environmental assessment for this action and comments on this action should be addressed to Dr. William W. Fox, Jr., Director, Office of Protected Resources, NMFS, 1335 East-West Highway, room 8268, Silver Spring, MD 20910. Comments on the collection-of-information requirement subject to the Paperwork Reduction Act should be directed to the Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910, Attention: Phil Williams, and to the Office of Information and Regulatory Affairs of OMB, Washington, DC 20503, Attention: Desk Officer for NOAA.

FOR FURTHER INFORMATION CONTACT: Phil Williams, NMFS National Sea Turtle Coordinator (301/713–2319) or Charles A. Oravetz, Chief, Protected Species Program, NMFS Southeast Region (813/893–3366).

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either "endangered" or "threatened" under the Endangered Species Act of 1973 (ESA), U.S.C. 1531 *et seq.* Incidental capture by shrimp trawlers has been documented for five species of sea turtles that occur in U.S. coastal waters. Sea turtle take by other types of fishing gear has also been documented, but the specific amount and extent of impact to turtles by other gear types is unknown. Gill nets of different mesh sizes have been reported to take sea turtles; for example, gill nets have been reported to take loggerhead turtles in South Carolina sturgeon fisheries, and loggerhead and green turtles along the Atlantic coast of central and southern Florida. In fact, gill nets were the preferred means of capturing turtles when turtle fisheries were allowed in U.S. waters.

Recent Events

Gill net fisheries predominantly targeting Spanish mackerel, bluefish, and pompano in State waters of the south Atlantic off Florida have long been suspected of taking green turtles. These fisheries are in nearshore waters where an extensive sabellarid and hardbottom reef formation has been identified as the primary developmental habitat for juvenile green turtles. Between January 1989 and September 1992, a total of 316 green turtles stranded along approximately 100 miles (161 km) of ocean beaches from Brevard through Martin Counties, Florida, and gill net fisheries are the most likely source of these mortalities. At least 24 incidents of entanglement in monofilament gill and trammel nets have been documented within the area from Brevard County to Palm Beach County Florida from January 1988 through May 1992, and many stranded turtles on beaches exhibit wounds on necks or flippers characteristic of entanglement. Little or no shrimping or other fishing activities are known to occur in this area.

Last year, NMFS issued an advance notice of proposed rulemaking (57 FR 30709, July 10, 1992) that specifically identified these fisheries as possibly having a significant adverse impact on the recovery of endangered and threatened sea turtles and requested comments on the need to impose monitoring requirements and/or

conservation measures. The State of Florida provided comments on that notice and listed its concerns with respect to these fisheries. In addition, the Department of the Interior provided comments in support of NMFS' request for information on the take of turtles in non-shrimp trawl fisheries and specifically recommended that NMFS monitor gill net fisheries to determine the magnitude of capture, injury and death of the various species of turtles.

By a letter dated November 6, 1992, the Florida Marine Fisheries Commission (FMFC) advised NMFS of its plans to establish a seasonal green turtle conservation area from the shoreline extending seaward 1 nautical mile (1.85 km), bounded by Sebastian Inlet, Florida, on the north, to Jupiter Inlet, Florida, on the south, where gill nets would be banned seasonally. The proposed conservation area and gill net ban were designed to "reduce the amount of entanglement gear in the region and to separate juvenile green turtles from fishing nets in the area and during the season when most strandings have been reported."

On January 26, 1993, the Governor and Cabinet of Florida decided not to implement the FMFC's plan. Given the fact that gill nets will not be banned seasonally by Florida from Brevard County to Palm Beach County, there is a likelihood that mortality to endangered green turtles will continue to occur. NMFS believes that an observer program and boardings are needed to document any takings of sea turtles.

Sea Turtle Conservation Measures

Based on the information presented and evidence indicating that gill net fisheries may be taking endangered and threatened sea turtles, the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), pursuant to 50 CFR 227.72(e)(6)(ii), has determined that this action is necessary to avoid unauthorized taking that may be likely to jeopardize the continued existence of a listed species. The Assistant Administrator has determined that incidental takings of sea turtles during gill net fishing in the restricted area are unauthorized unless those takings are consistent with the applicable biological opinions and associated incidental take statements. A biological opinion addressing the potential adverse effects on endangered and threatened species was conducted in 1989 for the implementation of section 114 of the Marine Mammal Protection Act (16 U.S.C. 1383a). That opinion concluded that "bottom trawl fisheries, gill net fisheries, and longline fisheries may have significant adverse impacts on the recovery of these species, and additional information on the amount/extent of incidental take is needed."

A biological opinion on the current action analyzed the impact of Florida gill net fisheries on threatened and endangered sea turtles. That opinion reemphasized the need for an observer program and additional monitoring by NMFS personnel to determine the impact of gill net fisheries on listed species. The incidental take statement issued with that opinion allows for the documented take by mortality or injury of one Kemp's ridley, green, or hawksbill, or leatherback sea turtle, or two loggerhead sea turtles. If observer reports or other information indicate that the authorized take is met or exceeded, consultation must be reinitiated, and the Assistant Administrator may impose conservation measures.

Requirements

The definitions in 50 CFR 217.12, as revised by the final rule published at 57 FR 57348 (December 4, 1992), are applicable to this action and are all relevant provisions in 50 CFR parts 217, 222, and 227. For example, under 50 CFR 227.71(b)(1), it is unlawful to own, operate, or be aboard a vessel unless that vessel is in compliance with all applicable provisions of § 227.72(e); more specifically, § 227.71(b)(3) states that it is unlawful to fish for or possess fish or wildlife contrary to a restriction specified or issued under § 227.72(e)(6).

The term "Florida gill net restricted area" means all inshore and offshore waters of the Atlantic area from Cape Canaveral (28°24.6′ N. latitude) to Jupiter Inlet (26°26.6′ N. latitude), Florida. A "gill net vessel" means any vessel that is equipped with one or more gill or trammel nets that is capable of, or used for, fishing for Spanish mackerel, bluefish or pompano, or any vessel possessing any one or more of these species that has one or more gill or trammel nets aboard. The terms "fishing" and "to fish" are defined at 50 CFR 217.12.

NMFS hereby notifies owners and operators of gill net vessels in the Florida gill net restricted area that, effective March 30, 1993, they must register with the Director, Southeast Region, NMFS, and carry a NMFS-approved observer onboard such vessel(s) if requested to do so. The owner and operator must comply with the terms and conditions accompanied by any such request to carry an observer.

The owner or operator of a gill net vessel in the Florida gill net restricted area must register with the Director, Southeast Region, NMFS by telephoning (813) 893–3163. Pursuant to 50 CFR 227.72(e)(6)(iv)(A)–(F), the following information is required: The name and official number (or registration number) of the vessel; the names, mailing and street addresses, and telephone numbers of the vessel owner and operator; the permit number or other identification of relevant state or Federal fishing permit(s); where and when the vessel intends to fish; and where and when the vessel will depart on any fishing trip, with sufficient specificity to allow for an observer to embark on the trip. The owner or operator of a gill net vessel is required to immediately provide NMFS with any changes in the information provided at the time of registration by telephoning in the changes to the number listed above. Failure to do so immediately will void the registration, which will render unlawful any subsequent entry of the gill net vessel into the Florida gill net restricted area when this observer requirement is in effect.

Owners and operators of gill net vessels in the Florida gill net restricted area must comply immediately with instructions and signals issued by an authorized office including instructions and signals to haul back a net for inspection in accordance with 50 CFR 620.8(b)–(d). Failure to do so is a violation of 50 CFR 227.71(b)(7). Furthermore, owners and operators of gill net vessels in the Florida gill net restricted area must comply with the requirements of 50 CFR 227.71(b)(8) and (9).

Any person who does not comply with any requirement in this notice, including any term or condition in any written notification issued hereunder, is in violation of § 227.71(b)(3).

Sea Turtle Conservation Measures

The Assistant Administrator, at any time, may modify the requirements of this action through notification in the **Federal Register**, if necessary, to ensure adequate protection of endangered and threatened sea turtles. Conservation measures may be imposed if monitoring to assess sea turtle mortality indicates that the incidental take level is approaching, has met, or has exceeded the incidental take level established by the biological opinion for this notice action issued as a result of consultation under section 7 of the ESA. That level is one documented take by mortality or injury of a Kemp's ridley, green, hawksbill, or leatherback sea turtle; or two takes by mortality or injury of loggerhead sea turtles.

Additionally, the Assistant Administrator will impose restrictions on the fishery if significant or unanticipated levels of lethal or nonlethal takings or stranding of sea turtles associated with fishing activities in the restricted area occur. Such restrictions may include extending the monitoring requirements, requirements to reduce the soak time of nets, or reduce the length of nets, or area or seasonal closures.

Notification will be published in the **Federal Register** announcing any additional sea turtle conservation measures, including any extension of the 30-day requirement to carry an observer, upon request, on gill net vessels in the Florida gill net restricted area.

Classification

The Assistant Administrator has determined that this restriction is necessary to provide adequate protection for listed sea turtles and is consistent with the ESA and other applicable law. This restriction does not require a regulatory impact analysis under E.O. 12291 because it is not a major rule.

The Assistant Administrator, pursuant to sections 553(b)(B) and 553(d) of the Administration Procedure Act (APA), finds there if good cause to waive both the notice and opportunity for comment and delay in effective date provisions of the APA for this action. There is currently a high level of gill net fishing activity for pompano, and immediate action is necessary to determine accurately the level of incidental take of turtles by this fishery and to ensure the conservation of endangered and threatened sea turtles. In addition, comments were solicited and considered for potential observer requirements for the gill net fisheries off Florida last year (57 FR 30709, July 10, 1992), and no advance preparation by gill net fishermen, other than registration, is required. Consequently it is unnecessary, impracticable and contrary to the public interest not to make this rule immediately effective.

Because of the need to take immediate action to determine accurately the level of incidental take of sea turtles and to ensure the conservation of sea turtles, it is not possible to fully comply with the review procedures of E.O. 12291. Under the provisions of section 8(a)(1) of E.O. 12291, this action has been reported to the Director of the Office of Management and Budget (OMB) together with a statement of the reasons why full compliance is not possible.

Because neither section 553 of the APA nor any other law requires that general notice of proposed rulemaking be published for this action, under section 603(b) of the Regulatory Flexibility Act, an initial Regulatory Flexibility Analysis is not required.

The Assistant Administrator prepared an environmental assessment (EA) for the final rule (57 FR 57348, December 4, 1992). A supplemental EA prepared specifically for this action concludes that, with specified mitigation measures, this action will have no significant impact on the human environment.

This action allows the Assistant Administrator to establish a registration program as authorized by the final rule (57 FR 57348, December 4, 1992), codified at 50 CFR 227.72(e)(6)(iv). Such a program contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA), namely, registration by vessels fishing in the Florida gill net restricted area. This collection has been approved by OMB under OMB control number 0648–0267. The public reporting burden for this collection of information is estimated to average 7 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be sent to NMFS and OMB (see **ADDRESSES**).

List of Subjects

50 CFR Part 217

Endangered and threatened species, Exports, Fish, Imports, Marine Mammals, Transportation.

50 CFR Part 227

Endangered and threatened species, Exports, Imports, Marine Mammals, Transportation.

Dated: March 26, 1993.

Michael F. Tillman,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

[FR Doc. 93–7710 Filed 3–30–93; 2:43 pm]

BILLING CODE 3510-22-M

50 CFR Part 675

[Docket No. 921185–3021]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Inseason adjustment.

SUMMARY: NMFS issues an inseason adjustment closing the season for the shortraker/rougheye rockfish target species category (SRRE). This action prohibits retention of SRRE in the Aleutian Islands subarea (AI) of the Bering Sea and Aleutian Islands Area (BSAI) for the remainder of 1993. This action is necessary to prevent overfishing of SRRE. It is intended to meet the objectives of the North Pacific Fishery Management Council.

EFFECTIVE DATES: Effective 12 noon, Alaska local time (A.l.t.), March 30, 1993, through 12 midnight, A.l.t., December 31, 1993. Comments are invited through April 14, 1993.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802 (Attn. Lori Gravel).

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resources Management Specialist, Fisheries Management Division, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce (Secretary) according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The Magnuson Act requires that conservation and management measures shall prevent overfishing. The 1993 overfishing level for SRRE in the AI is 1,220 metric tons (mt).

The specified total allowable catch (TAC) for SRRE in the AI is 1,100 mt (58 FR 8703, February 17, 1993). The specified initial TAC for SRRE is 935 mt. The difference, 165 mt, is assigned to a non-specific operational reserve as required by § 675.20(a)(3). The harvest of SRRE in the AI through the period ending March 13, 1993, was 745 mt, leaving a difference of 475 mt between the current harvest and the overfishing level. At this time, SRRE is closed to all

directed fishing in the AI (58 FR 15291, March 22, 1993).

NMFS anticipates that further retention of SRRE, even after the closure to directed fishing, will result in a total harvest that will exceed the overfishing level. Maximum retainable bycatch amounts are governed by directed fishing standards at § 675.20(h)(3)(iii). These regulations allow vessels to retain bycatch of SRRE in amounts less than 10 percent of the total amount of all sablefish, Greenland turbot, and other rockfish target species categories for which directed fisheries are open that are retained at the same time on the vessel during the same trip plus 1 percent of the total amount of other fish species retained at the same time on the vessel during the same trip.

Substantial fishing effort will be directed at remaining amounts of target species categories in the AI during the remainder of the 1993 fishing year. For example, trawl vessels will be allowed to target on certain other rockfish target species categories on April 4, 1993, when the first seasonal bycatch allowance of Pacific halibut becomes available to support directed fishing for any rockfish species by vessels using trawl gear (58 FR 8703, February 17, 1993). One rockfish species is Pacific ocean perch (POP). More than 11,000 mt of POP will be available in the AI for directed fishing by vessels using trawl gear. A substantial amount of SRRE could be caught and retained as a result of current directed fishing standards. Because the directed fishing standard for SRRE is 10 percent of the amount of Pacific ocean perch, NMFS anticipates that the remaining 365 mt of the 1,100 mt TAC specified for SRRE could be caught while harvesting only 3,650 mt of POP if fishermen were to retain maximum allowable bycatch of SRRE.

If the entire 1,100 mt TAC is harvested, only 120 mt would remain between the TAC and the overfishing level of 1,220 mt. Substantial amounts of POP and other groundfish species are yet to be harvested. Even at very small bycatch rates of SRRE in these fisheries, NMFS anticipates that the overfishing amount specified for SRRE easily could be reached.

Therefore, NMFS is closing the season for SRRE in the AI for the remainder of the 1993 fishing year under authority of § 675.20(e) to prevent overfishing of SRRE. NMFS is requiring that SRRE be treated in the same manner as prohibited species, as described in § 675.20(c) and is prohibiting retention of SRRE in the AI effective from 12 noon, A.l.t., March 30, 1993, through 12 midnight, A.l.t., December 31, 1993.

As required by § 675.20(e)(4), NMFS has determined that this inseason adjustment will protect the species in need of conservation protection, but allow fisheries to continue for other species. In making this determination, NMFS further determined that this adjustment is the least restrictive necessary to achieve the purpose of the adjustment. As required by § 675.20(f), NMFS considered relevant information in making the required determinations under paragraph (e)(2) of § 675.20, including the effect of overall fishing effort within the AI, which is summarized above, as well as the following economic impacts on affected fishing business. Operators of fishing vessels will be impacted by this action because they will not be allowed to retain a portion of the SRRE TAC that could have been harvested and processed. The amount of SRRE that would have been caught would have had an estimated gross wholesale value of $900,000. On the other hand, fishermen will be allowed to fish for other groundfish species, which might otherwise have been closed to prevent overfishing of SRRE. These species include sablefish, Pacific ocean Perch, sharpchin/northern rockfish, and "other red rockfish." The combined gross wholesale value of the remaining TAC amounts for these species is about $17 million. An amount up to this gross wholesale might have been foregone without this action.

NMFS notes that directed fishing for certain rockfish target species categories by vessels using trawl gear in the AI will commence April 4, 1993. Maximum bycatches of SRRE are expected on that date, which will increase the likelihood that SRRE will be overfished. Prohibiting retention of SRRE is needed on that date to prevent overfishing. Because of the need for immediate action, NMFS has determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment or for delaying the effective date of this notice. However, comments will be received for a period of 15 days after the effective date of this inseason adjustment (see **ADDRESSES**).

Classification

This action is taken under 50 CFR 675.20 and is in compliance with E.O. 12291.

NMFS prepared a regulatory flexibility analysis for the rule authorizing this adjustment.

This inseason adjustment complies with the National Environmental Policy Act because its impacts have not changed significantly from those considered in the environmental assessment prepared for the 1993 final specifications for the BSAI groundfish fishery. Therefore, this inseason adjustment is categorically excluded from the requirement to prepare an environmental assessment.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

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

Dated: March 30, 1993.

David S. Crestin,

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

[FR Doc. 93–7732 Filed 3–30–93; 2:43 pm]

BILLING CODE 3510–22–M

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50 CFR Part 675

[Docket No. 921185–3021]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for pollock by the offshore component in the Aleutian Islands subarea (AI) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the pollock total allowable catch (TAC) for the offshore component in the AI.

EFFECTIVE DATES: Effective 12 noon, Alaska local time (A.l.t.), March 31, 1993, through 12 midnight, A.l.t., December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, Fisheries Management Division, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(2)(iii) the pollock TAC for the offshore component in the AI was established by the final notice of groundfish specifications (58 FR 8703, February 17, 1993) as 28,509 metric tons (mt).

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with § 675.20(a)(8), that the pollock TAC for the offshore component in the AI soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 27,009 mt, with consideration that 1,500 mt will be taken as incidental catch in directed fishing for other species in the AI. Consequently, NMFS is closing directed fishing for pollock by the offshore component in the AI, effective from 12 noon, A.l.t., March 31, 1993, through 12 midnight, A.l.t., December 31, 1993.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.20 and complies with E.O. 12291.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

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

Dated: March 30, 1993.

David S. Crestin,

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

[FR Doc. 93–7730 Filed 4–1–93; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 58, No. 62
Friday, April 2, 1993

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.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 12

Complaints Against Registered Persons; Class Action Suits

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission ("Commission"or "CFTC") requests comments on proposed rules implementing class action suits against registered persons. The Futures Trading Practices Act of 1992, H.R. 707, 102 Cong., 2d Sess., P.L. 102–546 directs the Commission to propose rules implementing class action suits within 270 days of its enactment. Additionally, the Commission is to determine whether such rules are necessary, taking into account resources available to the Commission. This notice sets forth proposed rules as a new subpart G of part 12 and questions to which the Commission invites the public to respond.

DATES: Comments are due no later than June 1, 1993.

ADDRESSES: Comments should be sent to Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Merry Lymn, Assistant General Counsel, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254–9880.

SUPPLEMENTARY INFORMATION:

I. Background

Section 224 of the Futures Trading Practices Act of 1992, H.R. 707, 102 Cong., 2d Sess., P.L. 102–546 (Oct 28, 1992) originated as a provision of the Senate's version of the Futures Trading Practices Act of 1989, S. 1729. It authorizes an action in reparations to be "brought * * * by any one or more persons * * * for and in behalf of such person or persons and other persons similarly situated, if the Commission permits such actions pursuant to a final rule issued by the Commission."

Initially, the Commission opposed the provision because generally reparations proceedings are fact intensive and not easily amenable to such a procedure.[1] However, the provision was incorporated without change into the Futures Trading Practices Act of 1992. H.R. 707, effective Oct. 28, 1992 (Pub. L. 102–546).

II. Request for Comments

The Futures Trading Practices Act does not mandate that the Commission adopt final rules providing for class actions unless the Commission decides such a rule should be permitted after considering "the potential impact of such actions on resources available to the reparations system * * * and the relative merits of bringing such actions in Federal court." Because the Commission is unsure of the desirability and need for class action suits in reparations it seeks comments on the following questions:

1. Under what circumstances would class actions in reparations be appropriate?

2. Do you know of any factual situations in the past in which a class action, if available, would have been appropriate? In this regard, commentors are invited to provide examples of past reparations cases they believe would have been appropriate for consideration as a class. Similarly, commentors are invited to provide examples of class actions filed in other forums that they believe would have been appropriate for the reparations forum.

3. Given that reparations proceedings are fact intensive and heavily dependent on the circumstances of the particular case, what kind of procedure could be developed in which the necessary facts would be established for a class of individual investors?

4. Are data available regarding the average time frame for class actions, costs to both sets of parties, attorneys' fees, and use of government resources? If so, please submit the data and its source.

5. Given the present ability to pursue class actions in federal courts, what would be the advantage of adopting procedures implementing class actions before the Commission?[2]

6. What are the relative merits of bringing class action suits in the reparations forum compared with the federal courts?

7. What resources will the Commission need in order to hear class actions?

III. Proposed Rule

In the event that the Commission determines that there is a need for class action suits, that such actions will not have a significant negative effect on the Commission's resources, and that the Commission can provide a useful forum as compared with the federal courts (See, S. Rep. No. 102–22, 102d Cong. 1st Sess. 13 (1991)), rules governing class actions will need to be adopted. Consequently, we are also setting forth proposed rules for comment.

In formulating this proposal, the Commission has looked to the Federal Rules of Civil Procedure, specifically Rule 23, Class Actions (28 U.S.C.) ("Federal Rule" or "Rule 23"), for guidance. The Commission has decided that for the purpose of eliciting ideas and comments from the public it makes most sense to begin with an adaptation of Rule 23. Should the Commission adopt Rule 23, with modifications, it intends to look to the federal courts for its interpretation and application.

The Federal Rule provides for class actions when certain specified criteria are met. These criteria ensure that a class action, rather than individual actions, is appropriate. Subdivision (a) of Rule 23, redrafted here as Regulation § 12.500, set forth "the prerequisites for maintaining any class action in terms of the numerousness of the class making joinder of the members impracticable, the existence of questions common to the class, and the desired qualifications of the representative parties." (FED. R. CIV. P. 23 advisory committee's note

[1] See Futures Trading Practices Act of 1991—S. 207, Hearings before the Committee on Agriculture, Nutrition, and Forestry, 102d Cong., 1st Sess. 102, 106 (1989) (letter of Wendy Gramm, Chairman of the CFTC) and S. Rep. No. 102–22, 102d Cong. 1st Sess. 67, 71 (1991) (letter of Wendy Gramm, Chairman of the CFTC).

[2] Class actions have been brought in federal courts by customers for violations of the Act. See, eg., *Paterson* v. *Stovall*, 528 F.2d 108 (7th Cir. 1976), *In re First Com. Corp. of Boston Customer Ac. Lit.*, 89 B.R. 283 (D. Mass. 1988), and *First Com. Corp. of Boston Customer Accounts Lit.*, 119 F.R.D. 301 (D. Mass. 1987).

1966 amendment.) Subdivision (b), redrafted as Regulation § 12.501, "describes the additional elements which in varying situations justify the use of class actions." *Id.* Subdivision (c), appearing as § 12.502, requires a determination, "as early as may be practicable, whether an action brought as a class is to be so maintained. The determination depends in each case on satisfaction of the terms of subdivision (a) and the relevant provisions of subdivision (b)" (§§ 12.500 and 12.501). *Id.* Whereas in Rule 23, the district court judge certifies that the class action is maintainable, in the Commission's proposal the Administrative Law Judge will make that decision. Under Rule 23, the district judge has broad discretion in deciding whether to certify a class action; absent a showing of abuse of discretion, the judge's determination will not be disturbed.

Section 12.502(d), corresponding to Subdivision 2(c)(4) of Rule 23, is especially noteworthy for reparations complainants.

As in the Federal Rule, the proposed provision "recognizes that an action may be maintained as a class action as to particular issue only. For example, in a fraud or similar case the action may retain its 'class' character only through the adjudication of liability to the class; the members of the class may thereafter be required to come in individually and prove the amounts of their respective claims." *Id.* In this example, class members also would have to prove that they relied on the fraudulent statements.

As in Subdivision (d) of the Federal Rule, § 12.503 authorizes the Administrative Law Judge to issue orders necessary for the orderly and expeditious conduct of the proceedings. Section 12.504 of the proposal, following Subdivision (e) of the Federal Rule, requires that the judge approve all dismissals or compromises of the action.

Additionally, should the Commission decide to adopt the proposed rules, it proposes to modify §§ 12.2, 12.25, 12.26, and 12.304. The Commission proposes to add a definition of "class action" to the definition section, § 12.2. For the purpose of economy and efficiency, the definition allows a class action regardless of the amount of the damages claimed by individuals, when a class action is otherwise maintainable under the regulations. Thus, initially, all class actions would be heard by Administrative Law Judges, even if the aggregate amount of damages sought would not exceed $10,000 and the summary decisional procedure would otherwise apply. A filing fee of $250 for class actions would be added to § 12.25 governing filing fees. Section 12.26 sets forth the procedure for commencing a reparation proceeding; the proposed modification covers class actions. Finally, § 12.304 which describes the functions and responsibilities of Administrative Law Judges would be modified by adding a new paragraph (k) and redesignating paragraphs (k) through (m) as (l) through (n). The new paragraph (k) would grant the necessary authority to the Administrative Law Judges for the administration of class action suits.

Consequently, the Commission also seeks responses to the following questions:

1. Is it appropriate to use Rule 23 as a model for the Commission's rule? If not, is there a more appropriate model?

2. Are the proposed modifications to Rule 23 and the Commission's regulations appropriate for class actions before the Commission?

3. Should the Commission adopt additional modifications to the proposal?

4. Will complainants be able to utilize the proposed rule? Please explain.

Suggestions are welcome. Commentors should keep in mind that the Commission is likely to follow court precedent in interpreting the rule.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.* (1988), requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has determined that part 12 reparation rules are not subject to the provisions of RFA.[3] Because they do not impose regulatory obligations on commodity professionals and small commodity firms, and because, if instituted, class action suits will only streamline, simplify, and expedite the reparations process by consolidating numerous individual complaints into a single action, the Commission does not expect the proposed rule to have a significant economic impact on a substantial number of small business entities.

Accordingly, pursuant to Rule 3(a) of the RFA (5 U.S.C. 605–(b)), the Acting Chairman, on behalf of the Commission, certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. The Commission nonetheless invites comment from any member of the public who believes that this rule would have a significant impact on small businesses.

[3] 49 FR 6602, 6621 (February 22, 1984).

List of Subjects in 17 CFR Part 12

Administrative practice and procedure, Commodity exchanges, Commodity futures

PART 12—RULES RELATING TO REPARATION PROCEEDINGS

The Commodity Futures Trading Commission proposes to amend part 12 of chapter I of title 17 of the Code of Federal Regulations as follows:

1. The authority citation for part 12 is revised to read as follows:

Authority: 7 U.S.C. 4a(j), 12(a)(5), and 18.

2. In § 12.2 paragraph (bb) is added to read as follows:

§ 12.2 Definitions.

* * * * *

(bb) *Class action* means, regardless of the amount of damages claimed, a procedure elected by a group of complainants with common questions of law or fact and certified by an Administrative Law Judge under subpart G.

3. In § 12.25 paragraph (a)(4) is added to read as follows:

§ 12.25 Filing fees.

(a) *Fees payable upon filing a complaint.* * * *

(4) A class of complainants who elect to proceed by class action shall pay a filing fee of $250.

* * * * *

4. In § 12.26 paragraph (d) is added to read as follows:

§ 12.26 Commencement of a reparation proceeding.

* * * * *

(d) A group of complainants with common questions of law or fact who have elected to proceed by class action pursuant to subpart G of these rules must pay the filing fee required by § 12.25 and file a complaint pursuant to § 12.13 and a motion requesting a class action. The motion must set forth information which indicates that a class action is maintainable under §§ 12.500 and 12.501. Upon receipt of the filing fee and the motion, if in his opinion the facts warrant taking such action, the Director of the Office of Proceedings shall forward to an Administrative Law Judge the pleadings, the materials of record, and the motion. The Administrative Law Judge shall make a determination as to whether a class action may be maintained as described in § 12.502. Prior to such determination the Administrative Law Judge may require further information or briefs from the parties if, in the judge's discretion, he deems it necessary.

5. In § 12.304, paragraphs (k) through (m) are redesignated as paragraphs (l) through (n) and a new paragraph (k) is added to read as follows:

§ 12.304 Functions and responsibilities of the Administrative Law Judge.

* * * * *

(k) In accordance with subpart G of this part, to determine whether a class action suit may be maintained, to issue such orders as may be necessary for the conduct of such proceedings, and to dismiss or approve the compromise of class actions;

* * * * *

6. A new Subpart G—Class Actions (§§ 12.500–12.504) is added to read as follows:

Subpart G—Class Actions

12.500 Prerequisites to a class action.
12.501 Class actions maintainable.
12.502 Determination by order whether class action to be maintained; notice; judgment; actions conducted partially as class actions.
12.503 Orders in conduct of actions.
12.504 Dismissal or compromise.

Subpart G—Class Actions

12.500 Prerequisites to a class action.

One or more members of a class may sue or be sued as representative parties on behalf of all only if—

(a) The class is so numerous that joinder of all members is impracticable;

(b) There are questions of law or fact common to the class;

(c) The claims or defenses of the representative parties are typical of the claims or defenses of the class; and

(d) The representative parties will fairly and adequately protect the interests of the class.

12.501 Class actions maintainable.

An action may be maintained as a class action if the prerequisites of § 12.500 are satisfied, and in addition:

(a) The prosecution of separate actions by or against individual members of the class would create a risk of—

(1) Inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class; or

(2) Adjudications with respect to individual members of the class which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests; or

(b) The party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making reparations appropriate with respect to the class as a whole; or

(c) The Administrative Law Judge finds that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. The matters pertinent to the findings include:

(1) The interest of members of the class in individually controlling the prosecution or defense of separate actions;

(2) The extent and nature of any litigation concerning the controversy already commenced by or against members of the class;

(3) The desirability or undesirability of concentrating the litigation of the claims in the particular forum; and

(4) The difficulties likely to be encountered in the management of a class action.

§ 12.502 Determination by order whether class action to be maintained; notice; judgment; actions conducted partially as class actions.

(a) As soon as practicable after the commencement of an action brought as a class action, the Administrative Law Judge shall determine by order whether it is to be so maintained. An order under this Subpart may be conditional, and may be altered or amended before the decision on the merits.

(b) In any class action maintained under § 12.501(c), the Administrative Law Judge shall direct to the members of the class the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice shall advise each member that—

(1) The judge will exclude the member from the class if the member so requests by a specified date;

(2) The judgment, whether favorable or not, will include all members who do not request exclusion; and

(3) Any member who does not request exclusion may, if the member desires, enter an appearance in accordance with § 12.9.

(c) The judgment in an action maintained as a class action under § 12.501 (a) or (b), whether or not favorable to the class, shall include and describe those whom the judge finds to be members of the class. The judgment in an action maintained as a class action under § 12.501(c), whether or not favorable to the class, shall include and specify or describe those to whom the notice provided in § 12.502(b) was directed, and who have not requested exclusion, and whom the Administrative Law Judge finds to be members of the class.

(d) When appropriate—

(1) An action may be brought or maintained as a class action with respect to particular issues, or

(2) A class may be divided into subclasses and each subclass treated as a class, and the provisions of this Subpart shall then be construed and applied accordingly.

§ 12.503 Orders in conduct of actions.

In the conduct of actions to which this rule applies, the Administrative Law Judge may make appropriate orders:

(a) Determining the course of proceedings or prescribing measures to prevent undue repetition or complication in the presentation of evidence or argument;

(b) Requiring, for the protection of the members of the class or otherwise for the fair conduct of the action, that notice be given in such manner as the Administrative Law Judge may direct to some or all of the members of any step in the action, or of the proposed extent of the judgment, or of the opportunity of members to signify whether they consider the representation fair and adequate, to intervene and present claims or defenses, or otherwise to come into the action;

(c) Imposing conditions on the representative parties or on intervenors;

(d) Requiring that the pleadings be amended to eliminate therefrom allegations as to representation of absent persons, and that the action proceed accordingly; and

(e) Dealing with similar procedural matters.

The orders may be combined with an order under § 12.304 and may be altered or amended as may be desirable from time to time.

§ 12.504 Dismissal or compromise.

A class action shall not be dismissed or compromised without the approval of the Administrative Law Judge, and notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the Administrative Law Judge directs.

Issued by Order of the Commission.

Dated: March 29, 1993.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–7673 Filed 4–1–93; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Ohio Permanent Regulatory Program; Revision of Administrative Rules

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing the receipt of proposed Program Amendment Number 62 to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment was initiated by Ohio and is intended to make the Ohio program as effective as the corresponding Federal regulations. The amendment concerns the removal of siltation structures prior to two years after the last augmented seeding upon a demonstration that alternative measures are the best technology currently available for sediment control.

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

DATES: Written comments must be received on or before 4 p.m. on May 3, 1993. If requested, a public hearing on the proposed amendment will be held at 1 p.m. on April 27, 1993. Requests to present oral testimony at the hearing must be received on or before 4 p.m. on April 19, 1993.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand-delivered to Mr. Richard J. Seibel, Director, Columbus Field Office, at the address listed below. Copies of the Ohio program, the proposed amendments, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendments by contacting OSM's Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 2242 South Hamilton Road, room 202, Columbus, Ohio 43232, Telephone: (614) 866–0578.

Ohio Department of Natural Resources, Division of Reclamation, 1855 Fountain Square Court, Building H–3, Columbus, Ohio 43224, Telephone: (614) 265–6675.

FOR FURTHER INFORMATION CONTACT: Mr. Richard J. Seibel, Director, Columbus Field Office, (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1982, **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Discussion of the Proposed Amendments

By letter dated March 4, 1993 (Administrative Record No. OH–1841), the Ohio Department of Natural Resources, Division of Reclamation (Ohio) submitted proposed Program Amendment Number 62. In this amendment, Ohio proposes to revise three rules in the Ohio Administrative Code (OAC) to authorize the removal of siltation structures prior to two years after the last augmented seeding upon a demonstration that alternative measures are the best technology currently available (BTCA) for sediment control. The demonstration of BTCA must be specific and contained in or amended into the permit and will be reviewed on a case-by-case basis by the Chief of the Ohio Department of Natural Resources, Division of Reclamation (the Chief). As part of and in support of the amendment, Ohio also submitted Administrative Record information discussing Ohio's intended implementation of this proposal.

(1) OAC 1501:13–4–05 Paragraph (E)(1)(g) and 13–4–14 Paragraph (E)(1)(f)

Ohio is revising these two paragraphs to provide that the plan in each permit application for protection of the hydrologic balance shall describe the measures to be taken to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow, or runoff outside the permit area. If the applicant proposes to remove siltation structures sooner than two years after the last augmented seeking of a drainage area, the applicant shall describe specific alternative sediment control measures that are the best technology currently available and describe the applicability of those measures for the drainage area. Such description shall be referred to in the timetable and plans for removal of sediment control structures required by paragraph (H)(1)(b)(iv) or (H)(1)(c)(iv) of this rule.

(2) OAC 1501:13–4–05 and 13–4–14 Paragraph (H)(1)(b)(iv)

Ohio is revising these two paragraphs to provide that the detailed design plans for impoundment structures that meet or exceed size or other criteria of MSHA shall describe the timetable and plans to remove each structure, if appropriate, with reference to the description required in the reclamation plan under paragraph (E)(1)(g)/(f) of this rule if the applicant proposes to remove siltation structures sooner than two years after the last augmented seeding of the drainage area.

(3) OAC 1501:13–4–05 and 13–4–14 Paragraph (H)(1)(c)(iv)

Ohio is revising these two paragraphs to insert the same proposed language as quoted above for paragraph (H)(1)(b)(iv) in order that the language also apply to the detailed design plans for impoundment structures that do not meet the size or other criteria of MSHA.

(4) OAC 1501:13–9–04 Paragraph (B)(1)

Ohio is revising this paragraph to provide that all surface drainage from the disturbed area shall be passed through a sedimentation pond before leaving the permit area until vegetation is established, at which time vegetation of the area may be the best technology currently available, provided that drainage from the area:

(a) Meets effluent limitations; and

(b) Does not contribute suspended solids to streamflow.

(5) OAC 1501:13–9–04 Paragraph (G)(2)(e)

Ohio is revising this paragraph to provide that in no case shall a siltation structure be removed sooner than two years after the last augmented seeding unless, after vegetation is established, the operator demonstrates and the Chief approves under paragraph (E)(1)(g) of rule 1510:13–4–05 or paragraph (E)(1)(f) of rule 1501:13–4–14 of the Administrative Code alternative methods of sediment control as the best technology currently available.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendments proposed by Ohio satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Ohio program.

Written Comments

Written comments should be specific, pertain only to the 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 Columbus 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 4 p.m. on April 19, 1993. 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 scheduled to comment and persons present in the audience who wish 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 amendments may request a meeting at the Columbus Field Office by contacting the person listed under "FOR FURTHER INFORMATION CONTACT." All such meetings shall be open to the public and, if possible, notices of the meetings will be posted at the locations listed under "ADDRESSES." A written summary of each public meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order No. 12291

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs, actions, and program amendments. Therefore, preparation of a Regulatory Impact Analysis is not necessary and OMB regulatory review is not required.

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the requirements of 30 CFR parts 730, 731, and 732 have been met.

National Environmental Policy Act

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

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3507 *et seq.*

Regulatory Flexibility Act

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

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 12, 1993.

Carl C. Close,

Assistant Director Eastern Support Center.

[FR Doc. 93–7631 Filed 4–1–93; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

Danger Zones, Atlantic Ocean South of the Entrance to the Chesapeake Bay, Virginia Beach, VA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Corps of Engineers proposes to amend the regulations which establish two danger zones in the waters of the Atlantic Ocean south of the entrance to the Chesapeake Bay to accommodate current U.S. Navy nighttime training requirements. The proposed amendments will include restrictions on use of the water area after darkness when the ranges are in use and one of the danger zones will be expanded seaward 2,500 yards. It should be noted, however, that the expanded area continues to be within the boundaries of the existing larger danger zone. The expansion of the danger zone is necessary to provide an additional measure of safety for vessels operating in the area.

DATES: Written comments must be submitted on or before May 3, 1993.

ADDRESSES: Comments must be submitted to: HQUSACE, Attn: CECW–OR, Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Henderson at (804) 441–7653 or Mr. Ralph Eppard at (202) 272–1783.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C.1) and chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C.3), the Corps of Engineers is proposing to amend the regulations in 33 CFR 334.380 and 334.390.

The Commanding Officer, Fleet Combat Training Center, Atlantic, U.S. Navy, has requested that the danger zones be amended to reflect changes in the use of the areas. The purpose of the change is to accommodate current nighttime naval training at the ranges. There are no changes proposed which would prohibit the public's use of the area. Presently, from sunrise until sunset, vessels shall proceed through the area with caution and shall remain therein no longer than necessary for purposes of transit. This amendment, if approved, shall make this restriction on transit of the area to apply 24 hours a day. The Navy will continue to display red flags while firing is in progress during daylight hours and will display red flashing lights during periods of darkness to alert mariners that the range is in use.

Economic Assessment and Certification

This proposed rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12291 do not apply. I hereby certify that if adopted, this regulation will have no significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 334

Navigation (water), transportation, restricted areas.

In consideration of the above, the Corps of Engineers is proposing to amend part 334 of title 33 to read as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3).

2. Section 334.380 is revised to read as follows:

§ 334.380 Atlantic Ocean south of entrance to Chesapeake Bay off Dam Neck, Virginia; naval firing range.

(a) *The danger zone.* All of the water within a sector extending seaward a distance of 7,500 yards between radial lines bearing 35° true and 92° true, respectively, from a point on the shore at latitude 36°47′33″N, longitude 75°58′23″W.

(b) *The regulations.* (1) Vessels shall proceed through the area with caution and shall remain therein no longer than necessary for purpose of transit.

(2) When firing is in progress during daylight hours, red flags will be displayed at conspicuous locations on the beach. When firing is in progress during periods of darkness, red flashing lights will be displayed from conspicuous locations which are visible from the water a minimum distance of four (4) nautical miles.

(3) Firing on the ranges will be suspended as long as any vessel is within the danger zone.

(4) Lookout posts shall be manned by the activity or agency operating the firing range at Fleet Combat Center. After darkness, night vision systems will be utilized by lookouts to aid in locating vessels transiting the area.

(5) There shall be no firing on any ranges during periods of low visibility which would prevent the recognition of a vessel (to a distance of 7,500 yards) which is properly displaying navigational lights, or which would preclude a vessel from observing the red range flags or lights.

(6) The regulations in this section shall be enforced by the Commanding Officer, Fleet Combat Training Center, Atlantic, Dam Neck, Virginia Beach, Virginia, and other such agencies as he/she may designate.

3. Section 334.390, paragraphs (b)(1), (2), (4) and (5) are revised to read as follows:

§ 334.390 Atlantic Ocean south of entrance to Chesapeake Bay; firing range.

* * * * *

(b) *The regulations.* (1) Vessels shall proceed through the area with caution and shall remain therein no longer than necessary for purposes of transit.

(2) When firing is in progress during daylight hours, red flags will be displayed at conspicuous locations on the beach. When firing is in progress during periods of darkness, red flashing lights will be displayed from conspicuous locations on the beach which are visible from the water a minimum distance of four (4) nautical miles.

* * * * *

(4) Lookout posts will be manned by the activity or agency operating the firing range at the Fleet Combat Center, Atlantic, Dam Neck, Virginia Beach, Virginia.

(5) There shall be no firing on the range during periods of low visibility as defined by the Inland and International Rules of the Road.

* * * * *

John R. Brown,

Colonel, Corps of Engineers, Executive Director of Civil Works.

[FR Doc. 93–7567 Filed 4–1–93; 8:45 am]

BILLING CODE 3710–92–M

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33 CFR Part 334

Restricted Area, Norfolk Naval Shipyard, Elizabeth River, Portsmouth, VA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Corps of Engineers proposes to amend the regulations which establish a naval restricted area in the waters of the Southern Branch, a tributary to the Elizabeth River, at the Southgate Annex of the Norfolk Naval Shipyard in Portsmouth, Virginia. The Commander of the Norfolk Naval Shipyard has requested that the existing restricted area in the waters adjacent to the shipyard be amended to enlarge the restricted area. The proposed amendment is necessary for the security of naval vessels at the shipyard and to provide an additional measure of safety for vessels operating in the area by preventing them from navigating too close to the shipyard.

DATES: Written comments must be submitted on or before May 3, 1993.

ADDRESSES: Comments must be submitted to: HQUSACE, Attn: CECW–OR, Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Henderson at (804) 441–7653 or Mr. Ralph Eppard at (202) 272–1783.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C.1) and chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C.3), the Corps of Engineers is proposing to amend the regulations in 33 CFR 334.290. The Commanding Officer, Norfolk Naval Shipyard, Portsmouth, Virginia, has requested that the existing restricted area regulations be amended to enlarge the restricted area. This amendment will add a small area at the south end of the existing restricted area. The area will not be expanded further out from the shore. The enlarged area will provide additional security and safety for the shipyard facilities, vessels, and naval personnel while also making the area safer for vessels operating in the area because they will be a greater distance

from the hazards associated with shipyard operations. If this amendment is approved, the public will be prohibited from entering both the existing and the enlarged restricted area.

Economic Assessment and Certification

This proposed rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12291 do not apply. These proposed rules have been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354), which requires the preparation of a regulatory flexibility analysis for any regulation that will have significant economic impact on a substantial number of small businesses (i.e., small businesses and small Government jurisdictions.) It has been determined that this rule will not have a significant economic impact on a substantial number of small entities and that preparation of a regulatory flexibility analysis is not warranted.

List of Subjects in 33 CFR Part 334

Navigation (water), transportation, restricted areas. In consideration of the above, the Corps of Engineers is proposing to amend part 334 of title 33 to read as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3)

2. Section 334.290 is amended by revising paragraph (a)(3) to read as follows:

§ 334.290 Elizabeth River, Southern Branch, Va., naval restricted areas.

(a) *The areas* * * *

(3) *Southgate Terminal Area* Beginning at a point at the northeast corner of the Southgate Terminal Annex of the Norfolk Naval Shipyard at latitude 36°48′23″, longitude 76°17′39″; thence east to latitude 36°48′23″, longitude 76°17′29″; thence southerly along the western boundary of the Norfolk Harbor 35-foot channel to latitude 36°48′04″, longitude 76°17′33″; thence southwesterly to latitude 36°47′59.6″, longitude 76°17′35.7″; thence southwesterly to latitude 36°47′58.8″, longitude 76°17′38.8″; thence northwesterly to latitude 36°47′59.3″, longitude 76°17′42.3″; thence northwesterly to latitude 36°48′03.6″, longitude 76°17′48.1″, and thence along the shoreline in a northerly direction to the point of beginning.

* * * * *

John R. Brown,

Colonel, Corps of Engineers, Executive Director of Civil Works.

[FR Doc. 93–7568 Filed 4–1–93; 8:45 am]

BILLING CODE 3710–92–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 97

[PR Docket No. 93–85; FCC 93–154].

Message Forwarding Systems in the Amateur Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to amend the rules for the amateur service by modifying the Commission's compliance policy for stations participating in message forwarding and voice repeater systems. This action addresses six petitions for rulemaking concerning amateur stations participating in message forwarding systems. The petitioners indicate that § 97.103(a) of the Commission's rules, 47 CFR 97.103(a), hampers unnecessarily the operation of high speed message forwarding systems and repeaters. They claim that the potential for transmitting large numbers of messages in these systems cannot be achieved because this section does not distinguish between the responsibilities of the station originating and those only forwarding or repeating violative communications. The effect of the proposed rule would be to hold the licensee and control operator of the station originating the message and the control operator of the first forwarding station accountable for communications transmitted within a message forwarding system.

DATES: Comments must be filed on or before July 1, 1993. Reply comments must be filed on or before August 1, 1993.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: William T. Cross, Federal Communications Commission, Private Radio Bureau, Personal Radio Branch, Washington, DC 20554, (202) 632–4964.

SUPPLEMENTARY INFORMATION: The Commission's Notice of Proposed Rule Making, adopted March 18, 1993, and released March 29, 1993, is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 239) 1919 M Street, NW., Washington, DC. The complete text of this Notice of Proposed Rule Making, including the proposed rule amendments, may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rulemaking

1. This action proposes to amend the rules for the amateur service by modifying the Commission's compliance policy for stations participating in message forwarding and voice repeater systems. The proposed rules are set forth at the end of this document.

2. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements and will not increase or decrease burden hours imposed on the public.

3. This is a non-restricted notice and comment rule making proceeding. See § 1.1206(a) of the Commission's Rules, 47 CFR 1.1206(a), for provisions governing permissible *ex parte* contacts.

4. In accordance with Section 605 of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, the Commission certifies that these rule changes would not if promulgated, have a significant economic impact on a substantial number of small entities. The Amateur Radio Service may not currently be used to transmit any communication to facilitate the business or commercial affairs of any party. See 47 CFR 97.113(a).

5. This Notice of Proposed Rulemaking and the proposed rule amendments are issued under the authority of sections 4(i), 303(b), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(b), (g), and (r).

6. A copy of this Notice of Proposed Rulemaking will be forwarded to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 97

Compliance policy, Packet networks, Radio, Repeaters.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Proposed Rule Changes

Part 97 of chapter I of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 97—AMATEUR RADIO SERVICE

1. The authority citation for part 97 would continue to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. §§ 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. §§ 151–155, 301–609, unless otherwise noted.

2. Section 97.3 would be amended by redesignating paragraphs (a)(28) through (a)(44) as paragraphs (a)(29) through (a)(45), respectively, adding a new paragraph (a)(28), and revising newly redesignated paragraph (a)(36) to read as follows:

§ 97.3 Definitions.

(a) * * *

(28) *Message forwarding system.* A group of amateur stations participating in a voluntary, cooperative, interactive arrangement where communications are sent from the control operator of an originating station to the control operator of one or more destination stations by one or more forwarding stations.

* * * * *

(36) *Repeater.* An amateur station that instantaneously retransmits on a different channel the angle-modulated phone or image emission transmission of another amateur station.

* * * * *

3. Section 97.109(e) would be revised to read as follows:

§ 97.109 Station control.

* * * * *

(e) No station may be automatically controlled while transmitting third party communications, except a station participating as a forwarding station in a message forwarding system.

4. Section 97.205 would be amended by adding new paragraph (g) to read as follows:

§ 97.205 Repeater station.

* * * * *

(g) The control operator of a repeater is not accountable for violative communications that the repeater retransmits inadvertently.

5. Subpart C of part 97 would be amended by adding new § 97.217 to read as follows:

§ 97.217 Message forwarding system.

(a) Any amateur station may participate in a message forwarding system, subject to the privileges of the class of operator license held.

(b) The control operator of the station originating a message and the control operator of the first station retransmitting that message are accountable for violative communications that are transmitted in a message forwarding system. The control operators of other stations inadvertently retransmitting violative communications in a message forwarding system are not accountable for the violative communications.

[FR Doc. 93–7669 Filed 4–1–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB

Endangered and Threatened Wildlife and Plants; Public Hearing and Extension of Public Comment Period on Proposed Endangered Status for Two Grassland Plants From the Central Valley of California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and extension of public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), gives notice that a public hearing will be held on the proposed endangered species status for *Pseudobahia bahiifolia* (Hartweg's golden sunburst) and *Pseudobahia peirsonii* (San Joaquin adobe sunburst) and that the comment period is reopened and extended. The Service will allow all interested parties to submit oral and written comments on the proposal, during the hearing and comment period. A proposed rule for both species was published in the **Federal Register** on November 30, 1992 (57 FR 56549).

DATES: The comment period on the proposal is opened and extended until May 3, 1993. The public hearing will be held from 6 to 8 p.m. on April 21, 1993, in Bakersfield, California. Any comments received after the closing date may not be considered in the final decision on this proposal.

ADDRESSES: The public hearing will be held at the Kern County Administrative Center Board Chambers, 1115 Truxtun Avenue, Bakersfield, California. Written comments and materials concerning this proposal should be sent to the U.S. Fish and Wildlife Service, 2800 Cottage Way, room E–1803, Sacramento, California 95825–1846. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ken Fuller (see **ADDRESSES**) at 916/978–4866.

SUPPLEMENTARY INFORMATION:

Background

Pseudobahia bahiifolia and *Pseudobahia peirsonii* are native species restricted to non-native grasslands and occasionally the grassland woodland ecotone of the San Joaquin Valley of California. Sixteen populations of *Pseudobahia bahiifolia* are distributed in Fresno, Madera, and Stanislaus Counties. *Pseudobahia peirsonii* is known from 17 sites in Fresno, Tulare, and Kern Counties. Both these plants occupy habitat which faces ongoing and threatened destruction by one or more of the following: agricultural development, competition from non-native plants, water projects, mining, highway projects, recreational activities, and transmission line maintenance. A proposal to list these two plants as endangered was published in the **Federal Register** on November 30, 1992 (57 FR 56549).

Subsection 4(b)(5)(E) of the Act, as amended (16 U.S.C. 1531 *et seq.*) requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. In response to the proposed rule, the Service received three separate requests for a public hearing. As a result, the Service scheduled a public hearing on April 21, 1993, from 6 to 8 p.m. at the Kern County Administrative Center Board Chambers, 1115 Truxton Avenue, Bakersfield, California. Parties wishing to make statements for the record should bring a copy of their statements to the hearing. Oral statements may be limited in length, if the number of parties present at the hearing necessitates such a limitation. There are, however, no limits to the length of written comments or materials presented at the hearing or mailed to the Service. The comment period closes on May 3, 1993. Written comments should be submitted to the Service in the **ADDRESSES** section.

Author

The primary author of this notice is Ken Fuller (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act (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).

List of Subjects in 50 CFR Part 17

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

Dated: March 26, 1993.

David L. McMullen,

Acting Regional Director, Fish and Wildlife Service, Portland, Oregon

[FR Doc. 93–7718 Filed 4–1–93; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 58, No. 62
Friday, April 2, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

National School Lunch Program and School Breakfast Program: Nutrient Standard Menu Planning Demonstration Project

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the Department's intention to authorize selected school food authorities to participate in an expanded demonstration project under the National School Lunch and School Breakfast Programs to test an alternate menu planning system based on the analysis of nutrients. The results of this project will enable the Department to determine the viability of this approach as an alternative to the traditional meal patterns and to identify the technical assistance that the Department will need to provide, as well as the resources the school food authorities must have, in order to implement a nutrient standard rather than the food-based meal patterns. It is the Department's intention that the nutritional integrity of the program be maintained through adherence to the Recommended Dietary Allowances and the Dietary Guidelines for Americans.

DATES: Applications to participate in this demonstration project must be submitted on or before October 1, 1993. The Department will conclude its selection of school food authorities to participate in the demonstration project by April 1, 1994.

SUPPLEMENTARY INFORMATION: This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C 601–612) and thus is exempt from the provisions of the Act. In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), no new recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

These programs are listed in the Catalog of Federal Domestic Assistance under No. 10.553 and No. 10.555 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V, and the final rule related notice published at 48 FR 29114, June 24, 1983).

Background

As indicated in 7 CFR 210.10(b), the intent of the meal pattern for the National School Lunch Program (NSLP) has been to provide a nutritious, well-balanced meal that will, when averaged over a period of time, approximate one-third of the National Academy of Sciences' Recommended Dietary Allowances (RDAs) for key nutrients and calories for children of each age/grade group. The regulation setting forth the required meal pattern for the School Breakfast Program (SBP), 7 CFR 220.8, does not have a specific dietary goal, but the Department has informally set as a goal that breakfast should provide approximately one-fourth of the RDA for key nutrients and calories when averaged over a period of time.

In recent years, concerns about the nutritional content of school meals have emerged. While there is evidence from survey research that the NSLP provides a nutrient dense meal and provides significant amounts of protein and micronutrients, there are also concerns that the fat and sodium levels of the program are higher than desirable. The concerns raised about the program reflect the view that the diets of Americans, in general, contain excessive amounts of fat, cholesterol and sodium. As a first step in dealing with these concerns, the Human Nutrition Information Service, on behalf of the Department and in conjunction with the Department of Health and Human Services, issued the third edition of "Dietary Guidelines for Americans" on May 14, 1990. The Dietary Guidelines, originally published in 1980, are required to be updated at five year intervals by section 301 of Public Law No. 101–445, the National Nutrition Monitoring and Related Research Act of 1990. The latest edition of the Dietary Guidelines has established a goal that no more than 30 percent of calories consumed should be from fat (not more than ten percent of which should be from saturated fat). The Dietary Guidelines also recommended moderating intakes of sodium and sugar. The Department is committed to implementing the nutritional criteria of the new Guidelines in the school lunch and breakfast programs.

The Department also recognizes that it may be necessary to revise the current meal patterns to implement the Dietary Guidelines in schools. To this end, the Department expects, in a separate rule making, to solicit comments to assist in the development of revised meals patterns for the NSLP and SBP.

Nutrient Standard Menu Planning Demonstration

The Department will test an alternative method of menu planning for ensuring the nutritional quality of school meals—Nutrient Standard Menu Planning (NSMP). This method would require school meals served during a week to meet the goal of one-third of the RDA for lunch and one-fourth of the RDA for breakfast, for that period, as well as meeting the goal from the Dietary Guidelines that no more than 30 percent of total calories come from fat. Pursuant to the Department's authority in 7 CFR 210.10(i) and 220.8(e) to waive the requirements concerning adherence to required meal patterns, it would no longer be necessary for demonstration project schools to comply with the component and quantity requirements of 7 CFR 210.10 and 220.8. Instead, food services would have the flexibility to plan meals and analyze the nutrient content of all foods to be served in those meals. However, milk must continue to be offered during all meal services. Adjustments would be made to individual menus as needed to ensure that, on average, the RDA and Dietary Guidelines goals as stated above are maintained.

Currently, the Department is monitoring a pilot test of NSMP conducted by the State of California Department of Education. Based on the State of California's experience with a few schools, the Department believes that NSMP may offer some potential in meeting the nutritional goals of the school lunch and breakfast programs.

The California pilot furnishes some indication that NSMP provides more flexibility in meal planning than the

food grouping approach, that meals provide nutrients in amounts at least comparable to those in the current meal patterns, and that food costs may be no higher than under the current meal patterns.

Based on these preliminary results, the Department considers that NSMP may provide a significant tool for implementing the Dietary Guidelines in schools and for improving menu planning in general. Therefore, the Department intends to test NSMP on an expanded scale.

Solicitation of Proposals

The Department is issuing this notice to solicit requests from school food authorities (SFAs) wishing to participate in this demonstration project. The Department envisions this demonstration as a three-year test and anticipates admitting approximately 35 SFAs in the first year. To ensure as broad a base as possible, the Department intends that the pool of selectees will be diverse in terms of size, geographic location and food service practices. However, the principal criteria for selection will be demonstrated nutritional expertise and computer capability sufficient to operate the necessary software. Sites which do not currently have access to nutritional expertise or computer capabilities may participate provided they demonstrate that these capabilities will be acquired. Participation in both the NLSP and the SBP will not be a necessary requisite for SFAs seeking to participate in the demonstration project.

The National Nutrient Database for Child Nutrition Programs

The Department recognizes that implementation of NSMP is dependent upon the SFA's ability to analyze and manipulate nutrition data on a vast array of foods. While many nutrient databases are currently available, few of these are specific to the Child Nutrition Programs, and they do not contain the types of foods, descriptions, weights and measurements used in these programs. Therefore, the Department is developing a centralized nutrient database which will include processed and prepared foods used in school food services as well as the school food service recipes. It is the Department's intent that this database will be regularly maintained and updated to ensure that the information is accurate and current. The Department expects to have a working prototype of the National Nutrient Database for Child Nutrition Programs (NNDCNP) completed by January 1994. The Department will then make this database available to participating SFAs and computer software companies to use in developing programs to conduct nutrient analysis. The NNDCNP must be incorporated into the software that is utilized by demonstration project SFAs.

Submission of Requests

SFAs wishing to participate in this demonstration project should request an information packet and application by contacting Robert Eadie, Branch Chief, Policy and Program Development Branch, Child Nutrition Division, 3101 Park Center Drive, 10th Floor, Alexandria, VA 22303, (703) 305–2618. This packet will include information on computer requirements, policy guidance, and instructions for completing and submitting an application. The information packet will include the criteria the Department will rely upon in its evaluation of applications. Final applications shall be submitted in writing not later than October 1, 1993. The Department will select SFAs by April 1, 1994 and will work these sites to implement the project during the fall/winter of School Year 1994/1995.

Subsequent Solicitations

As noted above, the Department envisions this demonstration project as a three-year test ending in June 1997. Therefore, SFAs not initially selected may wish to apply for inclusion in School Years 1995/1996 and 1996/1997. The Department intends to issue notices soliciting additional proposals for these school years in the Spring of 1994 and the Spring of 1995, respectively.

Dated: March 29, 1993.

Andrew P. Hornsby, Jr.,

Acting Administrator.

[FR Doc. 93–7684 Filed 4–1–93; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Boundary and Annexation Survey.

Form Number(s): BAS–1, 1A, 2, 2A, 3, 3A, 4, 33L, 33LM, and 1L1 through 23LB (22 letters, 1 postcard, and 1 insert notice).

Agency Approval Number: 0607–0151.

Type of Request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Burden: 6,980 hours.

Number of Respondents: 7,270.

Avg Hours Per Response: 58 minutes.

Needs and Uses: The Census Bureau conducts the Boundary and Annexation Survey (BAS) annually to collect information on the creation of newly incorporated municipalities and minor civil divisions (MCDs), the dissolution of incorporated municipalities and MCDs, and changes to the boundaries of counties, incorporated municipalities, and MCDs. The survey provides accurate identification of geographic areas for the decennial and economic censuses and support for the annual population estimates program. It is also used to update the municipal, MCD, and county inventory for the Federal Information Processing Standards (FIPS) program at the U.S. Geological Survey and the National Institute of Standards and Technology. Other Federal Agencies use BAS results in their legislative programs.

Affected Public: State or local governments.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: March 29, 1993.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 93–7749 Filed 4–1–93; 8:45 am]

BILLING CODE 3510–07–F

Bureau of Export Administration

Computer Systems Technical Advisory Committee; Partially Closed Meeting

A meeting of the Computer Systems Technical Advisory Committee will be held April 21 & 22, 1993, in the Herbert C. Hoover Building, room 1617M(2), 14th Street & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and

Policy Analysis with respect to technical questions that affect the level of export controls applicable to computer systems/peripherals or technology.

Agenda:

Executive Session—April 21, 8:30 a.m.–2 p.m.

1. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

General Session—April 21, 2 p.m.–5 p.m.

2. Opening remarks by the Chairmen.
3. Presentation of papers or comments by the public.
4. Technology presentation by Silicon Graphics, Inc.: The Grand Challenge Machines.
5. Update on regulatory changes affecting computer exports.
6. Discussion on hand carrying small computers.
7. Recent changes to electronic submissions.

Executive Session—April 22, 8:30 a.m.–2 p.m.

8. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

General Session—April 22, 2 p.m.–5 p.m.

9. Reports from working groups.
10. Report on liaison activities.

The General Sessions of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Ms. Lee Ann Carpenter, Technical Support Staff, ODAS/EA/BXA, Room 1621, U.S. Department of Commerce, 14th & Pennsylvania Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 5, 1992, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6020, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 482–2583.

Dated: March 29, 1993.

Lee Ann Carpenter,

Acting Director, Technical Advisory Committee Unit.

[FR Doc. 93–7632 Filed 4–1–93; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

[A–588–602]

Determination Not To Revoke Antidumping Duty Order; Carbon Steel Butt-Weld Pipe Fittings From Japan

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

ACTION: Notice of determination not to revoke antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty order on carbon steel butt-weld pipe fittings from Japan.

EFFECTIVE DATE: April 2, 1993.

FOR FURTHER INFORMATION CONTACT: Robin Alexander or Pamela Woods, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–4271.

SUPPLEMENTARY INFORMATION: Pursuant to 19 CFR 353.25(d)(4)(i), on February 17, 1993, the Department of Commerce (the Department) published in the **Federal Register** (58 FR 8736) a notice of its intent to revoke the antidumping duty order on carbon steel butt-weld pipe fittings from Japan (52 FR 4167 dated February 10, 1987). We invited interested parties to comment on our intent to revoke the order and served written notice of the intent to revoke on each interested party on the Department's service list.

The Department may revoke an antidumping duty order pursuant to 19 CFR 353.25(d)(4) if for four consecutive annual anniversary months no interested party has requested an administrative review of an order and no interested party objects to the revocation or requests an administrative review. We had not received a request to conduct an administrative review of the antidumping order on butt-weld pipe fittings from Japan for four consecutive annual anniversary months. On February 24, 1993, the U.S. Fittings Group, an *ad hoc* trade association of U.S. manufacturers of carbon steel butt-weld pipe fittings, an interested party under 19 CFR 353.2(k)(5), objected to our intent to revoke this antidumping order.

Based on the objection, the Department has concluded pursuant to 19 CFR 353.25(d)(1)(i) that the order continues to be of interest to an interested party. Therefore, we no longer intend to revoke this antidumping order.

Dated: March 25, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–7635 Filed 4–1–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–403–801]

Fresh and Chilled Atlantic Salmon From Norway; 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 a request by one respondent, the Department of Commerce has conducted an administrative review of the antidumping duty order on fresh and chilled Atlantic salmon from Norway. The review covers one exporter and the period October 3, 1990, through March 31, 1992. As a result of this review, the Department has preliminarily determined that a dumping margin exists for this exporter.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 2, 1993.

FOR FURTHER INFORMATION CONTACT: Todd Peterson, Timothy Volker, or Thomas Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4106, 482–8120, or 482–3814, respectively.

Background

On April 12, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 14920) the antidumping duty order on fresh

and chilled Atlantic salmon from Norway. On April 8, 1992, the Department published a notice of "Opportunity to Request Administrative Review" (57 FR 11934). On April 30, 1992, two respondents, Skaarfish and Salmonor, requested that we conduct an administrative review of this antidumping duty order for the period October 3, 1990, through March 31, 1992. We published a notice of initiation of the antidumping administrative review on May 22, 1992. On June 25, 1992, Salmonor withdrew its request for review in a timely manner. The Department has now conducted this administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of the Review

The merchandise covered by this review is fresh and chilled Atlantic salmon (salmon). It encompasses the species Atlantic salmon (Salmo salar) marketed as specified herein; the subject merchandise excludes all other species of salmon: Danube salmon; Chinook (also called "king" or "quinnat"); Coho (silver); Sockeye ("redfish" or "blueback"); Humpback ("pink"); and Chum ("dog"). Atlantic salmon is whole or nearly whole fish, typically (but not necessarily) marketed gutted, bled, and cleaned, with the head on. The subject merchandise is typically packed in fresh water ice (chilled). Excluded from the subject merchandise are fillets, steaks, and other cuts of Atlantic salmon. Also excluded are frozen, canned, smoked or otherwise processed Atlantic salmon. Fresh and chilled Atlantic salmon is currently provided for under Harmonized Tariff Schedule (HTS) subheading 0302.12.00.02.09.

United States Price

The United States price is based on purchase price, in accordance with section 772(b) of the Tariff Act, because all sales were made directly to unrelated parties prior to importation into the United States.

Purchase price is based on airpacked, c.i.f. prices to unrelated customers in the United States. It was discovered at verification that commissions were incurred on an FOB basis rather than the reported CIF basis. We adjusted the reported commissions accordingly. Deductions were made, where appropriate, for air freight, foreign inland freight, inland/marine insurance and Norwegian export duties in accordance with section 772(d)(2) of the Tariff Act.

Foreign Market Value

The Department determined that home market sales did not constitute a viable basis for calculating foreign market value (FMV). Therefore, in accordance with section 353.49(b) of the Department's regulations, the Department chose sales to France as the basis of FMV. France is the largest third country market with the most similar merchandise to that sold in the United States, based on information submitted by Skaarfish. Because many of Skaarfish's sales were determined to be below cost of production (COP) during the investigation, the Department automatically initiated a COP investigation for the purposes of this first administrative review. Just as the Department found in the investigation, we believe that in comparing third-country sales to COP, we should regard the reseller/exporter's acquisition prices as irrelevant to the below-cost analysis and instead use the costs incurred by the fish farmers, the actual producers of the subject merchandise, to calculate the COP benchmark. The processing performed by Skaarfish is insignificant and not performed on all of the merchandise purchased and resold by Skaarfish.

Since there were approximately 200 salmon farmers that supplied Skaarfish during the period of review, the Department determined that sampling was both administratively necessary and methodologically appropriate to calculate a representative cost of producing the subject merchandise for purposes of this administrative review. Based on comments submitted by the petitioner and the respondent, the Department determined that the most significant factor influencing the costs of producing salmon is farm location. We allocated the sample across regions on the basis of each region's share of Skaarfish's total purchases during the POR.

To sample farms from each region, we assigned to each farm a selection probability based on its share of its region's sales to Skaarfish. We use unequal selection probabilities because we are estimating a volume weighted-average of farm-specific costs. We then chose two farms from the northern region and 18 farms from the southern region for a total of 20 farms. Four farms were selected twice; as a result, we included the COP of these four farms twice in our simple average calculation of 20 farms. A simple average was used in the final calculation because the weighting factors were accounted for at the farm selection stage.

We sent COP questionnaires through Skaarfish to the 16 salmon farmers, 12 of which responded to the Department's questionnaire. These 12 responses, along with deficiency responses and verification results, were analyzed and relied upon, where appropriate, in reaching the preliminary results of review.

We calculated the COP for each farm by summing all costs for the 1989 and 1990 generation salmon. These costs include smolt, feed, labor, and overhead. We allocated the costs on a per kilogram basis over net production quantities. We then adjusted those costs to reflect losses in the processing stage. General and administrative expenses and net interest expenses incurred for the sale of salmon in 1990 and 1991 were allocated to the salmon sold during the period of review. The fish farms did not submit costs for the first three months of 1992 because these costs do not correspond to the 1989 and 1990 generation salmon under review.

We made adjustments to include money owed to farmers by the Fiskeoppdretterenes Salgslag (FOS) when it went bankrupt. Based on information we collected at verification, we adjusted the farmers' cost for smolt, feed, labor, depreciation, and fees on a farm-specific basis where appropriate. Appropriate freezing fees were added to calculate COP.

For the four farms that did not respond to the questionnaire, the farm that failed verification and the farm that failed to report consolidated costs as required, we used best information available (BIA) to determine their COP. This BIA was based on the highest COP we calculated for all responding farms.

We calculated a simple average COP from the sampled farmers' individual COPs. We added Skaarfish's cost of processing, packing, selling, general and administrative expenses, along with the appropriate fees and taxes, to the simple-averaged farmer COP. Using these costs we calculated the total cost of production COP on a Norwegian Kroner per-kilogram basis.

Third country prices were compared to the calculated COP. We adjusted third country prices to reflect deductions for foreign inland freight, inland/marine insurance, third market credit, Norwegian export duties, brokerage and handling, freight, third country import duties and third country warranties. We determined that over 90 percent of sales were made at prices below the total COP and over an extended period of time. Furthermore, there is no information on the record demonstrating that prices of below cost sales would recover all costs within a

reasonable period of time. Therefore, we disregarded all third country sales and used constructed value (CV) as the basis for determining foreign market value.

To calculate CV, the statutory minimum profit of 8 percent was added because Skaarfish's actual profit was less than the statutory minimum. Imputed credit was added. We made no adjustments to the cost of production based on salmon weight because there are no quantifiable cost differences associated with producing salmon of differing weights.

Preliminary Results of Review

As a result of our comparison of the United States price to constructed value, we have preliminarily determined that the following margin exists for the period October 3, 1990, through March 31, 1992:

Skaarfish A/S	13.17%

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. Upon completion of this review, the Department will issue appraisement instructions concerning all respondents directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed firm will be that firm's rate established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be 13.17 percent. This rate represents the highest rate for any firm with shipments in this administrative review, or the most recent period in which shipments occurred, other than those firms receiving a rate based entirely on the best information available.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Interested parties may request disclosure within five days of the date of publication of this notice, and may request a hearing within 10 days of the date of publication. Any hearing, if requested, will be held as early as convenient for the parties but not later than 44 days after the date of publication or the first workday thereafter. Case briefs or other written comments from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttal comments, 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 the final results of this administrative review, including its results of its analysis of issues raised in any such written comments.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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 353.22.

Dated: March 26, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–7747 Filed 4–1–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–056]

Melamine From Japan; Determination Not to Revoke Antidumping Finding

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

ACTION: Notice of determination not to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping finding on melamine from Japan.

EFFECTIVE DATE: April 2, 1993.

FOR FURTHER INFORMATION CONTACT: Todd Peterson, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4106.

SUPPLEMENTARY INFORMATION: The Department of Commerce (the Department), may revoke an antidumping duty order or finding, pursuant to § 353.25(d)(4)(iii) of the Department's regulations, if no interested party has requested an administrative review for four consecutive annual anniversary months and no interested party objects to the revocation or requests an administrative review (19 CFR 353.25(d)(4)(iii)(1992)). We had not received a request to conduct an administrative review of the antidumping duty order on melamine from Japan (42 FR 6366, February 2, 1977) for the last four consecutive annual anniversary months. Therefore, pursuant to the Department's regulations, on February 17, 1993, we published in the **Federal Register** a notice of intent to revoke the finding and served written notice of the intent to revoke to each interested party on the Department's service list.

On February 17, 1993, Melamine Chemicals, Inc., an interested party under 19 CFR 353.2(k)(3), objected to our intent to revoke this finding. Therefore, because a domestic interested party objects to the revocation, we no longer intend to revoke this antidumping finding.

Dated: March 25, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–7748 Filed 4–1–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–475–810]

Postponement of Preliminary Antidumping Duty Determination: Pads for Woodwind Instrument Keys from Italy Manufactured by Luciano Pisoni Accessori Strumenti Musicali A Fiato

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: April 2, 1993.

FOR FURTHER INFORMATION CONTACT: John Gloninger, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at (202) 482–2778.

Postponement

On November 10, 1992, the Department of Commerce (the

Department) initiated an antidumping duty investigation of pads for woodwind instrument keys (pads) manufactured by Luciano Pisoni Accessori Strumenti Musicali A Fiato (Pisoni) from Italy. On March 5, 1993, petitioner requested that the Department postpone our preliminary determination by two weeks. On March 10, 1993, the Department granted this request and postponed the preliminary determination until April 13, 1993 (58 FR 14558, March 18, 1993).

The Department finds that this investigation is extraordinarily complicated due to certain complex issues regarding the exclusion of Pisoni (the respondent in this investigation) from the existing antidumping duty order on pads from Italy, and its relationship to another manufacturer of pads from Italy. Additionally, the respondent is cooperating in this investigation. Therefore, we are postponing the date of the preliminary determination in this investigation until not later than May 19, 1993. The U.S. International Trade Commission is being advised of this postponement in accordance with section 733(f) of the Tariff Act of 1930, as amended (the Act).

This notice is published pursuant to section 733(c)(2) of the Act and 19 CFR 353.15(d).

Dated: March 24, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–7633 Filed 4–1–93; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Endangered Species; Permits

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

ACTION: Issuance of 4 Permits.

On December 7, 1992, notice was published (57 FR 57823) that an application had been filed by the Idaho Cooperative Fish and Wildlife Research Unit (P497A), to take listed Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*).

On December 10, 1992, notice was published (57 FR 58461) that an application had been filed by the Shoshone-Bannock Tribes (P510A), to take listed Snake River spring/summer chinook salmon (*O. tshawytscha*).

On February 9, 1993, notice was published (58 FR 7769) that an application had been filed by the Columbia River Inter-Tribal Fish Commission by and through the Bureau of Indian Affairs (P513), to take listed Snake River spring/summer chinook salmon (*O. tshawytscha*).

On December 3, 1992, notice was published (57 FR 57157) that an application had been filed by the National Marine Fisheries Service, Coastal Zone and Estuarine Studies Division (P770#64), to take listed Snake River Sockeye salmon (*O. nerka*) and listed Snake River fall and spring/summer chinook salmon (*O. tshawytscha*).

The above applications were submitted for the purposes of scientific research and enhancement as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) and the regulations governing endangered fish and wildlife (50 CFR parts 217–222).

Notice is hereby given that on March 23, 1993 as authorized by the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued Permits for the above taking subject to certain conditions set forth therein.

Issuance of these Permits, as required by the Endangered Species Act of 1973, was based on a finding that such Permits: (1) Were applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of these Permits; (3) are consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. These Permits were also issued in accordance with and are subject to parts 220–222 of title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The applications, Permits and supporting documentation are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Suite 8268, Silver Spring, MD 20910 (301/713–2322); and

Environmental and Technical Services Division, National Marine Fisheries Service, 911 North East 11th Ave., room 620, Portland, OR 97232 (503/230–5400).

Dated: March 23, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–7468 Filed 4–1–93; 8:45 am]

BILLING CODE 3510–22–M

Endangered Species; Issuance of Modification No. 3 to Permit No. 585

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

SUMMARY: On June 16, 1987, notice was published in the **Federal Register** (52 FR 22835) that Permit No. 585 had been issued to the Southeast Fisheries Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida 33149.

Notice if hereby given that on March 26, 1993, as authorized by the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) and the regulations governing endangered and threatened fish and wildlife (50 parts 217–227), NMFS modified Permit No. 585 to extend the effective date through December 31, 1993.

The modified Permit is available for review by interested persons in the following offices by appointment:

Office of Protected Resources, NMFS, NOAA, 1335 East-West Highway, room 7324, Silver Spring, Maryland 20910, TEL: (301/713–2219); and

Director, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, Florida 33702, TEL: (813/893–3366).

Dated: March 26, 1993.

Herbert W. Kaufman,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–7711 Filed 4–1–93; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Receipt of Application for a Scientific Research Permit. (P342C)

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

Notice is hereby given that Mr. John Calambokidis, Cascadia Research Collective, Waterstreet Building, suite 201, 218½ West Fourth Avenue, Olympia, WA 98501, requests authorization to approach annually, up to 5 times each, up to 400 humpback whales (*Megaptera novaeangliae*), 400 blue whales (*Balaenoptera musculus*), and to approach annually, up to 10 times each, up to 100 gray whales (*Eschrichtius robustus*), over a five-year period during the course of photo-identification studies. The proposed activities will be carried out in the waters of California, Oregon, and Washington, with a possibility of activities also being conducted in international waters of the North Pacific (including off Mexico and Central America).

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding

copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Hwy., room 7324, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the applicant and do not necessarily reflect the views of the National Marine Fisheries Services.

Documents submitted in connection with the above application are available for review by interested persons in the following offices (by appointment):

Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Hwy., suite 7324, Silver Spring, MD 20910 (301/713–2289);

Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE., BIN C15700, Seattle, WA 98115 (206/526–6150);

Director, Southwest Region, National Marine Fisheries Service, NOAA, 501 W. Ocean Blvd., suite 4200, Long Beach, CA 90802–4213 (310–980–4016).

Dated: March 29, 1993.

Herbert W. Kaufman,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–7709 Filed 4–1–93; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

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

ACTION: Modification No. 1 to Scientific Research Permit 770 (P66G).

SUMMARY: Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Scientific Research Permit No. 770 issued to the Alaska Department of Fish and Game, P.O. Box 3–2000, Juneau, AK 99802, on March 20, 1992 (57 FR 10649), has been modified to allow additional sampling of harbor seals and spotted seals and the use of Temple tags with miniature VHF radios attached instead of Allflex tags. The Permit was also modified to allow the research to be conducted in waters of southeast Alaska. This modification becomes effective upon publication in the **Federal Register.**

Documents pertaining to this Modification and Permit are available for review, by appointment, in the Permits Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., suite 7324, Silver Spring, MD 20910 (301/713–2289); and Director, Alaska Region, National Marine Fisheries Service, NOAA, Federal Annex, 9109 Mendenhall Mall Road, suite 6, Juneau, AK 99802 (907/586–7221).

Dated: March 26, 1993.

Herbert W. Kaufman,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–7712 Filed 4–1–93; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of an Import Limit and Restraint Period for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Laos

March 29, 1993.

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

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit and amending a restraint period.

EFFECTIVE DATE: March 30, 1993.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In a Memorandum of Understanding (MOU) dated March 24, 1993, the Governments of the United States and Lao People's Democratic Republic agreed to establish a specific limit for cotton and man-made fiber woven shirts in Categories 340/640 for three consecutive one-year periods, beginning on January 1, 1993 and extending through December 31, 1995.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to amend the current limit for Categories 340/640 for the new restraint period which began on January 1, 1993 and extends through December 31, 1993.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 58 FR 8037, published on February 11, 1993.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 29, 1993.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on February 5, 1993, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of cotton and man-made fiber textile products in Categories 340/640, produced or manufactured in Laos and exported during the twelve-month period which began on October 30, 1992 and extends through October 29, 1993.

Effective on March 30, 1993, pursuant to a Memorandum of Understanding (MOU) dated March 24, 1993 between the Governments of the United States and the Lao People's Democratic Republic, you are directed to increase the current limit for Categories 340/640 to 125,000 dozen[1] for the new restraint period beginning on January 1, 1993 and extending through December 31, 1993.

Import charges already made to the limit for Categories 340/640 shall be retained. Of these charges, you are directed to deduct 23,843 dozen for goods exported during the period October 30, 1992 through December 31, 1992.

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

[1] The limit has not been adjusted to account for any imports exported after December 31, 1992.

Sincerely,
J. Hayden Boyd,
Acting Chairman, Committee for the Implementation of Textile Agreements.
[FR Doc. 93–7746 Filed 4–1–93; 8:45 am]
BILLING CODE 3510–DR–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: May 3, 1993.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe adverse impact on the current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities and services to the Procurement List for production by the nonprofit agency listed:

Commodities

Tray, Desk, Plastic
7520–01–094–4307
7520–01–094–4308
7520–01–094–4309
7520–01–094–4310
7520–01–094–4311
7520–01–094–4312
Nonprofit Agency: Royal Maid Association for the Blind, Hazlehurst, Mississippi.

Towel, Paper

7920–00–965–1709
(Requirements for GSA Regions 3 and 4)
Nonprofit Agency: East Texas Lighthouse for the Blind, Tyler, Texas.

Services

Food Service Attendant, Naval Undersea Warfare Center, Building 35, Keyport, Washington.
Nonprofit Agency: Holly Ridge Center, Bremerton, Washington.

Janitorial/Custodial, Federal Justice Building, 99 NE. 4th Street, Miami, Florida.
Nonprofit Agency: Goodwill Industries of South Florida, Inc., Miami, Florida.

E.R. Alley, Jr.,
Deputy Executive Director.
[FR Doc. 93–7689 Filed 4–1–93; 8:45 am]
BILLING CODE 6820–33–P

Procurement List Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to the Procurement List a service to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: May 3, 1993.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On March 6, 1992, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (57 FR 8115) of the proposed addition to the Procurement List.

In response to a letter from the Committee, comments were received from the current contractor for this service. The contractor claimed that addition of this service to the Procurement List would have a devastating effect on the company because the contract represents a significant amount of its sales and a considerably larger amount of its gross profit. The contractor indicated that it based its pricing for the service on the assumption that the Government would exercise all options in the contract, permitting the contractor to amortize its equipment costs. It indicated that it has no other Government contracts and does not anticipate finding another to replace this one if the service is added to the Procurement List, due to Government downsizing and the depressed condition of the local economy. As a consequence, the contractor claims it would have to discharge its work force, which consists largely of minorities and women, who would have great difficulty obtaining other employment in the area, which has a high unemployment rate. The contractor also stated that it is a minority and veteran-owned firm, which has received awards and long been recognized for its voluntary actions to aid in the employment of people with disabilities. It further indicated that the contracting activity had informed the company that it is opposed to terminating the current contract.

The contracting officer for this service informed the Committee that he intends to exercise all options on the existing contract, although reductions in the number of military personnel at the installation would cause the scope of the contract to be reduced. The contracting officer also stated that, while he would prefer to retain the current contractor because its performance has been better than earlier contractors, he realizes that this cannot be assured under the competitive bidding system. He indicated that he has no objection to the nonprofit agency performing this service.

The percentage of the current contractor's sales which this service represents does not reach the level which the Committee normally considers to constitute severe adverse impact. During the option periods of the current contract, the contractor will be

able to amortize its equipment costs and seek other contracts to replace this one. The Committee considers that the option periods will give the contractor adequate time to pursue additional business opportunities and plan for the retention and welfare of its employees.

In regard to the loss of employment for the contractor's minority and women employees, which would not occur until the options on the current contract are completed, the Committee considers the impact to be outweighed by the jobs that will be created for people with severe disabilities, whose unemployment rates, which exceed 65%, are well above the rates which apply to the contractor's employees.

The nonprofit agency which will perform the service has told the Committee that it intends to employ as many of the current contractor's employees as the Committee's requirements for employment of people with disabilities permit, further minimizing the impact of the Committee's action on the current contractor's employees.

After consideration of the material presented to it concerning the capability of a qualified nonprofit agency to provide the service, fair market price, and the impact of the addition on the current or most recent contractor, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will not have a severe economic impact on current contractors for the service.

3. The action will result in authorizing small entities to furnish the service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Accordingly, the following service is hereby added to the Procurement List: Janitorial/Custodial, U.S. Army Detroit Arsenal Complex, Warren, Michigan.

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

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 93–7690 Filed 4–1–93; 8:45 am]

BILLING CODE 6820–33–P

Procurement List Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled

ACTION: Addition to procurement list.

SUMMARY: This action adds to the Procurement List scouring powder to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: May 3, 1993.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On December 11, 1992, the Committee for Purchase From People Who Are Blind or Severely Disabled published a notice (57 FR 58796) of the proposed addition of this powder to the Procurement List. Comments were received during the development phase of this addition to the Procurement List from a division of one of the current contractors and a Member of Congress. The contractor claimed that because a large part of its sales are to the Government, loss of its scouring powder contract could have a potentially devastating impact on the facility which makes the powder. The Congressman seconded the contractor's claim and noted the detrimental effect on economic development and job creation in the surrounding community which loss of the contract would cause.

The percentage of the contractor's total corporate sales represented by its contract for the scouring powder is not normally considered by the Committee to constitute severe adverse impact. The contractor did not have the previous contract for this item, so it can not be said to be unusually dependent on sales of this item to the Government. The contractor has not indicated that it cannot use its facility to produce other products to minimize its loss. Consequently, the Committee has concluded that addition of the scouring powder to the Procurement List will not have a severe adverse impact on the contractor.

Neither commenter has provided information which details the effect which the Committee's action would cause on the surrounding community. The Committee believes that any job losses which may occur are outweighed by the creation of jobs for people with severe disabilities, whose unemployment rates exceed 65%, far above those of other segments of the population.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodity, fair market price, and impact of the addition on the current or most recent contractors, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity.

3. The action will result in authorizing small entities to furnish the commodity to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity proposed for addition to the Procurement List.

Accordingly, the following commodity is hereby added to the Procurement List:

Scouring Powder
7930–01–294–1115

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

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 93–7691 Filed 4–1–93; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled

ACTION: Additions to and deletions from procurement list.

SUMMARY: This action adds to the Procurement List a commodity and

services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

EFFECTIVE DATE: May 3, 1993.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On January 29 and February 5, 1993, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (58 FR 6477 and 7216) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and services, fair market price, and impact of the addition on the current or most recent contractors, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List.

Accordingly, the following commodity and services are hereby added to Procurement List:

Commodity

Congressional Record Microfiche (GPO Program C90–S) 7690–00–NSH–0022 (Requirements for the U.S. Congress)

Services

Administrative Services
NASA, 4200 Complex
Marshall Space Flight Center, Alabama

Food Service
Naval Station
Pascagoula, Mississippi

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

Deletions

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities are hereby deleted from the Procurement List:

Shirt, Operating, Surgical 6532–00–299–9627

Dining Packet
7360–01–J19–2026

E.R. Alley, Jr.,
Deputy Executive Director.

[FR Doc. 93–7692 Filed 4–1–93; 8:45 am]
BILLING CODE 6820–33–P

COPYRIGHT ROYALTY TRIBUNAL

[Docket Nos. 92–1–90 CD]

Commencement of the 1990 Cable Royalty Distribution Proceeding

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice commencing 1990 cable royalty distribution proceeding.

SUMMARY: The Copyright Royalty Tribunal announces that a Phase I controversy exists concerning the distribution of the royalties paid by cable systems in the 1990 time period.

EFFECTIVE DATE: The 1990 cable royalties controversy is declared, effective April 2, 1993. A prehearing conference is scheduled for April 15, 1993.

FOR FURTHER INFORMATION CONTACT: Linda R. Bocchi, General Counsel, Copyright Royalty Tribunal, 1825 Connecticut Avenue NW., suite 918, Washington, DC 20009.

SUPPLEMENTARY INFORMATION: With the exception of the joint Stipulation of Settlement of Claim of National Public Radio to 1990 Cable Royalty Fund, the parties to the 1990 Cable Royalty Distribution Proceeding have advised the Tribunal that a controversy exists regarding the distribution of the royalties paid by cable systems for the 1990 time period. Accordingly, the Tribunal declares, effective April 2, 1993, that a controversy exists in Phase I of the 1990 cable royalty distribution.

It should also be noted that the parties have proposed procedural schedules, which differ greatly. Moreover, even though the Tribunal allotted the parties time to resolve the Nielsen data access issue, Major League Baseball, the National Basketball Association, the National Hockey League and the National Collegiate Athletic Association reported to the Tribunal, on March 18, 1993, that the parties had been unable to resolve the issue.

Therefore, in order to expedite the proceeding, the Tribunal will hold a prehearing conference on April 15, 1993, at 10 a.m. Parties should be prepared to discuss the following matters:

(a) Whether Phase I of the 1990 cable royalty distribution proceeding should be bifurcated, with stage one involving resolution of the Nielsen data access issue;

(b) If Phase I is to be bifurcated, whether stage one should involve a paper hearing or an oral hearing to resolve the Nielsen data access issue;

(c) Procedural dates;

(d) Any other relevant preliminary matters.

Dated: March 29, 1993.

Cindy Daub,
Chairman.

[FR Doc. 93–7624 Filed 4–1–93; 8:45 am]
BILLING CODE 1410–09–M

DEPARTMENT OF ENERGY

Financial Assistance Award; Intent To Award a Grant to Gas Technology Information, Inc.

AGENCY: U.S. Department of Energy.

ACTION: Notice of noncompetitive financial assistance award.

SUMMARY: The Department of Energy (DOE) announces that pursuant to 10 CFR 600.6(a)(5), it is making a discretionary financial assistance award based on the criterion set forth at 10 CFR 600.7(b)(2)(i)(B) to Gas Technology Information, Inc. under Grant Number DE–FG01–93FE62811. Under the grant, Gas Technology Information, Inc. will establish and operate the International Center for Gas Technology Information, providing an international clearing house of information to facilitate the introduction of new gas-related technologies in the global energy markets. The following nations are funding the project: Belgium, Canada, Denmark, France, Germany, Ireland, Italy, Japan, Netherlands, Norway, Portugal, Spain, United Kingdom, and

the United States. DOE's contributions are valued at $2,294,000.

SCOPE: The Department of Energy has determined in accordance with 10 CFR 600.7(b)(2)(i)(B) that Gas Technology Information, Inc. would conduct the project using third party funding; however, DOE's support of that activity would enhance the public benefits to be derived and DOE knows of no other entity which is planning or conducting such a project. The anticipated project period of the proposed grant is 18 months from the effective date of award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Placement and Administration, ATTN: Stanley T. Colt, PR–322.1, 1000 Independence Avenue SW., Washington, DC 20585, (202) 634–4414.

Scott Sheffield,

Acting Director, Division "B" Office of Placement and Administration.

[FR Doc. 93–7715 Filed 4–1–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

Re-Notice of Application Filed With the Commission

March 29, 1993.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. Type of Application: Transfer of License.

b. Project No: 6939–030.

c. Date Filed: March 8, 1993, as revised on March 25, 1993.

d. Applicants: City of Jackson, Ohio and certain Ohio Municipalities (see attached list).

e. Name of Project: Belleville.

f. Location: On the Ohio River in Wood County, West Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Peter C. Kissel, Alan I. Robbins, Baller Hammett, P.C., 1225 Eye Street, NW., suite 1200, Washington, DC 20005, (202) 682–3300.

i. FERC Contact: Patricia Massie, (202) 219–2681.

j. Comment Data: April 30, 1993.

k. Description of Transfer: The City of Jackson, Ohio (licensee), proposes to partially transfer its interest in the license for the Belleville Project to include a group of Ohio municipalities with electric distribution systems as co-licensees with Jackson. The Transferees, including Jackson, have executed a joint development agreement whereby each of the municipalities would own an undivided share of the project proportionate to each municipality's commitment and right to purchase power from the project. Operation and management of the project would be overseen by a board consisting of representatives of each of the participating cities. The purpose of the transfer is to allow each of the municipalities to use its share of project output as a power supply source for its electric system, and to facilitate project financing.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

Belleville Hydro Project Final List of Participants (March 25, 1993)

Mr. David Noel, Village Administrator, Village Arcadia P, P.O. Box 235, Arcadia, Ohio 44804–0235

Ms. Debbie Vanculin, Village Clerk, Village of Arcanum, 104 W. South Street, Arcanum, Ohio 45304–1199

Mr. Bob Raff, Superintendent of Utilities, Village of Beach City, 301 North Church Avenue, Beach City, Ohio 44608–0328

Mr. Daryl Stockburger, Utilities Director, City of Bowling Green, 304 North Church Street, Bowling Green, Ohio 43402

Ms. Janice Stump, Clerk/Treasurer, B.P.A., Village of Bradner, 130 North Main Street, Brander, Ohio 43406–0536

The Honorable Michael Schwab, Mayor, Village of Brewster, 310 Wabash Avenue, Brewster, Ohio 44613–1340

Mr. Stan Day, Director of Utilities, Bryan Municipal Light & Water, 841 E. Edgerton Street, Bryan, Ohio 43506

Mr. Keith Chamberlin, Village Manager, Village of Columbiana, 28 W. Friend Street, Columbiana, Ohio 44408–1299

Mr. Jerry Clink, President, Board of Public Affairs, Village of Custar, 9063 High Street, Custar, Ohio 43511–0056

Mr. Bob Bye, Superintendent, City of Cuyahoga Fall, 2550 Bailey Rd., Cuyahoga Falls, Ohio 44221

Mr. Dale Mathys, Village Administrator, Village of Edgerton, P.O. Box 609, Edgerton, Ohio 43517

Ms. Janet Jones, Clerk/Treasurer, Village of Eldorado, P.O. Box 250, Eldorado, Ohio 45321

Ms. Sharon Toney, Clerk, Village of Elmore, P.O. Box 1, Elmore, Ohio 43416

Mr. Edward Griswold, Village Administrator, Village of Genoa, 509 Main Street, Genoa, Ohio 43430–1626

Village of Glouster, 16 Front Street, P.O. Box Street, Glouster, Ohio 45732–1221

Mr. Dan Byrd, Superintendent, Grafton Municipal Utility Service, 1029 South Main Street, Grafton, Ohio 44044

Ms. Lollie Brossia, Utility Clerk, Village of Haskins, 100 North Main, Haskins, Ohio 43525

Mr. Richard Slifko, Superintendent, City of Hubbard Light & Water Department, 220 West Liberty Street, Hubbard, Ohio 44425–1706

Mr. John Rogers, Director of Electric Utilities, Hudson Municipal Electronic Department, 27 East Main Street, Hudson Village, Ohio 44236–3004

Mr. Ron Speakman, Safety Service Director, City of Jackson, P.O. Box 664, Jackson, Ohio 45640

Mr. W. Michael Dodds, Village Administrator, Village of Jackson Center, 122 E. Pike Street, P.O. Box V, Jackson Center, Ohio 45334–0821

Mr. Thomas Wilson, Pres., Board of Public Affairs, Village of Lodi, Box 95, 108 Ainsworth, Lodi, Ohio 44254–1303

Ms. Nancy L. Banks, Clerk/Treasurer, Village of Lucas, 101 First Avenue, Lucas, Ohio 44843–0213

Mr. Gary DeWalt, Village Administrator, Village of Milan, 9 East Church Street, Milan, Ohio 44846

Mr. Virgil Arling, Village Administrator, Village Minister, 29 S. Hanover Street, Box #1, Minster, Ohio 45865–0001

Mr. Joe Gravenhorst, Superintendent, Monroeville Light, Water & Sewer Department, 2 South Main Street, Monroeville, Ohio 44847

Mr. John Bitler, Village Administrator, Village Montpelier, 211 North Jonesville Street, Montpelier, Ohio 43543–1007

Ms. Terry Dunn, City Manger, City Napoleon, 255 W. Riverview, P.O. Box 151, Napoleon, Ohio 43545–1748

Mr. Clarence Art, Village Administrator, Village of New Bremen, 214 N. Washington Street, New Bremen, Ohio 45869–1151

Mr. Sam Natoil, Service Director, City of Niles, 34 West State Street, Niles, Ohio 44446

Ms. Bonnie Kreager, Utility Clerk, Village of Oak Harbor, 228 Park Street, Oak Harbor, Ohio 43449–0232

Mr. Shaski Mehta, Director, Oberlin Municipal Light & Power System, 289 Professor Street, Oberlin, Ohio 44074

Ms. Marge Cox, Utility Clerk, Village of Pemberville, 115 Main Street, P.O. Box 109, Pemberville, Ohio 43450–0109

Mayor Bruce Kidston, Village of Pioneer, P.O. Box 335, Pioneer, Ohio 43554–0335

Mr. Kenneth Blue, Village Administrator, Village of Prospect, 139 North Main Street, Prospect, Ohio 43342–0186

Mr. Nevin Reiter, President, Board of Public Affairs, Village of Republic, 219 Washington Street, P.O. Box 68, Republic, Ohio 44867–0068

Mr. Kevin Bittaker, Superintendent, Village of Seville, 44 West Main Street, P.O. Box 46, Seville, Ohio 44273–0046

Ms. Virginia Morningstar, Board of Public Affairs Clerk, Village of South Vienna, P.O. Box 54, South Vienna, Ohio 45369

Mr. James Wierwille, Village Administrator, Village of Versailles, P.O. Box 166, Versailles, Ohio 45280–0166

Mr. William Lyren, Director of Public Service, City of Wadsworth, 145 High Street, Wadsworth, Ohio 44281

Mr. Ronald Zimmerman, Superintendent, Village Waynesfield, 104 West Perry Street, Waynesfield, Ohio 45896

Mr. Robert Dupee, Director of Utilities, Wellington Municipal Utilities, 98 Johns Street, Wellington, Ohio 44090

Mr. Robert Rickard, Village Administrator, Village of Woodville, 212 Bridge Street, Woodville, Ohio 43469–0156

Standard Paragraphs

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATIONS," "PROTEST", or "MOTION TO INTERVENE," as applicable, and the project number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and the number of copies requred by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: The Director, Office of Hydropower Licensing, Division of Project Compliance and Administration, Federal Energy Regulatory Commission, ATTN: HL–21, room 1148 UCP, at the above address. A notice of intent, competing application, or motion to intervene must also be served upon each representative of the applicant specified in the particular application.

D2. *Agency Comments*—The Commission invites federal, state, and local agencies to file comments on the described application. (Agencies may obtain a copy of the application directly from the applicant.) If an agency does not file comments within the time specified for filing comments, the Commission will presume that the agency has none. One copy of an agency's comments must also be sent to the applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 93–7626 Filed 4–1–93; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 2431–008, et al.]

Hydroelectric Applications; Wisconsin Electric Power Co., et al.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. *Type of Application:* New Major License.

b. *Project No.:* 2431–008.

c. *Date Filed:* December 2, 1991.

d. *Applicant:* Wisconsin Electric Power Company.

e. *Name of Project:* Brule Hydro Project.

f. *Location:* On the Brule River in Florence County, Wisconsin, and Iron County, Michigan.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. David K. Porter, Wisconsin Electric Power Company, 231 West Michigan Street, P.O. Box 2046, Milwaukee, WI 53201, (414) 221–2500.

i. *FERC Contact:* Ed Lee, (202) 219–2809.

j. *Comment Date:* April 30, 1993.

k. *Status of Environmental Analysis:* This application is accepted for filing but is not ready for environmental analysis at this time—see attached standard paragraph E1.

l. *Description of Project:* The project as licensed consists of the following: (1) A 157.5 foot long earth dike, located at the right end of the dam when facing downstream, with a crest elevation of 1206.1 feet NGVD and a crest width of 9 feet, constructed of homogeneous silty sandy material and a concrete corewall; (2) a 225 foot long earth dike, located between the auxiliary spillway and the west gravity wall, with a crest elevation of 1206.1 feet NGVD and a minimum crest width of 24 feet, constructed of homogeneous silty sand material and a concrete corewall; (3) a 880 foot long earth dike, located about 1.4 miles upstream of the dam, with a crest elevation of 1203.8 feet NGVD and a crest width of 6 feet, constructed of sand fill material; (4) a reservoir with a surface area of 545 acres and a total volume of 8,800 acre-feet at the normal maximum surface elevation of 1198.8 feet NGVD; (5) a reinforced concrete spillway on bedrock with a crest elevation of 1187.1 feet NGVD containing eight 12 foot by 14 foot wide Tainter gates, electrically operated by individual hoists; (6) a auxiliary spillway, located at the left end of the dam when facing downstream, composed of two bays, separated by a concrete wall, each containing an erodible fuse plug with a 60 foot long by 6 foot wide crest at an elevation of 1204.62 feet NGVD; (7) a 1000 foot long auxiliary spillway channel, located adjacent to the downstream apron of the auxiliary spillway, with a base width of 40 feet and a 1.7% slope; (8) a 68 foot long concrete gravity wall, located at the right end of the powerhouse when facing downstream, keyed into bedrock, with a top elevation of 1205.0 feet NGVD and a top width of 9 feet; (9) a 73 foot long concrete gravity wall, located at the left end of the powerhouse when facing downstream, keyed into bedrock, with a top elevation of 1205.0 and a top width of 9 feet; (10) a 79 foot long concrete gravity wall, located at the left end of the spillway when facing downstream; (11) a powerhouse with a reinforced concrete substructure on bedrock, 74.5 feet long by 48 feet wide, and a steel frame brick superstructure, 74.5 feet long by 48 feet wide containing, (a) a mobile 10-ton crane, (b) three Francis-type turbines, vertical shaft, manufactured by James Leffel and company, rated at 3,100 hp, 3,100 hp and 3,300 hp and, (c) three Westinghouse 6,600 V, 3 phase, 60-cycle generators, rated at 2,000 kW, 2,000 kW and 1,355 kW; and (12) a transmission system containing, (a) four single phase 1,667 kVA, 60-cycle transformers, one of which is a spare, (b) a switch gear along with associated metering and protection equipment, (c) a 345 foot long 69 kV transmission line.

No changes are being proposed for this new license. The applicant estimates that the installed project capacity is 5.335 MW with an average annual generation of 14.9 GWH. The project dam and facilities are owned by the applicant. There are 1.82 acres of U.S. lands enclosed within the project boundary. The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: B1 and E1.

o. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Wisconsin Electric Power Company, 231 West Michigan Street, P.O. Box 2046, Milwaukee, WI 53201, or by calling (414) 221–2500.

2 a. *Type of Application:* New Major License.

b. *Project No.:* 2433–004.

c. *Date Filed:* December 17, 1991.

d. *Applicant:* Wisconsin Public Service Corporation.

e. *Name of Project:* Grand Rapids Hydro Project.

f. *Location:* On the Menominee River in Marinette County, Wisconsin, and Menominee County, Michigan.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. R. A. Krueger, Senior Vice President, Wisconsin Public Service Corporation, 700 North Adams Street, P.O. Box 19002, Green Bay, WI 54307, (414) 433–1598.

i. *FERC Contact:* Ed Lee, (202) 219–2809.

j. *Comment Date:* April 30, 1993.

k. *Status of Environmental Analysis:* This application is accepted for filing but is not ready for environmental analysis at this time—see attached standard paragraph E1.

l. *Description of Project:* The project as licensed consists of the following: (1) The existing Grand Rapids Dam, 1,402 feet long, composed of (a) a 900-foot long concrete core earth fill section, (b) a 208-foot long reinforced concrete ungated ogee spillway with 24-inch high flashboards extending along the crest, (c) a 278-foot long reinforced concrete gated spillway with eight 12.0 by 12.5-foot Tainter gates, 141 feet long, and seven 14.0 by 14.5-foot Tainter gates, 122 feet long, (d) a log sluice and fishway, both currently unusable; (2) an existing one story poured concrete boiler house, used to melt ice in area of Tainter gates; (3) an existing impoundment with a surface area of 300 acres and a total volume of 2,141 acre-feet at the normal maximum surface elevation of 664.45 NGVD; (4) an existing power canal, 3,200-feet long and approximately 10-feet deep; (5) an existing concrete guard lock bridge, 16-feet high by 145-feet long, with thirteen 10-foot locks; (6) an existing powerhouse, a 121-foot long by 35-foot wide reinforced concrete structure, containing (a) a trash sluice with control gate, (b) three twin Francis turbines, manufactured by S. Morgan Smith and rated at 1,700 hp, one double runner Francis turbine, manufactured by General Electric and rated at 2,500 hp, and one DH horizontal turbine, manufactured by Allis-Chalmers and rated at 2,400 hp, (c) two 3-phase, 60-cycle, horizontal type generators, manufactured by Westinghouse and rated at 1,100 kW, one 3-phase, 60-cycle, horizontal type generator, manufactured by General Electric and rated at 1,400 kW, and one 3-phase, 60-cycle, generator, manufactured by Allis-Chalmers and rated at 1,900 kW; and (7) existing appurtenant facilities.

No changes are being proposed for this new license. The applicant estimates that the installed project capacity is 7.02 MW with an average annual generation of 40 GWH. The project dam and facilities are owned by the applicant. The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: B1 and E1.

o. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Wisconsin Public Service Corporation, 700 North Adams Street, P.O. Box 19002, Green Bay, WI 54307, or by calling (414) 433–1598.

3 a. *Type of Application:* New Major License.

b. *Project No.:* 2525–004.

c. *Date Filed:* December 17, 1991.

d. *Applicant:* Wisconsin Public Service Corporation.

e. *Name of Project:* Caldron Falls.

f. *Location:* On the Peshtigo River near Stephenson in Marinette County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. R.A. Krueger, 700 North Adams Street, P.O. Box 19002, Green Bay, WI 54307–9002, (414) 433–1268.

i. *FERC Contact:* Ms. Julie Bernt, (202) 219–2814.

j. *Deadline Date:* April 30, 1993.

k. *Status of Environmental Analysis:* This application has been accepted for filing but is not ready for environmental analysis at this time—see attached paragraph E.

l. *Description of Project:* The licensed project would consist of the following existing facilities: (1) A 178-foot-long reinforced concrete gravity dam; (2) a 121-foot-long reinforced concrete ogee spillway; (3) a 110-feet-long gated reinforced concrete ogee spillway between the ungated spillway and the gravity dam; (4) a 413-foot-long earthen dike located at the southeast end of the dam; (5) a reservoir with a surface area of 1,180 acres at surface elevation 982.0 feet NGVD and a storage area of 11,570 acre-feet; (6) two 10-foot diameter penstocks with lengths of 210 feet and 220-feet; (7) a powerhouse containing two generating units each with a rated capacity of 3,200 kW; and, (8) appurtenant facilities. The applicant is proposing no changes to the project. The average annual net energy generation is 20.1 GWh. The applicant owns all the existing project facilities.

The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: B1 and E1.

o. *Available Location of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Wisconsin Public Service Corporation, 700 North Adams Street, Green Bay, WI 54307–9002, or by calling (414) 433–1268.

4 a. *Type of Application:* New Major License.

b. *Project No.:* 2595–004.

c. *Date Filed:* December 18, 1991.

d. *Applicant:* Wisconsin Public Service Corporation.

e. *Name of Project:* High Falls.

f. *Location:* On the Peshtigo River near Stephenson in Marinette County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. R. A. Krueger, 700 North Adams Street, P.O. Box 19002, Green Bay, WI 54307–9002, (414) 433–1268.

i. *FERC Contact:* Ms. Julie Bernt, (202) 219–2814.

j. *Deadline Date:* April 30, 1993.

k. *Status of Environmental Analysis:* This application has been accepted for filing but is not ready for environmental analysis at this time—see attached paragraph E1.

l. *Description of Project:* The licensed project would consist of the following existing facilities: (1) Two existing reinforced concrete gravity dam non-overflow sections 397 feet long and 123 feet long (2) a 128-foot-long reinforced concrete ungated ogee spillway; (3) a 105-foot-long reinforced concrete gated

spillway; (4) two earthen dikes, one 1,425 feet long and one 2,600 feet long; (5) a reservoir with a surface area of 1,670 acres at surface elevation 897.0 feet NGVD and a storage area of 15,810 acre-feet; (6) seven 60-foot-long penstocks; (7) a powerhouse containing 5 generating units with a total rated capacity of 7,000 kW; and, (8) appurtenant facilities. The applicant is proposing no changes to the project. The average annual net energy generation is 18.8 GWh. The applicant owns all the existing project facilities.

The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: B1 and E1.

o. *Available Location of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Wisconsin Public Service Corporation, 700 North Adams Street, Green Bay, WI 54307–9002, or by calling (414) 433–1268.

5 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11373–000.

c. *Date Filed:* January 12, 1993.

d. *Applicant:* Southern Cal Energy Limited Partnership.

e. *Name of Project:* Boulder Valley Pumped Storage Project.

f. *Location:* Partially on lands administered by the Bureau of Land Management, approximately 30 miles northeast of San Diego, in San Diego County, California. BLM lands are located in sections 1, 2, 11, and 12 in T14S, R1W.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Robert D. Looper, So. Cal Energy Limited Partnership, 1555 Shoreline Dr., suite 200, Boise, Idaho 83702, (208) 338–2604.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.

j. *Comment Date:* April 30, 1993.

k. *Description of Project:* The applicant is exploring three alternative schemes for the proposed pumped storage project. Each alternative would use the city of San Diego's existing San Vicente reservoir and dam as a lower reservoir. The first alternative would also consist of: (1) A 140-foot-high dam and 60-acre upper reservoir; (2) a 24-foot-diameter, 17,000-foot-long penstock; (3) a powerhouse containing three generating units with a total installed capacity of 500 MW; (4) a 6-mile-long transmission line interconnecting with an existing San Diego Gas & Electric Company transmission line; and (5) appurtenant facilities.

The second alternative would also consist of: (1) A 180-foot-high dam, a 240-foot-high dam, and a 100-acre upper reservoir; (2) a 30-foot-diameter, 3,000-foot-long penstock; (3) a powerhouse containing three generating units with a total installed capacity of 400 MW; (4) a 6-mile-long transmission line interconnecting with an existing San Diego Gas & Electric Company transmission line; and (5) appurtenant facilities.

The third alternative would also consist of: (1) A 200-foot-high dam, a 20-foot-high dike, and a 60-acre upper reservoir; (2) a 30-foot-diameter, 6,000-foot-long penstock; (3) a powerhouse containing three generating units with a total installed capacity of 400 MW; (4) a 6-mile-long transmission line interconnecting with an existing San Diego Gas and Electric Company transmission line; and (5) appurtenant facilities.

No new access roads will be needed to conduct the studies. The approximate cost of the studies would be $1,000,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

6 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11376–000.

c. *Date Filed:* January 22, 1993.

d. *Applicant:* Rock Canyon Hydro Associates Current Power Technologies, Inc.

e. *Name of Project:* Rock Canyon Hydroelectric Project.

f. *Location:* Within the Uinta National Forest, on Rock Canyon Creek, near the town of Provo, in Utah County, Utah. Sections 27, 28, and 29 in T6S, R3E.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Gene Deveraux, 1190 North Spring Creek Place, P.O. Box 870, Springville, Utah 84663–0870, (801) 489–0089.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.

j. *Comment Date:* April 30, 1993.

k. *Description of Project:* The proposed project would consist of: (1) The city of Provo's eight existing concrete drop inlet structures located at various springs in Rock Canyon; (2) the city of Provo's existing water collection system including 13,250 feet of 6-inch-diameter and 12-inch diameter pipeline and penstock; (3) a powerhouse containing one generating unit with an installed capacity of 460 kW; and (4) appurtenant facilities.

No new access roads will be needed to conduct the studies. The approximate cost of the studies would be $35,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

7 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11377–000.

c. *Date Filed:* January 28, 1993.

d. *Applicant:* Chance Pond Brook Associates.

e. *Name of Project:* Webster Lake Hydro Project.

f. *Location:* On the Chance Pond Brook, near Franklin, Merrimack County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Victor A. Engel, Chance Pond Brook Associates, 145 Abbott Road, Concord, NH 03303, (603) 225–3068.

i. *FERC Contact:* Ed Lee, (202) 219–2809.

j. *Comment Date:* April 30, 1993.

k. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing 100-foot-long and 4-foot-high concrete dam; (2) an existing 612-acre reservoir at a normal water surface elevation of 400.2 feet USGS; (3) a proposed 200-foot-long, 3-foot-diameter steel penstock; (4) a new powerhouse containing a single 70-kW generator; (5) a proposed 50-foot-long tailrace; (6) a 200-foot-long transmission line; and (7) appurtenant facilities. The average annual generation would be 200 MWh. The applicant estimates that the cost of the studies under the terms of the permit would be $40,000. All power generated would be sold to a local utility company. The site is owned by the New Hampshire DES Resource Division, Concord, NH 03301.

l. This notice also consists of the following standard paragraphs: A5, A7, A10, B, C, and D2.

8 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11378–000.

c. *Date Filed:* January 28, 1993.

d. *Applicant:* Chance Pond Brook Associates.

e. *Name of Project:* Lower Chance Pond Brook Hydro Project.

f. *Location:* On the Chance Pond Brook, near Franklin, Merrimack County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Victor A. Engel, Chance Pond Brook Associates, 145 Abbott Road, Concord, NH 03303, (603) 225–3068.

i. *FERC Contact:* Ed Lee, (202) 219–2809.

j. *Comment Date:* April 30, 1993.

k. *Description of Project:* The proposed project would consist of the following facilities: (1) A reconstructed 40-foot-long and 12-foot-high concrete dam; (2) an existing 3-acre reservoir; (3) a proposed 600-foot-long, 3-foot-diameter steel penstock; (4) a new powerhouse containing a single 225-kW generator; (5) a proposed 50-foot-long tailrace; (6) a 200-foot-long transmission line; and (7) appurtenant facilities. The average annual generation would be 500 MWh. The applicant estimates that the cost of the studies under the terms of the permit would be $40,000. All power generated would be sold to a local utility company. The site is owned by the Oak Materials Group, P.O. Box 1448, Lacrosse, WI 54601. The applicant does not anticipate any need for studies concerning the reconstruction of the dam and requests a waiver from other requirements of § 4.81(c)(2) pursuant to subsection 385.207 of the regulations in Exhibit 2 of its permit application.

1. This notice also consists of the following standard paragraphs: A5, A7, A10, B, C, and D2.

9 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11380–000.

c. *Date Filed:* February 2, 1993.

d. *Applicant:* Sho-Deen, Inc.

e. *Name of Project:* Low Head Hydro Power Facilities.

f. *Location:* On the Fox River near Geneva in Kane County, Illinois.

g. *Filed Pursuant to:* Federal Power Act 17 U.S.C. 791(a)–825(r).

h. *Contact Person:* Mr. Kent Shodeen, 13 South Seventh Street, Geneva, IL 60134.

i. *FERC Contact:* Ms. Julie Bernt, (202) 219–2814.

j. *Comment Date:* May 30, 1993.

k. *Description of Project:* The proposed project would consist of: (1) An existing 13-foot-high modified ogee dam owned by the State of Illinois; (2) a reservoir with a surface area of 89 acres at a surface elevation of 786 m.s.l. and a storage capacity of 270 acre-feet; (3) three new 90-inch diameter steel penstocks; (4) a new powerhouse containing three generating units each with a rated capacity of 450 kW; and, (5) a new 500-foot-long transmission line. The applicant estimates the average annual energy production to be 6.2 GWh and the cost of the work to be performed under the preliminary permit to be $185,000.

l. *Purpose of Project:* The power produced would be sold to a local power company.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

10 a. Type of Application: Major License (Notice of Tendering).

b. Project No.: 10847–001.

c. Date filed: February 26, 1993.

d. Applicant: Creamer and Noble Energy, Inc.

e. Name of Project: Crystal Creek Pumped Storage.

f. Location: On the San Bernardino Mountain Range in San Bernardino County, California, partially on U.S. lands administered by the Bureau of Land Management and by the U.S. Forest Service within San Bernardino National Forest. Township 3N, Ranges 1E and 1W; Township 4N, Ranges 1W and 2W; San Bernardino Meridian.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. K. Reed Noble, Creamer and Noble Energy, Inc., 435 East Tabernacle, St. George, UT 84770, (801) 673–4677.

i. FERC Contact: James Hunter at (202) 219–2839.

j. Brief Description of Project: The proposed project will not be located on any natural body of water, but will consist of two man-made reservoirs with a connecting penstock, a powerhouse with an installed capacity of 500 megawatts, and a transmission line connecting to the Southern California Edison transmission system. Water for the initial fill and for make-up will be purchased, and is expected to come from a well in the foothills above Lucerne Valley.

k. With this notice, we are initiating consultation with the State Historic Preservation Officer (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR at § 800.4.

1. In accordance with § 4.32 (b)(7) of the Commission's regulations, if any resource agency, SHPO, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate, factual basis for a complete analysis of this application on its merits, they must file a request for the study with the Commission, together with justification for such request, not later than 60 days from the filing date and serve a copy of the request on the Applicant.

11 a. Type of Application: Original License for Minor Project (Tendered Notice).

b. Project No.: 11285–001.

c. Date filed: February 25, 1992.

d. Applicant: Casitas Municipal Water District (CMWD), Oak View, California.

e. Name of Project: Lake Casitas Power Recovery Facility.

f. Location: Partially on lands administered by the Bureau of Reclamation (BOR)—on an existing pipeline between the Casitas dam and CMWD's water distribution facility, near the City of San Buena Ventura, in Ventura County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. John J. Johnson, General manager, Casitas Municipal Water District, 1055 Ventura Avenue, P.O. Box 37, Oak View, CA 93022, (805) 649–2251.

i. FERC Contact: Mr. Surender M. Yepuri, P.E. (202) 219–2847.

j. *Brief Description of Project:* The proposed project consists of a minor water power facility on an existing 51-inch-diameter penstock between the BOR's existing Casitas dam and CMWD's proposed water treatment plant. The proposed installed capacity is one megawatt.

k. With this notice, we are initiating consultation with the State Historic Preservation Officer (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR, at § 800.4.

1. In accordance with § 4.32 (b)(7) of the Commission's regulations, if any resource agency, SHPO, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate, factual basis for a complete analysis of this application on its merits, they must file a request for the study with the Commission, together with justification for such request, no later than April 26, 1993, and must serve a copy of the request on the applicant.

12 a. *Type of Application:* Minor License.

b. *Project No.:* 11392–000.

c. *Date Filed:* March 11, 1993.

d. *Applicant:* J & T Hydro Company.

e. *Name of Project:* Ramseur Hydro Project.

f. *Location:* On Deep River in Randolph County, North Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Thomas J. Hill, Ms. Jo Ann Hill, P.O. Box 447, Ramseur, NC 27316, (919) 824–8268.

i. *FERC Contact:* Michael Dees, (202) 219–2807.

j. *Deadline Date:* May 10, 1993.

k. *Description of Project:* The project consists of a dam, reservoir, headrace, and a powerhouse with an installed capacity of 300 kW.

l. With this notice, we are initiating consultation with the State Historic Preservation Officer (SHPO), as required by Section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR, at § 800.4.

m. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, SHPO, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merits, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

Standard Paragraphs

A5. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit will be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

B1. *Protests or Motions to Intervene*—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

E1. *Filing and Service of Responsive Documents*—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Dated: March 29, 1993.

Lois D. Cashell,

Secretary.

[FR Doc. 93–7629 Filed 4–1–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. FA92–9–000]

Central Louisiana Electric Company, Inc.; Order Withdrawing Notice and Instituting Proceedings Under Part 41

Issued March 30, 1993.

The Notice of Consent to Shortened Proceedings, issued March 18, 1993, is hereby withdrawn and superseded by the present Order Instituting Proceedings Under Part 41 of the Commission's Regulations.

On January 26, 1993, the Chief Accountant issued a report under delegated authority to Central Louisiana Electric Company, Inc. (Company) summarizing the results of an audit performed by the Division of Audits for the period January 1, 1987 through December 31, 1991. 62 FERC ¶ 62,054. The Chief Accountant noted the Company's disagreement with Exception No. 1 in Part I of the report regarding the Company's accounting for sales of accounts receivables.

By letter filed February 23, 1993, the Company consented to disposition of this matter under the shortened procedures set forth in 18 CFR Part 41. Accordingly, the Secretary under delegated authority from the Commission hereby institutes proceedings under Part 41 of its regulations to determine the appropriate accounting treatment of the above matter.

Any interested person seeking to participate in this docket shall file a motion to intervene under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) no later than 15 days after the date of publication of this order in the **Federal Register.**

The following procedural schedule is established:

(1) The Company, any interested person, and the Commission's staff shall file initial briefs in response to this order on the accounting issue no later than 45 days after the date of publication of this order in the **Federal Register.**

(2) Reply briefs shall be due no later than 20 days thereafter.

An original and fourteen copies of all briefs must be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

It is ordered that:

(A) Proceedings under Part 41 of the Commission's regulations are hereby instituted with regard to Exception No. 1 as described in Part I of the audit report.

(B) The procedural schedule set forth in the body of this order is hereby adopted.

(C) This order shall be published in the **Federal Register.**

Lois D. Cashell,

Secretary.

[FR Doc. 93–7681 Filed 4–1–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER93–454–000]

Northeast Utilities Service Co.; Filing

March 29, 1993

Take notice that on March 15, 1993, Northeast Utilities Service Company (NU) tendered for filing agreements among Connecticut Light and Power Company, Western Massachusetts Electric Company and Massachusetts Electric Company. The agreements are for borderline sales involving the areas of Greenville, Massachusetts, Southwick, Massachusetts, Granby, Connecticut, Belchertown, Massachusetts, Northhampton, Massachusetts, Health, Massachusetts, Hawley, Massachusetts, East Longmeadow, Massachusetts and Sheffield, Massachusetts.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before April 8, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–7627 Filed 4–1–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER93–453–000]

Northeast Utilities Service Co.; Filing

March 29, 1993

Take notice that on March 15, 1993, Northeast Utilities Service Company (NU) tendered for filing, on behalf of The Connecticut Light and Power Company, Holyoke Power & Electric Light, Holyoke Water Power Company and Western Massachusetts Electric Company, a Memorandum of Understanding Joint Use of Specified Local Transmission and Distribution Facilities dated as of January 1, 1984.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before April 8, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–7628 Filed 4–1–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG93–33–000]

NW Energy (Williams Lake) Limited Partnership; Correction to Notice of Filing

March 30, 1993.

In the first paragraph of the notice issued March 22, 1993, (58 FR 16406, March 26, 1993), the correct address of the applicant should be 1066 West Hastings Street, suite 2120, Vancouver, British Columbia V6E 3X1.

Lois D. Cashell,

Secretary.

[FR Doc. 93–7679 Filed 4–1–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. FA91–47–000]

Public Service Company of Colorado; Order Withdrawing Notice and Instituting Proceedings Under Part 41

Issued March 30, 1993.

The Notice of Consent to Shortened Proceedings, issued March 18, 1993, is hereby withdrawn and superseded by the present Order Instituting Proceedings Under Part 41 of the Commission's Regulations.

On January 19, 1993, the Chief Accountant issued a report under delegated authority to Public Service Company of Colorado (Company) summarizing the results of an audit performed by the Division of Audits. 62 FERC ¶ 62,049. The Chief Accountant noted the Company's disagreement with three items included in part I, Contested

Matters, of the report regarding the Company's:

(1) Billing of buyout and fuel financing charges from a power supplier through its fuel adjustment clause (FAC);

(2) Billing of the cost of power purchased from independent power production facilities through its FAC; and

(3) Accounting for sales of customer accounts receivables in its operating expense accounts.

By letter filed February 25, 1993, the Company consented to disposition of these matters under the shortened procedures set forth in 18 CFR part 41. Accordingly, the Secretary under authority delegated by the Commission hereby institutes proceedings under part 41 of its regulations to determine the appropriate accounting treatment of the above matters.

Additionally, resolution of Contested Matter Nos. 1 and 2 may have rate implications requiring refunds under sections 205 and 206 of the Federal Power Act. For this reason, the Company, as part of its initial brief in this proceeding shall (1) explain why it should not be required to make refunds of any amounts found to have been improperly collected due to an inappropriate accounting treatment of these items, and (2) propose an allocation of refunds among customers in the event that they are ultimately ordered pursuant to the treatment previously specified by the Commission staff.

Any interested person seeking to participate in this docket shall file a motion to intervene under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) no later than 15 days after the date of publication of this order in the Federal Register.

The following procedural schedule is established:

(1) The Company, any interested person, and the Commission's staff shall file initial briefs in response to this order on the accounting and refund issues no later than 45 days after the date of publication of this order in the Federal Register.

(2) Reply briefs shall be due no later than 20 days thereafter.

An original and fourteen copies of all briefs must be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

It is ordered:

(A) Proceedings under part 41 of the Commission's regulations are hereby instituted with regard to Contested Matter Nos. 1, 2, and 3 as described in part I of the audit report.

(B) The Company, as part of its initial brief in this proceeding, shall (1) explain why it should not be required to make refunds of any amounts found to have been improperly collected due to the inappropriate tariff billing practice set forth in Contested Matter Nos. 1 and 2, and (2) propose an allocation of refunds among customers in the event that refunds are ultimately ordered pursuant to the treatment previously specified by the Commission staff.

(C) The procedural schedule set forth in the body of this order is hereby adopted.

(D) This order shall be published in the Federal Register.

Lois D. Cashell,

Secretary.

[FR Doc. 93–7680 Filed 4–1–93; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ECAO–RTP–0327; FRL–4609–8]

Draft Alternative Fuels Research Strategy

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of public comment period.

SUMMARY: This notice announces the extension of the public comment period for the external review draft of the: "Alternative Fuels Research Strategy," prepared by the U.S. Environmental Protection Agency's (EPA) Office of Research and Development.

DATES: In the January 19, 1993 Federal Register (58 FR 4991), EPA announced that January 25 through March 25, 1993, would be the public comment period for the external review draft of this document. The Agency is now extending the public comment period to April 26, 1993. Comments must be in writing and postmarked by the April date.

ADDRESSES: To obtain a copy of the external review draft, interested parties should contact the ORD Publications Center, CERI–FRN, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, OH 45268; telephone (513) 569–7562; FAX (513) 569–7566; and request the external review draft of the "Alternative Fuels Research Strategy." Please provide your name, mailing address, and the EPA document number, EPA/600/AP–92/002.

The external review draft will also be available for public inspection at the EPA Library, EPA Headquarters, Waterside Mall, 401 M Street, SW., Washington, DC.

Comments on the external review draft should be sent in writing to the Project Manager for Alternative Fuels, Environmental Criteria and Assessment Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: Dr. J. Michael Davis, Environmental Criteria and Assessment Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, (919) 541–4162, [FAX] (919) 541–0245.

SUPPLEMENTARY INFORMATION: For further information on the external review draft of the "Alternative Fuels Research Strategy" see 58 FR 4991 (January 19, 1993).

Dated: March 25, 1993.

Gary J. Foley,

Acting Assistant Administrator for Research and Development.

[FR Doc. 93–7698 Filed 4–1–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4610–1]

Public Water System Supervision Program Revision for the State of Maryland

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with the provisions of section 1413 of the Safe Drinking Water Act as amended, 42 U.S.C. 300f *et seq.*, and 40 CFR 142.10, the National Primary Drinking Water Regulations, that the State of Maryland has revised their approved State Public Water System Supervision Primacy Program. Maryland has adopted drinking water regulations for: (1) Filtration, disinfection, turbidity, giardia lamblia, viruses, legionella, and heterotrophic bacteria that corresponds to the National Primary Drinking Water Regulations for filtration, disinfection, turbidity, giardia lamblia, viruses, legionella, and heterotrophic bacteria promulgated by EPA on June 29, 1989 (54 FR 27486); and (2) total coliforms (including fecal coliforms and E. Coli) that corresponds to the National Primary Drinking Water Regulations for total coliforms (including fecal coliforms and E. Coli) promulgated by EPA on June 29, 1989 (54 FR 27544). EPA has determined that these State program revisions are no less stringent than the corresponding

Federal regulations. Therefore, EPA has tentatively decided to approve these State program revisions and EPA hereby approves any official determinations made by Maryland with regard to filtration or ground water under the direct influence of surface water under the Federal Surface Water Treatment Rule.

All interested parties are invited to request a public hearing. A request for a public hearing must be submitted by May 3, 1993 to the Acting Regional Administrator at the address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Acting Regional Administrator. However, if a substantial request for a public hearing is made by May 3, 1993, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Acting Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective on May 3, 1993.

A request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing. (2) A brief statement of the requesting person's interest in the Acting Regional Administrator's determination and of information that the requesting person intends to submit at such a hearing. (3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Acting Regional Administrator, U.S. Environmental Protection Agency, Region 3, 841 Chestnut Building, Philadelphia, Pennsylvania 19107

Maryland Department of the Environmental, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Ghassan M. Khaled, U.S. EPA, Region 3, Drinking Water Section (3WM41), at the Philadelphia address given above; telephone (215) 597–8992.

Dated: March 12, 1993.

Stanley L. Laskowski,

Acting Regional Administrator, EPA, Region 3.

[FR Doc. 93–7696 Filed 4–1–93; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–4598–2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared March 15, 1993 through March 19, 1993 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the FR dated April 10, 1992 (57 FR 12499).

Draft EISs

ERP No. D–BLM–J65198–WY Rating EC2, Green River Resource Area Land and Resource Management Plan, Implementation, Rock Springs District, Sweetwater, Fremont, Uinta, Sublette and Lincoln Counties, WY.

Summary: EPA had environmental concerns regarding the proposed project. The final EIS should include information on the physical effects of all activities, any proposed mitigation, and a cumulative effects analysis.

ERP No. D–BLM–K67016–NV Rating EO2, Cortez Gold Mines Expansion Project, Construction and Operation, Mining Plan of Operations, Right-of-Way Permits, Special-Use Permit, NPDES and Section 404 Permits, Crescent Valley, south of Battle Mountain District, Lander and Eureka Counties, NV.

Summary: EPA expressed environmental objections with the proposed project regarding potential impacts to water quality and biological resources. Additional information was requested in the Final EIS on impacts to water quality, vegetation, and wildlife as well as facility design, monitoring and reclamation.

ERP No. D–COE–G32052–00 Rating EO2, West Pearl River Navigation Project, Operation and Maintenance, Portions of West Pearl River to the vicinity of Bagalusa, Implementation, Washington and St. Tammany Parishes, LA and Pearl River County, MS.

Summary: EPA had environmental objections based on the potential impacts associated with the proposed mitigation measures (management of bottomland forests, construction and operation of a greentree reservoir) and the lack of a comprehensive analysis of impacts for the entire project life. Furthermore, EPA believed that the EIS failed to comply with the Clean Water Act section 404 (b)(1) guidelines by not addressing other practicable alternatives which would have less adverse impacts on the aquatic ecosystem.

ERP No. D–FAA–C51013–NJ Rating EC2, Expanded East Coast Plan, Changes in Aircraft Flight Patterns over the State of New Jersey, Implementation, NJ.

Summary: EPA expressed concerns that the draft EIS did not fully evaluate the impacts of flight pattern changes associated with the EECP, or present measures to mitigate the project's adverse impacts. Also, the draft EIS did not fully support the FAA's statement that the EECP did not impact flight patterns below 3,000 feet AGL. Accordingly, EPA requests that additional information be presented in the final EIS to address these issues.

ERP No. D–UAF–G11023–TX Rating EC2, Bergstrom Air Force Base (AFB) Disposal and Reuse, Implementation, Travis County, TX.

Summary: EPA recommended that the final EIS include additional information on the extent of contamination at installation restoration program sites and on installation restoration program scheduling.

ERP No. DS–FHW–C40244–PR Rating EC2, PR–3 Relocation, PR30 (Humacao South bypass Extension) to PR–15 at Guayama, Funding, Updated Information, PR.

Summary: EPA believed that this document addresses EPA's major concerns about the deficiencies in the draft EIS. However, EPA had remaining concerns about the proposed project's wetlands impacts that should be resolved through the section 404 permit process.

ERP No. DS–FHW–D40118–00 Rating EU2, Appalachian Corridor Construction, Elkins, WV to I–81 in VA, Updated Information concerning Legislative, Procedural and Project Surrounding Changes, Funding, Possible Section 10, 404 and CGD Permits and Right-of-Way Acquisition, several Counties, WV and VA.

Summary: EPA found the southern scheme environmentally unacceptable because of significant adverse impacts to aquatic and terrestrial resources. The two northern schemes are more environmentally acceptable because they present more opportunities to avoid and minimize impacts to the environment. EPA requested more information on cumulative and secondary impacts be included in the next environmental document.

Final EISs

ERP No. F–AFS–J65191–UT Kamas Valley Grazing Allotment Management Plan, Implementation, Wasatch-Cache

National Forest, Kamas Ranger District, Summit County, UT.

Summary: EPA expressed environmental concerns regarding the proposed project. These concerns were for the lack of adequate information on water quality and a clear plan for monitoring of project impacts.

ERP No. F–BLM–L65158–OR Lower Deschutes Wild and Scenic River Management Plan, Implementation, Addresses Alternatives for Access to Public Lands Upstream from the Deschutes Club Locked Gate, Wasco County, OR.

Summary: EPA had no objections to the preferred alternative as it was described in the final EIS.

ERP No. F–FHW–H40142–MO Page Avenue Extension, Bennington Place, crossing the Missouri River Bridge to I–70 or US 40, Funding, COE Section 404 Permit and US Coast Guard Bridge Permit, St. Louis and St. Charles Counties, MO.

Summary: EPA still had objections to the proposed project due to wetland and indirect/secondary impacts. EPA does not believe that the red alignment will comply with section 404 (b)(1) Guidelines. EPA requested to be included on the wetland mitigation consultation team.

ERP No. F–FHW–H40146–MO Ozark Mountain Highroad Corridor Construction from existing US 65/MO–F north of Branson, then south across Lake Taneycomo to another intersection with US 65 south of Branson, Funding, COE Section 10 and 404 Permits and Coast Guard Bridge Permit, Taney and Stone Counties, MO.

Summary: EPA had no objections to the proposed project. The team Administration and the Missouri Highway and Transportation Department (MHTDO) serves as an example of how the process can successfully work to resolve concerns before they become issues.

Dated: March 30, 1993.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 93–7745 Filed 4–1–93; 8:45 am]

BILLING CODE 6560–50–P

[ER–FRL–4598–1]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 or (202) 260–5075.

Weekly Receipts Environmental Impact Statements filed March 22, 1993 through March 26, 1993 pursuant to 40 CFR 1506.9.

EIS No. 930095, DRAFT EIS, FHW, CA, East Sonora Bypass Corridor Construction, CA–108 from Post Mile M1.8 to Post Mile R6.9 near Sonora, Funding and Right-of-Way, City of Sonora, Tuolumne County, CA, Due: May 17, 1993, Contact: James C. Jelinek (209) 948–7918.

EIS No. 930096, DRAFT EIS, FHW, CA, CA–101 Transportation Improvement Project, between Milpas Street in the City of Santa Barbara and 1.1 Miles North of the Ventura County Line in the City of Carpinteria, Funding, COE Section 404 Permit and NPDES Permit, Santa Barbara and Ventura Counties, CA, Due: May 21, 1993, Contact: Gary L. Ruggerone (805) 549–3182.

EIS No. 930097, DRAFT EIS, AFS, OR, Santiam Pass Demo Project, Harvesting Timber and Road Construction, Willamette National Forest, McKenzie Ranger District, Linn County, OR , Due: May 17, 1993, Contact: Joe Zook (505) 822–3381.

EIS No. 930098, DRAFT EIS, FHW, FL, FL–312 Extension Project, Construction, FL–207 to US 1/FL–5 north of the City of St. Augustine, Funding, Right-of-Way Permit, COE Section 404 and NPDES Permits, St. John County, FL, Due: May 17, 1993, Contact: J. R. Skinner (904) 681–7223.

EIS No. 930099, FINAL SUPPLEMENT, COE, KY, IL, Lower Ohio River Navigation Study Area Improvements, Locks and Dams 52 & 53 (Olmsted Locks and Dams) Replacement and Additional Modifications, Cumberland River to Mississippi River Several Counties, KY and IL, Due: May 3, 1993, Contact: Michael Turner (502) 582–6015.

EIS No. 930100, DRAFT EIS, NPS, UT, Timpanogos Cave National Monument General Management and Develop Concept Plans, Implementation, American Fork Canyon, Utah County, UT, Due: June 11, 1993, Contact: Susan K. McGill (801) 756–5239.

EIS No. 930101, DRAFT EIS, GSA, Atlanta Federal Center Consolidation for the housing of several Federal Agencies, Site Specific, Rich's Department Store Martin Luther King, Jr., Drive, Atlanta, GA, Due: May 17, 1993, Contact: Judith M. Cobb (404) 331–7780.

EIS No. 930102, DRAFT SUPPLEMENT, NOA, MA, Northeast Multi-Species Fishery Management Plan, Update Information, Amendment 5, Implementation, Due: May 17, 1993, Contact: Nancy Foster (301) 713–2239.

EIS No. 930103, DRAFT EIS, FHW, PA, Mon/Fayette Transportation Project, Improvements, I–70 in Fallowfield Township to PA–51 in Jefferson Borough, Funding, COE Section 404 Permit and NPDES Permit, Mon Valley, Washington and Allegheny Counties, PA, Due: May 24, 1993, Contact: Manuel A. Marks (717) 782–3461.

EIS No. 930104, DRAFT EIS, FHW, GU, US Navy Facilities Relocation and Development, from the Republic of the Philippines to the Territory of Guam, Implementation and COE Section 404 Permit, GU, Due: May 17, 1993, Contact: Stanley Uehara (808) 471–9338.

Dated: March 30, 1993.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 93–7744 Filed 4–1–93; 8:45 am]

BILLING CODE 6560–50–U

[OPPTS–66017; FRL 4579–2]

Receipt of Applications for Approval to Dispose of Polychlorinated Biphenyls

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt of applications.

SUMMARY: EPA Headquarters has received applications from Clean Berkshire, Inc., Kanti Technologies, Inc., Vector Group, Inc., TechPro, Inc., and the Naval Civil Engineering Laboratory of Port Hueneme for nationwide approvals to dispose of polychlorinated biphenyls (PCBs). This approval process is done under the authority of section 6(e) of the Toxic Substances Control Act (TSCA). EPA is notifying interested persons of these requests, and requesting comments.

DATES: Comments should be received by May 3, 1993.

ADDRESSES: Three copies of written comments, identified with the document control number (OPPTS–66017) should be submitted to: TSCA Public Docket Office (TS–790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–699, 401 M St., SW., Washington, DC 20460. The applications (without confidential business information) and comments received in response to this notice are available for public inspection and copying at the TSCA Nonconfidential Information Center (NCIC), also known as the TSCA Public Docket Office in Rm. E–G102 at the address noted above from 8 a.m. to 12 noon, and 1 p.m. to 4 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental

Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, (202–554–1404), TDD: (202–554–0551).

SUPPLEMENTARY INFORMATION: Under 40 CFR 761.60(e), the Regional Administrators and the Assistant Administrator for the Office of Prevention, Pesticides and Toxic Substances (OPPTS) share the approval authority for permitting alternative PCB disposal technologies. The Regional Administrator has the authority to approve disposal applications when the disposal will take place in that region only or, in the case of research and development (R&D), on PCB disposal methods involving less than 500 pounds of PCB material. The Assistant Administrator for OPPTS has the authority to approve disposal applications for mobile and other types of PCB disposal technologies that may be operated in more than one region or, in the case of R&D, on disposal methods involving 500 pounds or more of PCB material. The Assistant Administrator for OPPTS may delegate the authority to review and approve any aspect of a disposal system to the Director, Chemical Management Division (CMD) or to a Regional Administrator. The rationale for permit approval authority is discussed in "Polychlorinated Biphenyls (PCBs); Procedural Amendment of the Approval Authority for PCB Disposal Facilities and Guidance for Obtaining Approval," published in the **Federal Register** of March 30, 1983 (48 FR 13181).

In general, EPA may approve alternative methods of PCB disposal if they achieve a level of performance equivalent to an incinerator approved under 40 CFR 761.70 or a high efficiency boiler approved under 40 CFR 761.60 and will not present an unreasonable risk of injury to health or the environment. EPA also imposes some protective conditions requiring the applicant to address such items as testing of all gaseous, liquid, and solid effluent streams for PCBs and any other contaminants which may potentially contribute to the environmental risk of operating the disposal unit. To obtain a permit for an alternative method of PCB disposal, the applicant must supply detailed technical descriptions and drawings of the site, descriptions of process and control equipment, monitoring and sampling methods, a quality assurance plan, and emergency and contingency measures, as well as a full discussion of all cleanup and closure procedures.

Once EPA receives a permit application, the application is reviewed for completeness. If the application is not complete, EPA lists its deficiencies in a letter to the applicant and the applicant can remedy the application. Once an application is complete and acceptable, the applicant must submit a demonstration test plan to the Agency. After receipt of the process demonstration test plan, EPA either approves the demonstration test plan, requires modification or additions to the process demonstration test plan, or disapproves the test plan and notifies the applicant. Once the Agency accepts a disposal process demonstration test plan, a demonstration test approval is issued by EPA. As part of this approval, the applicant will be required to give advance written notice of at least 30 days to the EPA Regional office and State and local governments where the process demonstration will take place. This 30–day period provides the public an opportunity to discuss local issues related to the planned disposal operation. If the process demonstration test fails, the application cannot be approved. Individual problems with a particular process demonstration are addressed on a case-by-case basis.

EPA will grant or deny approval for full-scale operation based on a review of the application package, demonstration test results, and other submitted information. Approval for operation will contain special conditions that EPA finds necessary to protect human health or the environment. It also requires compliance with all applicable State, local, or other Federal requirements. The PCB disposal approval decision process (from receipt of the permit application to issuance of a final approval) generally can take from 6 months to 1 year, depending on the quality of information submitted by the applicant and the complexities involved. If a permit is issued for more than one site, a 30–day notice is required before operation may begin at any site other than where the process demonstration took place.

Clean Berkshire, Inc. in Lanesboro, Massachusetts, proposes to thermally treat PCBs in their High Temperature Incinerator (HTI). The company plans to demonstrate their unit at the F.T. Rose Disposal Pit Superfund site in April/May 1993. Operating conditions will closely follow commercial operations.

Kanti Technologies, Inc., in Amherst, New York, proposes to use the dechlorination technology to dispose of PCBs from contaminated dielectric fluid. Operating conditions will closely follow commercial operations.

Vector Group, Inc., in Cincinnati, Ohio, demonstrated a mobile solvent extraction system by cleaning an air compressor system at a site in Sterling, Virginia, in April 1992. Operating conditions closely followed commercial operations. EPA issued an approval on February 2, 1993.

TechPro, Inc., in Springfield, Virginia, demonstrated a mobile chemical dechlorination system by destroying PCBs in Mineral Oil Dielectric Fluid (MODEF) at a site in Nitor, West Virginia, in August 1992. Operating conditions closely followed commercial operations. Their tentative schedule calls for operations to begin in the Summer of 1993.

Finally, the Naval Civil Engineering Laboratory of Port Hueneme, California, proposes to demonstrate a mobile chemical dechlorination system by destroying PCBs in soil and coral at a site in Guam, Marianas Islands. Operating conditions will closely follow commercial operations. Their tentative schedule calls for operations to begin in August 1993.

In determining whether to approve these applications, EPA will take into consideration, along with other factors, any comments received on each application.

Dated: March 29, 1993.

John W. Melone,

Director, Chemical Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–7699 Filed 4–1–93; 8:45 am]

BILLING CODE 6560–50–F

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Report Forms Under OMB Review

AGENCY: Equal Employment Opportunity Commission.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. The proposed report form under review is listed below.

DATE: Comments must be received on or before May 17, 1993. If you anticipate commenting on a report form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Liaison Officer of your intent as early as possible.

ADDRESS: Copies of the proposed report form, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

EEOC Agency Clearance Officer: Margaret P. Ulmer, Office of Management, room 2220, 1801 L Street NW., Washington, DC 20507; Telephone (202) 663–4279.

OMB Reviewer: Joseph Lackey, Human Resources and Housing Branch, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503; Telephone (202) 395–7316.

Type of Request—Extension (No Change)

Title: Recordkeeping Requirements of Uniform Guidelines on Employee Selection Procedures.

Form Number: None.

Frequency of Report: None required.

Type of Respondent: Business/other institutions, State or local governments, farms.

Standard Industrial Classification (SIC) Code: Multiple.

Description of Affected Public: Any employer, labor organization, employment agency, covered by Federal equal employment opportunity laws.

Responses: 666,000.

Reporting Hours: 1,604,000.

Applicable under Section 3504(h) of Public law 96–511: Not applicable.

Number of Forms: None.

Abstract-Needs/Users: Data used by the EEOC and the co-signatures in investigating, conciliating, and litigating charges of employment discrimination, by complainants in establishing violations of Federal equal employment laws, and by respondents in defending against allegations of employment discrimination.

For the Commission.

Kassie A. Billingsley,

Acting Management Director, Equal Employment Opportunity Commission.

[FR Doc. 93–7683 Filed 4–1–93; 8:45 am]

BILLING CODE 6570–01–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Approved by Office of Management and Budget

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1980, Public Law 96–511. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 632–6934.

OMB Control No.: 3060–0355

Title: Rate of Return Reports, FCC 492 and FCC 492A

Expiration Date: 04/30/95

Description: Filing of FCC Form 492 and FCC Form 492A is required by §§ 1.795 and 65.600 of the FCC Rules and section 219 of the Communications Act of 1934, as amended. Filing of the FCC Form 492 on a quarterly basis is required from each local exchange carrier or group of affiliated carriers which is not subject to §§ 61.41 through 61.49 of the Commission's Rules and which has filed individual access tariffs during the enforcement period. Each local exchange carrier or group of affiliated carriers subject to the previously stated sections shall file the FCC Form 492A report with the Commission for the calendar year. The forms are necessary to enable the Commission to monitor the access tariffs and to enforce maximum rate of return prescriptions and price cap earnings levels. Call (202) 632–1374 to obtain copies of FCC Form 492 and FCC Form 492A.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–7619 Filed 4–1–93; 8:45 am]

BILLING CODE 6712–01–M

[PR Docket No. 93–3; DA 93–328]

Private Land Mobile Radio Services; Arkansas Public Safety Plan

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Chief, Private Radio Bureau and the Chief Engineer released this Order accepting the Public Safety Radio Plan for Arkansas (Region 4). As a result of accepting the Plan for Region 4, licensing of the 821–824/866–869 MHz band in that region may begin immediately.

EFFECTIVE DATE: March 25, 1993.

FOR FURTHER INFORMATION CONTACT: Betty Woolford, Private Radio Bureau, Policy and Planning Branch, (202) 632–6497.

SUPPLEMENTARY INFORMATION:

Order

Adopted: March 18, 1993.
Released: March 25, 1993.

By the Chief, Private Radio Bureau and the Chief Engineer:

1. On December 3, 1992, Region 4 (Arkansas) submitted its Public Safety Plan to the Commission for review. The Plan sets forth the guidelines to be followed in allotting spectrum to meet current and future mobile communications requirements of the public safety and special emergency entities operating in Arkansas.

2. The Arkansas Plan was placed on Public Notice for comments due on February 22, 1993, 58 FR 5730 (January 22, 1993). The Commission received no comments in this proceeding.

3. We have reviewed the Plan submitted for Arkansas and find that it conforms with the National Public Safety Plan. The plan includes all the necessary elements specified in the Report and Order in Gen. Docket No. 87–112, 3 FCC Rcd 905 (1987), and satisfactorily provides for the current and projected mobile communications requirements of the public safety and special emergency entities in Arkansas.

4. Therefore, we accept the Arkansas Public Safety Radio Plan. Furthermore, licensing of the 821–824/866–869 MHz band in Arkansas may commence immediately.

Federal Communications Commission.

Ralph A. Haller,

Chief, Private Radio Bureau.

[FR Doc. 93–7617 Filed 4–1–93; 8:45 am]

BILLING CODE 6712–01–M

[DA 93–352]

Comments Invited on New Mexico Public Safety Plan

March 26, 1993.

The Commission has received the public safety radio communications plan for New Mexico (Region 29).

In accordance with the Commission's Memorandum Opinion and Order in General Docket 87–112, Region 29 consists of the state of New Mexico. (General Docket No. 87–112, 3 FCC Rcd 2113 (1988)).

In accordance with the Commission's Report and Order in General Docket No. 87–112 implementing the Public Safety National Plan, interested parties may

file comments on or before May 3, 1993 and reply comments on or before May 18, 1993. (See Report and Order, General Docket No. 87–112, 3 FCC Rcd 905 (1987), at paragraph 54.)

Commenters should send an original and five copies of comments to the Secretary, Federal Communications Commission, Washington, DC 20554 and should clearly identify them as submissions to PR Docket 93–86 New Mexico—Public Safety Region 29.

Questions regarding this public notice may be directed to Betty Woolford, Private Radio Bureau, (202) 632–6497 or Ray LaForge, Office of Engineering and Technology, (202) 653–8112.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–7618 Filed 4–1–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–982–DR]

Florida; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida, (FEMA–982–DR), dated March 13, 1993, and related determinations.

EFFECTIVE DATE: March 22, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Florida dated March 13, 1993, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 13, 1993:

The counties of Baker, Broward, Collier, Franklin, Gilchrist, Glades, Gulf, Lafayette, Leon, Monroe, Nassau, Sumter, and Wakulla for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93–7685 Filed 4–1–93; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–980–DR]

Georgia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Georgia, (FEMA–980–DR), dated March 4, 1993, and related determinations.

EFFECTIVE DATE: March 25, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Georgia dated March 4, 1993, is hereby amended to include Public Assistance in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 4, 1993:

Walton County for Public Assistance (already designated for Individual Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93–7687 Filed 4–1–93; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–3112–EM]

Virginia; Notice of an Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Virginia (FEMA–3112–EM), dated March 25, 1993, and related determinations.

EFFECTIVE DATE: March 25, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 25, 1993, the President declared an emergency under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the situation in the Commonwealth of Virginia, which occurred as a result of severe winter storm conditions on March 13–14, 1993, is of sufficient severity and magnitude to warrant an emergency declaration under Title V, Section 501(a), of the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such an emergency exists in the Commonwealth of Virginia.

You are authorized, under Title V of the Stafford Act, to coordinate all emergency relief efforts and specifically to provide Federal emergency assistance in the affected areas for a period of five (5) days beginning on March 13 for opening critical emergency access on collector roads and streets, and on minor and principal arterial roads for emergency vehicles.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal emergency assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act will be limited to 75 percent of the total eligible costs.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Mr. Walter Pierson of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas of the Commonwealth of Virginia to have been affected adversely by this declared emergency:

FEMA intends to provide assistance for required emergency measures for a period of five (5) days beginning on March 13 to open critical emergency access on collector roads and streets, minor, and principal arterial roads for emergency vehicles in the counties of Accomack, Albermarle, Alleghany, Amelia, Amherst, Appomattox, Arlington, Augusta, Bath, Bedford, Bland, Botetourt, Brunswick, Buchanan, Buckingham, Campbell, Caroline, Carroll, Charles City, Charlotte, Chesterfield, Clarke, Craig, Culpeper, Cumberland, Dickenson, Dinwiddie, Essex, Fairfax, Fauquier, Floyd, Fluvanna, Franklin, Frederick, Giles, Gloucester, Goochland, Grayson, Greene, Greensville, Halifax, Hanover, Henrico, Henry, Highland, Isle of Wight, James City, King George, King & Queen, King William, Lancaster, Lee, Loudoun, Louisa, Lunenburg, Madison, Mathews, Mecklenburg, Middlesex, Montgomery, Nelson, New Kent, Northampton, Northumberland, Nottoway, Orange, Page, Patrick, Pittsylvania, Powhatan, Prince Edward, Prince George, Prince William, Pulaski, Rappahannock, Richmond, Roanoke, Rockbridge, Rockingham, Russell, Scott, Shenandoah, Smyth, Southampton, Spotsylvania, Stafford, Surry, Sussex, Tazewell, Warren, Washington, Westmoreland, Wise, Wythe, and York and independent cities of the Commonwealth of Virginia as follows: City of

Alexandria, Bedford, Bristol, Buena Vista, Charlottesville, Chesapeake, Clifton Forge, Colonial Heights, Covington, Danville, Emporia, Fairfax, Falls Church, Franklin, Fredericksburg, Galax, Hampton, Harrisonburg, Hopewell, Lexington, Lynchburg, Manassas, Manassas Park, Martinsville, Newport News, Norfolk, Norton, Petersburg, Poquoson, Portsmouth, Radford, Richmond, Roanoke, Salem, South Boston, Staunton, Suffolk, Virginia Beach, Waynesboro, Williamsburg, and Winchester.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Acting Director.

[FR Doc. 93–7686 Filed 4–1–93; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL RESERVE SYSTEM

Barnett Banks, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 22, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Barnett Banks, Inc., Jacksonville, Florida; to engage *de novo* in acting as agent for issuers in private placement of all types of securities including providing related advisory services, and to buy and sell all types of securities on the order of investors as a riskless principal pursuant to § 225.25(b)(15) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 29, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–7651 Filed 4–1–93; 8:45 am]

BILLING CODE 6210–01–F

Farmers & Traders Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than April 26, 1993.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Farmers & Traders Bancshares, Inc., Shabbona, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers & Traders State Bank, Shabbona, Illinois.

2. Suburban Bancorp, Inc., Palatine, Illinois; to acquire 100 percent of the voting shares of Huntley Bancshares, Inc., Huntley, Illinois, and thereby indirectly acquire State Bank of Huntley, Huntley, Illinois. In connection with this application, Huntley Acquisition Corporation, Palatine, Illinois, has applied to become a bank holding company by merging with Huntley Bancshares.

Board of Governors of the Federal Reserve System, March 29, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–7650 Filed 4–1–93; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[File No. 871 0004]

ASFE, the Association of Engineering Firms Practicing in the Geosciences; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Maryland-based association of engineering firms from engaging in a variety of practices designed to prevent its members from participating in price competition, giving favorable pricing or credit terms, engaging in competitive bidding, or advertising.

DATES: Comments must be received on or before June 1, 1993.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave. NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Ronald Rowe or Renee Henning, FTC/H–380, Washington, DC 20580. (202) 326–2610 or 326–2621.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final

approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

In the matter of ASFE, the Association of Engineering Firms Practicing in the Geosciences, a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of ASFE, the Association of Engineering Firms Practicing in the Geosciences (hereinafter sometimes referred to as "proposed respondent" or "ASFE"), a corporation, and it is now appearing that ASFE is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between ASFE, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent ASFE is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Maryland, with its principal office and place of business located at 8811 Colesville Road, suite G106, Silver Spring, Maryland 20910.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event the Commission will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the United States Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

For purposes of this order, the following definitions shall apply:

A. "ASFE" or "respondent" means ASFE, the Association of Engineering Firms Practicing in the Geosciences, a corporation, its predecessors, subsidiaries, successors, and assigns, and their respective directors, officers, committees, other organizational subgroups, agents, representatives, and employees, and their respective successors and assigns;

B. "Bidding" or "competitive bidding" means a method of procurement whereby one or more engineering professionals are asked to submit or do submit a partial or full bid, fee quotation, price quotation, cost estimate, cost proposal, or fee schedule, or a proposed partial or full bid, fee quotation, price quotation, cost estimate, cost proposal, or fee schedule (for work of which any part is to be or was performed by, or under the direction, supervision, or guidance of, an engineering professional). For purposes of this order, "bidding" or "competitive bidding" also means a request (to an engineering professional) for a partial or full bid, fee quotation, price quotation, cost estimate, cost proposal, or fee schedule, or a proposed partial or full bid, fee quotation, price quotation, cost estimate, cost proposal, or fee schedule;

C. "Engineering professional" means an engineering firm, an engineer or other employee of an engineering firm, a design consultant firm, a design consultant or other employee of a design consultant firm, a design professional firm, a design professional or other employee of a design professional firm, a design firm, a designer or other employee of a design firm, a member of ASFE, or an employee of a member of ASFE;

D. "Insurer" means an insurance firm, a reinsurance firm, or a person that performs any underwriting service or any other insurance-related or reinsurance-related service;

E. "Member" means an engineering firm or other person that belongs to ASFE;

F. "Or" means "and/or." (In other words, for purposes of this order, "or" includes "and" and may have a disjunctive or conjunctive meaning; provided, however, that in sentences where "or" is preceded by "either," that "or" has only the disjunctive meaning.);

G. "Peer review" means the examination or review of any policies or practices of any engineering professional by another engineering professional or by the respondent; and

H. "Person" means a natural person, corporate entity, partnership, association, joint venture, governmental entity, trust, or any other organization or entity.

II

It is ordered, That respondent, individually or in concert with any other person, directly or indirectly, through any corporate or other device, in connection with any of respondent's

activities in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Entering into, threatening or attempting to enter into, participating in, or carrying out any agreement, between or among engineering professionals, to withdraw from, threaten to withdraw from, refuse to enter into, or threaten to refuse to enter into, bidding; or

B. Disseminating to any engineering professional any information relating to any specific, named or unnamed, engineering professional's intention or decision with respect to engaging in or not engaging in bidding.

III

It is further ordered, That respondent, individually or in concert with other person, directly or indirectly, through any corporate or other device, in connection with any of respondent's activities in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from restricting, regulating, impeding, declaring unethical, interfering with, or advising against any engineering professional's:

A. Engaging in or being asked to engage in price competition or bidding;

B. Offering or charging or being asked to offer or charge a low price, a price below another engineering professional's price, a reduced price, or any particular price;

C. Offering or granting or being asked to offer or grant interest-free credit or any other credit term; or

D. Engaging in or being asked to engage in advertising, other than false or deceptive advertising.

Nothing contained in parts II and III of this order shall prohibit respondent from disseminating truthful and non-deceptive information relating to the effect of any method of procurement upon public health, safety, and welfare, or liability exposure, including information regarding advantages or disadvantages of any method of procurement, provided that, for a period of ten (10) years after the date this order becomes final, any such information shall be accompanied by a statement that respondent takes no official position with respect to any method of procurement and that the ultimate choice as to the method of engaging the services of an engineering professional in any circumstance is a matter of independent judgment freely exercised by individual engineering professionals and their prospective clients.

IV

It is further ordered, That respondent, individually or in concert with any other person, directly or indirectly, through any corporate or other device, in connection with any of respondent's activities in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from initiating, promoting, adopting, entering into, continuing, carrying out, or pursuing any peer review program, or other plan or course of action, that calls for or authorizes or that ASFE knows or has reason to know allows any review, evaluation, or consideration of any engineering professional's fee schedule; contract continuing any pricing information or credit term; price proposal; or policy or practice concerning pricing, bidding or other method of procurement of the services of an engineering professional, or any credit term.

V

It is further ordered, That respondent, individually or in concert with any other person, directly or indirectly, through any corporate or other device, in connection with any of respondents activities in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from disseminating to any insurer any information relating to any engineering professional's fee schedule; contract containing any pricing information or credit term; price proposal; pricing; bidding or other method of procurement of the services of an engineering professional; credit term; or advertising.

VI

It is further ordered, That respondent, individually or in concert with any other person, directly or indirectly, through any corporate or other device, in connection with any of respondent's activities in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from stating that any of the following activities affects any engineering professional's ability to obtain or retain insurance:

A. Engaging in or being asked to engage in price competition or bidding;

B. Offering or charging or being asked to offer or charge a low price, a price below another engineering professional's price, a reduced price, or any particular price;

C. Offering or granting or being asked to offer or grant interest-free credit or any other credit term; or

D. Engaging in or being asked to engage in advertising.

VII

Nothing contained in this order shall prohibit respondent from:

A. Exercising rights protected under the First Amendment of the United States Constitution to petition any federal or state government executive agency or legislative body concerning legislation, rules, or procedures, or to participate in any federal or state administrative or judicial proceeding; or

B. Formulating, adopting, disseminating to its members, and enforcing reasonable ethical guidelines governing the conduct of its members with respect to advertising representation that are false or deceptive.

VIII

It is further ordered, That, within ninety (90) days after the date this order becomes final, respondent shall remove from its policy statements or guidelines and from any of its governing documents or other publications any provision, policy statement, or interpretation of policy that is inconsistent with the provisions of parts II, III, IV, V, VI, or VII of this order.

IX

It is further ordered, That, for a period of five (5) years after the date this order becomes final, respondent shall maintain in its files a copy of the minutes of each meeting of its members and of each meeting of its board of directors; a copy of all correspondence relating to price competition, competitive bidding, other method of procurement of the services of an engineering professional, engineering professional fee or price or pricing, credit, or advertising; and a copy of all of its publications relating to price competition, competitive bidding, other method of procurement of the services of an engineering professional, engineering professional fee or price or pricing, credit, or advertising. Respondent shall make such copies of minutes, correspondence, and publications available for inspection and copying by representatives of the Federal Trade Commission upon written request and reasonable notice.

X

It is further ordered, That, within forty-five (45) days after the date this order becomes final, respondent shall mail to each of its directors, officers, employees, and members a copy of the order and complaint in this proceeding.

XI

It is further ordered, That, for a period of five (5) years after the date this order becomes final, respondent shall provide a copy of the order and complaint in this proceeding to each new employee of ASFE at the time that employee is hired and to each new applicant for ASFE membership at the time that applicant becomes a member of ASFE.

XII

It is further ordered, That: (A) within ninety (90) days after the date this order becomes final, respondent shall file with the Commission a verified written report setting forth in detail the manner and form in which respondent has complied and is complying with this order; and (B) one year from the date this order becomes final and continuing annually for four (4) years thereafter and at such other times as the Commission may by written notice request, respondent shall file with the Commission a verified written report setting forth in detail the manner and form in which respondent has complied and is complying with this order.

XIII

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the respondent that may affect its compliance obligations arising out of the order.

Analysis to Aid Public Comment on Consent Order Accepted Subject to Final Approval

The Federal Trade Commission ("Commission") has accepted for public comment from ASFE, the Association of Engineering Firms Practicing in the Geosciences ("ASFE"), an agreement containing a consent order. The Commission is placing the agreement on the public record for sixty (60) days for reception of comments from interested persons.

Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's investigation of the matter focused primarily on whether ASFE and ASFE members acted to restrict competitive bidding and other forms of price and non-price competition through: (1) The use of an ASFE peer review program that examined the policies or practices of ASFE members as to pricing, bidding, credit, and advertising; (2) an insurance program (which was a major source of liability insurance for ASFE members and which involved an insurance company controlled by ASFE members) that also examined ASFE member pricing, bidding, credit, and advertising; (3) a bid-reporting arrangement; and through (4) exchanges of price information, salary information, contract information, and other financial information.

The agreement containing the consent order ("order") would, if issued by the Commission, settle the complaint that alleges that ASFE and ASFE members combined or conspired to impede or restrain competitive bidding, the granting of favorable credit terms, advertising, and the submission of bids to bid requestors; and that ASFE members have exchanged price information and other information that would facilitate anticompetitive behavior, with the purpose or effect of hampering or restraining price competition or other competition in the provision of services, including geotechnical engineering services. The complaint states that the acts and practices charged in the complaint constitute unfair methods of competition in violation of section 5 of the Federal Trade Commission Act.

The order requires ASFE individually or in concert with others to abandon the above-described practices. Specifically, the order requires ASFE to cease and desist from (1) encouraging engineers not to engage in competitive bidding; (2) disseminating any information to engineers on other engineers' competitive bidding practices, pricing, or credit terms; (3) impeding engineers' offering reduced prices or favorable credit terms; (4) examining engineers' bidding, pricing, and credit practices, both generally and through peer reviews; (5) disseminating to any insurer any information relating to any engineering professional's pricing, credit, or bidding practices; and (6) informing ASFE members and bid requestors that competitive bidding will jeopardize their obtaining and retaining liability insurance.

The order prohibitions in paragraphs II and III that forbid certain communications do not forbid truthful and nondeceptive dissemination of information about bidding practices and their effects on public health, safety, and welfare, or liability exposure with respect to bidding practices. However, for ten years ASFE must also accompany such information with a statement that respondent takes no official position with respect to any method of procurement and that methods of procurement are a matter of independent judgment of its members. A general proviso to the order also preserves First Amendment protections with respect to respondent's ability to lobby federal and state governmental units or to participate in federal or state administrative or judicial proceedings. That proviso also preserves ASFE rights to formulate ethical guidelines governing conduct by its members with respect to false and deceptive advertising.

It is anticipated that the order will resolve the competitive problems alleged in the complaint. The purpose of this analysis is to invite public comment concerning the order, in order to aid the Commission in its determination of whether it should make final the order contained in the agreement.

This analysis is not intended to constitute an official interpretation of the agreement and order, nor is it intended to modify the terms of the agreement and order in any way.

Donald S. Clark,

Secretary.

Statement of Commissioner Roscoe B. Starek III

In the Matter of Association of Soil and Foundation Engineers.

[File No. 871–0004]

I concur in the Commission's decision to accept for public comment the proposed Consent Order with the Association of Soil and Foundation Engineers ("ASFE"). I find more than sufficient reason to believe that ASFE's actions violate section 5 of the FTC Act. But I am concerned that the Consent Order with ASFE may be interpreted to permit the very activity it is aimed to prevent.

ASFE's troublesome activities can be characterized accurately as a concerted campaign to prevent its members from bidding competitively against each other. In the place of competitive bidding, ASFE encouraged "negotiated contracts," in which an engineering firm is selected prior to any discussion of price. In its newsletter, ASFE has boasted of its widespread success in discouraging competitive bidding. Moreover, there is clear evidence that negotiated contracts result in higher prices than competitive bidding.

The actions of ASFE include a grass-roots campaign to discourage members from competitive bidding, another campaign to discourage customers (including local, state, and federal government agencies) from soliciting bids, a peer review program that criticized members for bidding and sometimes suggested price increases to members, and misrepresentations to members about the effect of competitive bidding on their liability insurance coverage.

In addition to the fact that this activity is facially egregious, it flies in the face of the Supreme Court's ruling in *National Society of Professional Engineers*.[1] In that case, the Court held unlawful a professional association's canon of ethics prohibiting its members from competitive bidding, finding: "[w]hile this is not price fixing as such, no elaborate industry analysis is required to demonstrate the anticompetitive character of such an agreement * * *"[2] The Court went on to reject the claimed defense that bidding adversely affected the quality of services, stating that such a defense was "nothing less than a full frontal assault on the basic policy of the Sherman Act * * * tantamount to a repeal of the statute."[3]

Even though ASFE did not forbid competitive bidding in a canon of ethics, it engaged in a concerted campaign to discourage bidding. This distinction can be relevant in cases in which the potential competitive consequences of restraints are ambiguous. Anticompetitive consequences may not always be inferred when an association does not compel adherence, and when the degree of adherence is ambiguous. But in this matter, we have evidence that ASFE's campaign was widely successful in achieving an anticompetitive result.

Egregious violations such as those of ASFE merit strong action by the Commission. I would have preferred a stronger and more explicit reference in the Complaint to ASFE's anticompetitive campaign. The Complaint's vague references to actions that "impede or restrain" bidding[4] do not specifically address the widespread and multifaceted campaign to thwart competitive bidding.

My concern with the Consent Order is with a possible interpretation of the "safe harbor" in part III. While ASFE is ordered to "cease and desist from restricting, regulating, impeding, declaring unethical, interfering with, or advising against" bidding,[5] the safe harbor permits ASFE to disseminate "truthful and nondeceptive information relating to the effect of any method of procurement upon public health, safety, and welfare, or liability exposure, including information regarding advantages or disadvantages of any method of procurement * * *"[6] This safe harbor does not explicitly require substantiation, and it could be interpreted to allow unsubstantiated claims that otherwise violate the Order.

When the Commission enforces section 5 of the F.T.C. Act in consumer protection cases, we insist that an objective claim be supported by a reasonable basis for it to be "truthful and nondeceptive."[7] In concurring with the Commission's decision to accept the proposed Order, I do not interpret the safe harbor in Part III to allow ASFE to make unsubstantiated assertions to members, customers, and potential customers that otherwise violate the Order. In my view, ASFE cannot take advantage of the safe harbor unless it bears the burden of substantiating such representations. Absent such a requirement, it appears that much of ASFE's egregious behavior may be "fenced out" rather than "fenced in" to the proposed Order.

[1] 435 U.S. 679 (1978).

[2] *Id.*, at 692–93.

[3] *Id.*, at 695.

[4] Complaint, ¶ 12.

[5] Consent Order, Part III.

[6] *Id.*

[7] *See* FTC Policy Statement Regarding Advertising Substantiation, 104 F.T.C. 839 (*appended to Thompson Medical Co.* 104 F.T.C. 648 (1984)).

[FR Doc. 93–7726 Filed 4–1–93; 8:45 am]
BILLING CODE 6750–01–M

[File No. 901 0166]

AE Clevite, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Michigan manufacturer of locomotive engine bearings and its parent company, T&N PLC, from fixing prices or from inviting its competitors to fix or raise prices for locomotive engine bearings in the future. The consent agreement would require AE Clevite and T&N, for three years, to provide copies of the FTC complaint and consent order to the directors and officers of the company, subsidiaries, and divisions engaged in the design, manufacture, marketing or sale of locomotive engine bearings in the United States.

DATES: Comments must be received on or before June 1, 1993.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Ronald Rowe, FTC/H–380, Washington, DC 20580. (202) 326–2610.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

In the Matter of AE Clevite, Inc., a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Heavywall Bearing Division of J.P. Industries, Inc., a Michigan corporation, the predecessor in interest of AE Clevite, Inc. ("AE Clevite"), a Michigan corporation (hereinafter sometimes referred to as "proposed respondent"), which is an indirect, wholly-owned subsidiary of T&N PLC ("T&N"), a United Kingdom corporation, and it now appearing that AE Clevite and T&N are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between AE Clevite and T&N, by their duly authorized officer and attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent AE Clevite is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its principal offices located at 325 East Eisenhower Parkway, Ann Arbor, Michigan 48101–3388. Proposed respondent is an indirect, wholly-owned subsidiary of T&N, a corporation organized, existing and doing business under and by virtue of the laws of the United Kingdom, with its principal offices located at Bowdon House, Ashburton Road West, Trafford Park, Manchester M17 1RA, England.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent and signatory T&N waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission

thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent or by T&N that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Solely for purposes of the proposed complaint and order contemplated hereby, signatory T&N recognizes proposed respondent as its agent, and acknowledges that once the order has been issued, T&N will be bound by the provisions of the order that pertain directly to T&N.

8. Proposed respondent and T&N have read the proposed complaint and order contemplated hereby. Proposed respondent understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent and T&N further understand that they may be liable for civil penalties in the amount provided by law for each violation of any provision of the order that pertains to them after the order becomes final.

Order

I

For purposes of this order, the following definitions shall apply:

A. "Respondent" means AE Clevite, its predecessors, successors, assigns, subsidiaries and divisions, including Glacier Clevite Heavywall Bearing, and their respective directors, officers, employees, agents and representatives, and their respective successors and assigns;

B. "T&N" means T&N plc and all direct or indirect majority-owned subsidiaries and divisions of T&N plc that are engaged in the design, manufacture, marketing, advertising, offering for sale, sale, or distribution of engine bearings;

C. "Engine bearings" means the components of internal combustion engines characterized by interfacing surfaces with relative motion of a sliding nature that provide support to a shaft rotating over a thin film of oil (including half bearings, bushings, and thrust washers); and

D. "Locomotive engine bearings" means engine bearings having a wall thickness of greater than one-quarter of an inch for use within locomotive engines.

II

It is ordered, That respondent and T&N, in connection with the design, manufacture, marketing, advertising, offering for sale, sale, or distribution of locomotive engine bearings in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, forthwith cease and desist from engaging, directly or indirectly, through any corporation, subsidiary, division, or other device (including through T&N or T&N's other subsidiaries, divisions or affiliated companies), in the following acts or practices:

A. Requesting, proposing, urging or advocating that any competitor fix, raise, establish, maintain or stabilize prices, price levels or service levels;

B. Entering into, attempting to enter into, adhering to, or maintaining any combination, conspiracy, or agreement with any competitor to fix, raise, establish, maintain, or stabilize prices, price levels, or service levels; or

C. Inviting any competitor to raise prices by stating its willingness to follow or match any change in prices, price levels or service levels by any competitor.

Provided, however, That nothing contained herein shall prevent respondent from unilaterally raising, lowering, or otherwise altering its prices, price levels or service levels, publicly announcing any such change, or explaining the reasons for such a change to persons who are not competitors, such as customers, investors, securities analysts, news and financial reporters and the like.

III

It is further ordered, that:

A. Within thirty (30) days of the date on which this order becomes final, respondent and T&N shall provide a copy of the complaint and order to all of their directors and officers, and respondent shall provide a copy of the complaint and order to all of its management employees and all other employees engaged in the marketing, advertising, offering for sale, sale, or distribution of locomotive engine bearings to customers in the United States who have authority to affect the prices at which such locomotive engine bearings are sold;

B. For a period of three (3) years from the date on which this order becomes final, and within ten (10) days after the date on which any person becomes a director or an officer of T&N or a director, officer or management employee of respondent, or other employee of respondent engaged in the marketing, advertising, offering for sale, sale, or distribution of locomotive engine bearings to customers in the United States who has authority to affect the prices at which such locomotive engine bearings are sold, respondent or T&N shall provide a copy of the complaint and order to such person;

C. For a period of three (3) years from the date on which this order becomes final, and within thirty (30) days after the date on which any entity becomes a T&N majority-owned subsidiary, unincorporated division, or other operating entity engaged in the design, manufacture, marketing, advertising, offering for sale, sale, or distribution of locomotive engine bearings to customers in the United States, T&N shall provide a copy of the complaint and order to all directors, officers, management employees, and all other employees of such entity engaged in the marketing, advertising, offering for sale, sale, or distribution of locomotive engine bearings to customers in the United States who have authority to affect the prices at which such locomotive engine bearings are sold; and

D. Respondent and T&N shall require each person to whom a copy of the

complaint and order is furnished pursuant to subparagraphs III.A., B., and C. of this order to sign and submit to respondent within thirty (30) days of the receipt thereof a statement that: (1) Acknowledges receipt of the complaint and order; (2) represents that the undersigned has read and understands the order; (3) acknowledges that the undersigned has been advised and understands that non-compliance with the order may subject respondent and T&N to penalties for violation of the order; and (4) identifies the undersigned by name, address, and telephone number.

IV

It is further ordered, That respondent shall:

A. Within sixty (60) days of the date on which this order becomes final, and annually thereafter for three (3) years on the anniversary date of this order, and at such other times as the Commission may by written notice to the respondent require, file with the Commission a verified written report setting forth in detail the manner and form in which respondent and T&N have complied and are complying with this order;

B. For a period of three (3) years after the date on which this order becomes final, maintain and make available to the staff of the Federal Trade Commission for inspection and copying, upon reasonable notice, all records of communications with competitors of respondent relating to any aspect of pricing or service for locomotive engine bearings to customers in the United States, and records pertaining to any action taken in connection with any activity covered by paragraphs II, III, and IV of this order; and

C. Notify the Commission at least thirty (30) days prior to any change in respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries engaged in the design, manufacture, marketing, advertising, offering for sale, sale, or distribution of locomotive engine bearings, or any other change in respondent that may affect compliance obligations arising out of this order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from AE Clevite, Inc. ("AE Clevite").

The proposed consent order has been placed on the public record for 60 days for reception of comments by interested persons. Comments received during this period will become part of the public record. After 60 days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Heavywall Bearing Division ("HBD") of J.P. Industries, Inc. ("JPI") was the predecessor in interest of Glacier Clevite Heavywall Bearings, which is a division of respondent AE Clevite. The complaint alleges that in a conversation between the general manager of the HBD of JPI and the managing director of Miba Gleitlager AG ("Miba"), the JPI HBD official advised the Miba official that the prices at which Miba sold locomotive engine bearings in the United States aftermarket were lower than those of the JPI HBD, and "as a result, they were ruining the marketplace." Following the Miba official's denial that it was Miba's intent to undercut prices, the JPI HBD official caused comparative price information to be transmitted to Miba. The complaint alleges that this conduct was an implicit invitation by the JPI HBD for Miba to refrain from competition in the pricing of locomotive engine bearings sold in the United States aftermarket. The challenged conduct did not relate to any proposed bona fide integration between the parties. The complaint further alleges that this conduct violates section 5 of the Federal Trade Commission Act.

AE Clevite has signed a consent agreement containing the proposed consent order. The order prohibits AE Clevite and its parent T&N plc ("T&N") from requesting, proposing, urging or advocating that any competitor fix, raise, establish, maintain or stabilize prices, price levels or service levels. The proposed consent order also prohibits AE Clevite and T&N from entering into, attempting to enter into, adhering to, or maintaining any combination, conspiracy, or agreement with any competitor to fix, raise, establish, maintain, or stabilize prices, price levels, or service levels. The order's provisions apply to the design, manufacture, marketing, advertising, offering for sale, sale, and distribution of locomotive engine bearings (defined as engine bearings having a wall thickness of greater than one-quarter of an inch for use within locomotive engines).

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

Concurring Statement of Commissioner Deborah K. Owen in the Matter of AE Clevite, Inc., File No. 901–0166

Based on the reasoning articulated in my earlier statement on invitations to collude,[1] I have voted in favor of accepting the consent agreement in this matter for public comment. Several aspects of this case are worthy of note, however.

As previously indicated, I believe that in this novel area of Commission enforcement, the Commission should be cautious to ensure that the activity challenged is, in fact, an attempt to engage in a naked restraint of trade, rather than in a joint venture or other potentially efficient agreement. See Quality Trailer Statement at 6–7. Here, the conduct alleged in the Commission's complaint to be a violation of section 5 of the Federal Trade Commission Act is described as "an implicit invitation by [respondent for its competitor] to refrain from competition in the pricing of locomotive engine bearings sold in the United States aftermarket." Complaint, Paragraph 9. At first blush, an "implicit" invitation might suggest something other than a solicitation to fix prices.

Two factors alleviate any such concern here. First, as the Analysis of Proposed Consent Order to Aid Public Comment notes, "[t]he challenged conduct did not relate to any proposed bona fide integration between the parties." Under such circumstances, it is difficult to envision what efficiency-enhancing motive there might have been for complaining to a competitor that its lower prices were "ruining the market place", and subsequently sharing comparative price lists with that competitor. Complaint, Paragraph 8. Based on available information, as in *Quality Trailer Products*, this appears to be attempted price-fixing. Second, the theory of potential harm is strong in this case, in light of the 95 percent combined market share of the two competing parties to the discussion. Complaint, Paragraph 7. While, as I have previously indicated, an "iron-clad" demonstration of potential harm is not an element of this sort of Section 5 offense, Quality Trailer Statement at 6–7, the presence of potential injury (and, therefore, motive) makes the inference of an attempted price-fix more credible.

Finally, I would note that the proposed order in this matter, like the order in *Quality Trailer Products*, could be construed to prohibit, in addition to price-fixing solicitations, an invitation to enter into a procompetitive joint venture that, incidentally, involves setting prices. Again, I interpret these constraints to be fencing-in provisions designed to facilitate enforcement of the order, rather than intent by the Commission to discourage solicitations to joint venture, or to engage in other legitimate action by that may involve price discussions.

[1] See Concurring Statement of Commissioner Deborah K. Owen in the Matter of Quality Trailer Products Corporation (File No. 911–0068) ("Quality Trailer Statement").

In another case, the Commission may wish to consider less restrictive relief, depending upon the needs of the company involved and the egregiousness of the offense.[2]

[FR Doc. 93–7725 Filed 4–1–93; 8:45 am]
BILLING CODE 6750–01–M

[File No. 912 3086]

Fone Telecommunications, Inc.; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a New York marketer of "900" number information services from misrepresenting premium offers, would require a preamble statement at the beginning of each children's message giving the child a chance to hang up without charge, and would require the company to provide a means for parents to prevent, or not to charged for, unauthorized calls by their children. In addition, the consent agreement would prohibit the respondent from misrepresenting the ease with which a premium is obtainable and would require the disclosure of all material terms and conditions for obtaining any premium offers.

DATES: Comments must be received on or before June 1, 1993.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Toby Levin or Carol Kando, FTC/S–4002, Washington, D.C. 20580. (202) 326–3156 or 326–3152.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order to Cease and Desist

In the matter of Fone Telecommunications, Inc., a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Fone Telecommunications, Inc., a corporation, hereinafter sometimes referred to as proposed respondent, and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

IT IS HEREBY AGREED that by and between Fone Telecommunications, Inc. by its duly authorized officer, and counsel for the Federal Trade Commission that:

1. Proposed respondent Fone Telecommunications, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 444 Madison Avenue, suite 212, New York, New York 10022.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondent waives:

(a) Any procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusion of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access To Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent of facts, other than jurisdictional facts, or of violations of law as alleged in the draft of complaint here attached.

6. The agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent: (1) Issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding; and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to-order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any rights it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it have fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definitions

For purposes of this order, the term, *children* or *child* shall mean a person of age twelve or under.

For purposes of this order, the term *information service for children* shall mean a telephone message accessed through a numbered exchange (*e.g.*, "900") for which a fee is charged,

[2] Here, as in *Quality Trailer Products*, the proposed order includes a proviso exempting certain conduct from the general proscriptions. The fact that the exempted conduct varies in the two cases (discussing prices with respect to certain sales between competitors vs. unilateral price changes and announcements thereof to non-competitors) illustrates the Commission's ability to fine-tune its mandates.

consisting of recorded statements promoted or sold primarily to children.

For purposes of this order, the term *premium* shall mean any item respondent offers to send to those who call its information service for children.

For purposes of this order, the term *information service message* shall mean any live or recorded story, program or other communication transmitted to callers of respondent's information service for children.

For purposes of this order, the term "video entertainment" shall mean any advertisement intended for dissemination on television broadcast, cablecast, home video, or theatrical release.

I

It is Ordered that respondent Fone Telecommunications, Inc., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or transmission of any information service for children in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, directly or by implication, the ease with which a premium is obtainable.

II

It is further Ordered that respondent Fone Telecommunications, Inc., its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale, sale or transmission of any information service for children in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing as specified below to disclose, clearly and prominently, whenever an offer of any premium is made, all the material terms, conditions and obligations upon which receipt and retention of the premium is contingent. Such terms, conditions, and obligations shall include, but not be limited to, the number of calls necessary to receive the premium, if more than one, and the need to have a writing implement and paper available to record the necessary information given during the information service message.

The disclosure shall be made in a manner understandable to children, and shall be made in the same medium in which the offer of the premium is made and, in addition, in any information service message.

III

It is further ordered that respondent, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from disseminating or causing to be disseminated any advertisement in any medium for an information service for children that does not include the following statement:

"KIDS, YOU MUST ASK YOUR MOM OR DAD AND GET THEIR PERMISSION BEFORE YOU CALL. THIS CALL COSTS MONEY."

The above-required disclosure shall be presented in a manner designed to ensure clarity and prominence as follows:

A. In any video advertisement, the disclosure shall be presented simultaneously in both the audio and video portions of the advertisement. The disclosure shall appear immediately following the first video presentation of the "900" telephone number, but in any event shall begin within the first fifteen (15) seconds of the advertisement. The audio portion shall be presented in a slow and deliberate manner. Each line of the video portion shall be at least as large as one-half of the size of the largest presentation of the "900" number that appears on the screen during the advertisement, shall be of a color or shade that readily contrasts with the background, and shall appear on the screen for the duration of the audio disclosure.'

B. In any print advertisement, the disclosure shall be parallel to the base of the advertisement and shall be placed in close proximity to the 900 number. All lines of the disclosure when taken together shall be the same size or larger than the largest presentation of the 900 number, but in any event the type size of each line of the disclosure shall be no less than 12 point, bold-face type.

C. In any radio advertisement, the disclosure shall be presented in a slow and deliberate manner and shall appear immediately following the first presentation of the "900" telephone number, but in any event it shall begin within the first fifteen (15) seconds of the advertisement.

Nothing contrary to, inconsistent with, or in mitigation of the above-required statement shall be used in any advertisement in any medium.

IV

It is further ordered that respondent, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from disseminating or causing to be disseminated any advertisement in any medium for any information service for children that does not include a disclosure of the cost of a call to the information service. This disclosure shall be presented in a manner designed to ensure clarity and prominence. In any video advertisement, the disclosure shall be presented simultaneously in both the audio and video portions of the advertisement.

V

It is further Ordered that respondent, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from disseminating or causing to be disseminated any information service message for children that does not include, at the beginning of the message, an introductory preamble that states in a slow, deliberate and clear manner the following:

"THIS TELEPHONE CALL COSTS MONEY. IF YOU DO NOT HAVE YOUR MOM OR DAD'S PERMISSION, HANG UP NOW AND THERE WILL BE NO CHARGE FOR THIS CALL."

VI

It is further Ordered that respondent, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from billing or causing to be billed, or collecting any funds or causing any funds to be collected, for any call to any information service for children terminated within no less than five (5) seconds of the end of the introductory preamble, as required by Paragraph V of this Order.

VII

It is further Ordered that respondent, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from inducing children to call their information service for children and thereby incur charges,

without providing any reasonable means for the person responsible for payment of such charges to exercise control over the transaction. For purposes of this Paragraph, if the respondent does not provide, prior to placement of any call by a child, a reasonable means for the person responsible for payment to avoid unauthorized calls, the provision of a reasonable means to exercise control over the transaction shall be the use of the respondent's best efforts to ensure that one-time refunds or credits are provided upon request for unauthorized calls made by children, as specified below. Best efforts shall include at least the following:

A. Contracting with the appropriate interstate common carrier or local exchange carrier to:

(1) Identify in all telephone bills containing charges for calls to respondent's information service for children each telephone call to such service by the characters "CHILD CALL;"

(2) Place in all telephone bills containing charges for calls to respondent's information service for children, clearly and prominently in close proximity to the itemization of those charges, a toll-free or local telephone number specified to be used for consumer inquiries concerning charges on the telephone bill; provided, that a general billing inquiry telephone number for customer inquiries concerning charges on the telephone bill shall satisfy this requirement;

(3) Refer all customers who call the toll-free number inquiring about the charges for respondent's information service for children to their local exchange carrier for information regarding the availability of blocking in their jurisdiction; and

(4) Provide a one-time prompt and full credit or refund at the customer's request for all such calls, whether such request is made to the toll-free or local telephone number specified herein or in any other manner; provided, that respondent must contract with the carrier to provide a second prompt and full credit or refund to any customer who requests the first credit or refund during a period of the billing cycle where unauthorized calls have been made, but do not yet appear on the customer's bill, and subsequently requests a second credit or refund for the unauthorized calls made before the date of the first request for a credit or refund;

Provided, that if the interstate common carrier utilized by respondent employs local exchange carriers to provide billing inquiry services, respondent shall be in compliance with subparagraphs A (3) and (4) of this Paragraph if its contract with the interstate common carrier provides that the interstate common carrier notify each local exchange carrier of the interstate common carrier's policies to:

(i) Provide the customer with information regarding the availability of blocking of 900 number calls; and

(ii) Provide upon request one-time refunds or credits for unauthorized calls by children, as provided in subparagraph A(4) of this Paragraph.

B. In the event that respondent receives any information that the interstate common carrier has failed to fulfill its obligations under the contract required by subparagraph A of this Paragraph, immediately notifying the interstate common carrier:

(1) Of the existence of the alleged failure(s);

(2) Of the carrier's responsibility to fulfill its obligations under the contract;

(3) Of the need to investigate and correct all past failures; and

(4) That if a pattern or practice of failures continues, respondent will terminate the use of said carrier for any information service for children; and

C. Terminating the use of said interstate common carrier for any information service for children, in the event that the interstate common carrier does not correct all past failures or continues to fail to fulfill its obligations under said contract.

D. Compliance with the requirements set forth in subparagraphs A–C of this Paragraph is deemed to be satisfactory compliance with this Paragraph.

Provided, that for purposes of this Paragraph, the mere inclusion of any audio or video disclosure relating to parental authorization in advertisements or information service messages is expressly deemed not to be a reasonable means, prior to placement of any call by a child, for the person responsible for payment to avoid unauthorized calls.

VIII

It is further ordered that for three (3) years from the date of service of this Order, respondent, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying: (1) All advertisements for information services for children and all corresponding information service messages; (2) a record of all credit or refund requests made for charges billed for respondent's information services for children; (3) all documents relating to compliance with Paragraph VII of this Order; and (4) all consumer complaints and dispositions thereof relating to respondent's information services for children.

IX

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent including but not limited to dissolution, assignment or sale resulting in the emergence of a successor corporation or corporations, the creation or dissolution of subsidiaries or affiliates, the planned filing of a bankruptcy petition or any other corporate change that may affect compliance obligations arising out of this Order.

X

It is further ordered that respondent shall forthwith distribute a copy of this Order to each of respondent's operating divisions and any carrier(s) or other entities providing billing and/or collection service for their information services for children.

XI

It is further ordered that respondent, shall, within sixty (60) days after service of this Order and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Fone Telecommunications, Inc. ("respondent" or "Fone").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns Fone's television advertisements for its pay-per-call information services for children. These are services accessed by calling a numbered telephone exchange (*e.g.*, 900), in which callers hear recorded stories, or games featuring fictional characters, such as Santa Claus.

The Commission's complaint in this matter charges respondent with

engaging in unfair and deceptive practices in connection with the advertising and sale of its information services for children. According to the complaint, respondent's ads represented that children who complete a call to respondent's information service for children would readily and easily obtain the "gift" (or "premium") specified in the advertisement simply by calling the advertised number. This representation is alleged to be false and misleading. In order to obtain the premium, callers were required to follow a number of complex steps that children could not reasonably follow. For example, callers needed to transcribe an address given rapidly and without warning after the recorded story message.

The complaint also alleges that respondent's advertisements failed to disclose that there are material terms and conditions for obtaining the premium, including the need for a writing implement and paper to transcribe the ordering information.

Finally, the complaint alleges that respondent has unfairly induced children to call its information services without providing any reasonable means for the person responsible for paying the charges to exercise control over the transaction. These practices are alleged to cause substantial consumer injury and constitute unfair practices.

The consent order contains provision designed to remedy the violations charged and to prevent respondent from engaging in similar deceptive and unfair acts and practices in the future.

Part I of the order prohibits respondent from misrepresenting in the advertising or sale of its information services for children the ease with which a premium is obtainable. The order defines information services for children as fee-charged phone services accessed through a numbered exchange consisting of live or recorded statements promoted or sold primarily to children aged twelve or under.

Part II of the order requires respondent to disclose, clearly and prominently, whenever an offer of premium is made, all of the material terms, conditions and obligations upon which receipt and retention of any premium is contingent. These terms must include, at a minimum, the number of calls needed to receive the premium, if more than one, and the need for a writing implement and paper to transcribe the ordering information. The disclosure must be made in the same medium as the premium offer and also in the recorded message.

Part III of the order requires respondent to include the following disclosure, presented in a manner designed to ensure clarity and prominence, in its advertisements for its information services for children: "Kids, you must ask your mom or dad and get their permission before you call. This call costs money." The order specifies with particularity the manner in which the disclosures shall be presented in different media.

Part IV of the order requires respondent to disclose in a manner designed to ensure clarity and prominence, in all of its advertisements for information services for children, the cost of the telephone call to such services.

Part V of the order requires respondent to include, at the beginning of every recorded phone message for children, the following introductory message in a slow, deliberate and clear manner: "This Telephone Call Costs Money. If You Do Not Have Your Mom or Dad's Permission, Hang Up Now And There Will Be No Charge For This Call."

Part VI of the order prohibits respondent from collecting any funds for any call terminated within five seconds of the end of the introductory preamble required by part V. Part VII of the order requires that respondent not induce children to call its information services for children unless it provides a reasonable means for persons responsible for payment to exercise control over the transaction. If respondent does not provide a reasonable means for such persons to avoid unauthorized calls before they are made, respondent must use its best efforts to ensure that one-time credits or refunds are provided upon request for unauthorized calls made by children. "Best efforts" is defined to include, at a minimum, contracting with the appropriate phone company to: (1) Identify in all telephone bills containing charges for calls to respondent's information service for children each telephone call to such service by the characters "Child Call;" (2) place in all bills containing charges for respondent's information service for children, a toll-free number for customer inquiries; (3) refer all customers who call such toll-free number to their local phone company for information on blocking of 900 calls; and (4) provide a one-time prompt and full refund or credit, upon request, for unauthorized calls made by children. Best efforts also requires respondent to monitor the phone company's compliance with the order requirements and take certain action, including termination of its contract with the phone company, if the phone company does not fulfill its obligations under its contract with respondent.

Part VIII of the order requires respondent to maintain and make available to the Federal Trade Commission for inspection and copying all advertisements for information services for children and all corresponding information service messages, records of all credits or refund requests and their dispositions, all consumer complaints, and all documents relating to the implementation of part VII, for a period of three years.

Part IX of the order requires respondent to notify the Commission prior to any change in the corporation that may affect compliance obligations arising out of this order.

Part X of the order requires respondent to distribute a copy of the order to each of its operating divisions and to any entity providing billing and/or collection services for its information services for children.

Part XI of the order requires respondent to file a compliance report.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order, or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 93–7724 Filed 4–1–93; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3416]

National Association of Social Workers; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a Washington, DC-based, professional association from restraining competition among social workers by restricting or banning truthful, non-deceptive advertising or solicitation by its members, and from restricting social workers from paying a fee to any patient referral service.

DATES: Complaint and Order issued March 3, 1993.[1]

FOR FURTHER INFORMATION CONTACT: Robert Schroeder, Seattle Regional

[1] Copies of the Complaint, the Decision and Order, and Commissioner Starek's statement are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

Office, Federal Trade Commission, 2806 Federal Bldg., 915 Second Avenue, Seattle, WA. 98174. (206) 202–6350.

SUPPLEMENTARY INFORMATION: On Thursday, December 24, 1992, there was published in the **Federal Register,** 57 FR 61424, a proposed consent agreement with analysis In the Matter of National Association of Social Workers, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 93–7723 Filed 4–1–93; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 93N–0034]

The Stevan M. Rogers Farm; Proposal to Withdraw Approval of an Application for Medicated Animal Feeds; Opportunity for Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Center for Veterinary Medicine (CVM), Food and Drug Administration (FDA), is providing an opportunity for hearing on a proposal to withdraw an application for medicated feed held by the Stevan M. Rogers Farm. The proposed withdrawal is based on new information showing the firm's methods and controls used for manufacturing medicated animal feeds containing a new animal drug are inadequate to preserve the identity, strength, quality, and purity of the new animal drug therein and on the fact that these inadequacies were not corrected within a reasonable time after written notice from FDA.

DATES: Requests for hearing and data and information in support of the hearing request are due by May 3, 1993.

ADDRESSES: Requests for hearing in response to this notice should be identified with Docket No. 93N–0034 and sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Karen A. Kandra, Center for Veterinary Medicine (HFV–246), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8765.

SUPPLEMENTARY INFORMATION: CVM is providing an opportunity for hearing on a proposal to withdraw approval of a medicated feed application (MFA) held by the Stevan M. Rogers Farm, Rural Rt. 1, P.O. Box 89, Chrisman, IL 61924, for the manufacture of animal feeds bearing or containing a new animal drug. The Stevan M. Rogers Farm raises swine and manufactures feed for swine. The firm holds MFA F126–508, which was approved January 19, 1981, under section 512(m) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(m)). MFA F126–508 was approved for manufacture of swine feed bearing or containing the new animal drug carbadox which is used as an antibiotic.

To manufacture an animal feed bearing or containing a new animal drug, a firm must file an MFA (Form FDA 1900) with FDA and obtain its approval. FDA does not approve such an application unless, among other things, the firm agrees to comply with the agency's current good manufacturing practice (CGMP) regulations for animal feeds (21 CFR part 225), which are intended to help ensure that feed bearing or containing a new animal drug meets the requirements of the act pertaining to identity, strength, quality, and purity. The agency determines whether the firm's manufacture of medicated feed is in compliance with the CGMP regulations by inspecting the facilities and controls used for, and the methods used in, the manufacture, processing, and packing of the feed by the firm.

On February 3 and 4, 1988, FDA inspected the Stevan M. Rogers Farm. The inspection revealed significant deviations from the CGMP's for medicated feeds. The FDA investigator noted the deviations on an inspectional observations form (Form FDA 483) (Ref. 1), issued a copy to Mr. Rogers and discussed the deviations with him. Later, the deviations were again brought to the attention of Mr. Rogers in a notice of adverse findings (NAF) letter, dated June 14, 1988 (Ref. 2). The deviations included the following:

1. No procedures or provisions existed for cleaning or flushing mixing equipment between batches of medicated feeds, as required by 21 CFR 225.65(a).

2. Complete drug receiving and inventory records were not kept, as required by 21 CFR 225.42(b)(5).

3. A daily drug inventory record was not maintained, as required by 21 CFR 225.42(b)(6).

4. Daily comparison of the actual amount of drug used with the theoretical drug usage was not performed, as required by 21 CFR 225.42(b)(7).

5. No periodic assays were run on medicated feed for the drug component, as required by 21 CFR 225.58(b)(1).

6. A Master Record File did not exist, and the batch production records were incomplete, as required by 21 CFR 225.102(b)(1) and (b)(2), respectively.

In March 1988, the firm submitted an MFA to the agency for the use of the drug pyrantel tartrate. Based on the failed inspection, the agency denied approval of the application. On July 10, 1989, the firm responded in writing, claiming that it had corrected most of the violations.

On December 17, 1990, FDA conducted a followup inspection which revealed that corrections had not been made. The investigator noted the CGMP deviations on a Form FDA 483 (Ref. 3), issued a copy to Mr. Rogers and discussed them with him. The deviations were as follows:

1. The Master Record File lacked the name of the medicated feed, manufacturing instructions, and initials of the responsible person, as required by 21 CFR 225.102(b)(1).

2. A daily inventory record was not maintained, as required by 21 CFR 225.42(b)(6).

3. No assays of medicated feeds were performed for drug potency in the last year, as required by 21 CFR 225.58(b)(1).

4. Drug receiving records lacked lot numbers and condition of product, as required by 21 CFR 225.42(b)(5).

5. Batch production records were incomplete and were not checked at the end of the day, as required by 21 CFR 225.102(b)(4).

The previously mentioned deviations were detailed in a regulatory letter sent to the firm and dated March 4, 1991 (Ref. 4). The letter informed the firm that: (1) Until it corrected the violations, the agency would not approve additional MFA's, and (2) if the corrections were not made promptly, the agency was prepared to seek withdrawal of the existing approval for the manufacture of feeds medicated with carbadox.

The letter also mentioned two additional deviations revealed by the review of inspection documents: (1)

Variations in batch sizes occured while the amount of drug remained constant, resulting in varying concentrations of carbadox in the finished feed (MFA F126–508 limits carbadox concentration to 50 grams per ton); and (2) the firm had combined carbadox with other new animal drugs for which it does not have approval.

Finally, the letter required the firm to inform the agency within 10 days of the steps taken to correct the violations. The firm did not respond to the regulatory letter, and it also failed to respond to a letter dated April 17, 1991 (Ref. 5), requesting a response to the regulatory letter.

The firm was scheduled for a re-inspection which was completed December 9, 1991. The re-inspection revealed that no corrections had been made and conditions remained the same as in 1990. The FDA investigator again noted the CGMP deviations on Form FDA 483, dated December 9, 1991 (Ref. 6), issued a copy to Mr. Rogers and also discussed the deviations with him. As a result of that inspection, CVM sent a certified letter, dated February 26, 1992 (Ref. 7), to the firm (received March 4, 1992), notifying it of FDA's intention to withdraw approval of the carbadox MFA if the firm did not request voluntary withdrawal of the approval. The firm was given 10 days to respond but, once again, failed to do so.

Accordingly, CVM is proposing to withdraw approval of MFA F126-508 held by the Stevan M. Rogers Farm, under section 512(m)(4)(B)(i) and (m)(4)(B)(ii) of the act.

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

References

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

1. Form FDA 483 inspection of February 3 and 4, 1988.

2. NAF, FDA to the Stevan M. Rogers Farm, dated June 14, 1988.

3. Form FDA 483 inspection of December 17, 1990.

4. Regulatory letter, FDA to the Stevan M. Rogers Farm, dated March 4, 1991.

5. Letter, FDA to the Stevan M. Rogers Farm, dated April 17, 1991.

6. Form FDA 483 inspection of December 9, 1991.

7. Letter, FDA to the Stevan M. Rogers Farm, dated February 26, 1992.

Therefore, notice is given to the Stevan M. Rogers Farm, and to any other interested persons who may be adversely affected, that CVM proposes to issue an order under section 512(m)(4)(B)(i) and (m)(4)(B)(ii) of the act withdrawing approval of MFA F126–508 and all amendments and supplements thereto, on the grounds that new information, evaluated together with the evidence available when the applications were approved, shows that the methods used in, or the facilities and controls used for, the manufacture, processing, and packing of such animal feed are: (1) Inadequate to assure and preserve the identity, strength, quality, and purity of the new animal drug therein, and (2) were not made adequate within a reasonable time after receipt of written notice from FDA specifying the inadequacies.

In accordance with provisions of section 512 of the act and regulations promulgated under it (21 CFR part 514), and under authority delegated to the Director, Center for Veterinary Medicine (21 CFR 5.84), CVM hereby provides an opportunity for a hearing to show why approval of the MFA identified in this notice, and all amendments and supplements to the application, should not be withdrawn under section 512(m)(4)(B)(i) and (m)(4)(B)(ii) of the act. Any hearing would be subject to the provisions of 21 CFR part 12.

An applicant who decides to seek a hearing shall file on or before May 3, 1993, a written notice of appearance, request for hearing, and the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 514.200.

Procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for a hearing, submission of information and analysis to justify a hearing, other comments, and a grant or denial of a hearing, are contained in 21 CFR 514.200.

The failure of a sponsor to file a timely, written appearance and request for a hearing as required by 21 CFR 514.200 shall be construed as an election not to avail himself of the opportunity for a hearing. In such case, the Director, Center for Veterinary Medicine, under the authority delegated to him in 21 CFR 5.84(a)(2), without further notice will enter a final order withdrawing approval of the application.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the documentation and analysis in the request for hearing that there is no genuine and substantial issue of fact that precludes the withdrawal of approval of the MFA, or that the request for a hearing is not made in the required format or with the required analysis, the Commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions, and denying a hearing. If a hearing is requested and is justified by the sponsor's response to this notice, the issues will be defined, an administrative law judge will be assigned, and a written notice of the time and place at which the hearing will begin will be issued as soon as practicable.

All submissions under this notice shall be filed in four copies and, except as provided in 21 CFR 10.20(j), may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 512 (21 U.S.C. 360b)) and under authority delegated to the Director, Center for Veterinary Medicine (21 CFR 5.84).

Dated: March 29, 1993.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 93–7667 Filed 4–1–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93N–0043]

Center for Veterinary Medicine's List of Guidelines; Updating

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the May 1992 document entitled "Information and Resources," which contains a list of guidelines available from the Center for Veterinary Medicine (CVM) is being updated. CVM has grouped the guidelines into four categories based on the current status of each guideline: Guidelines that have become obsolete and that are being removed from the list; guidelines that are still applicable but that are undergoing revision and once revised, will be made available in draft for public comment; recently developed

draft guidelines and draft guidelines under development that are not listed in the May 1992 document, but for which notices of availability have been or will soon be published in the **Federal Register** inviting public comment; and current guidelines that remain on the list and that do not require revision at this time. A new section of the list entitled "Other Available Information" will contain a list of generic animal drug policy letters, "CVM's Policy and Procedures Manual Guides," various toxicology and environmental handbooks, and documents that are not guidelines but are intended to aid in animal drug development.

DATES: Written comments may be submitted at any time.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Current guidelines, policy letters, and "Information and Resources" may be requested from the Communications and Education Branch (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8755. Send two self-addressed adhesive labels to assist that office in processing your requests.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8623.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing that CVM is updating its May 1992 list of guidelines that is included in a compilation of educational materials distributed by CVM's Communications and Education Branch. CVM has grouped the guidelines into four categories based on the current status of each guideline: (1) Guidelines that have become obsolete and that are being removed from the list; (2) guidelines that are still applicable but that are undergoing revision and once revised, will be made available in draft for public comment; (3) recently developed draft guidelines and draft guidelines under development that are not listed in the May 1992 document but for which notices of availability have been or will soon be published in the **Federal Register** inviting public comment; and (4) current guidelines that remain on the list and that do not require revision at this time. The numerical designation of the guidelines is identical to that of the May 1992 list.

Guidelines state procedures or practices that may be useful to the persons to whom they are directed, but are not legal requirements. Guidelines represent the agency's position on a procedure or a practice at the time of their issuance. A person may follow a guideline or may choose to follow alternate procedures or practices. If a person chooses to use alternate procedures or practices, that person may wish to discuss the matter further with the agency to prevent an expenditure of money and effort on activities that may later be determined to be unacceptable to FDA. A guideline does not bind the agency, and it does not create or confer any rights, privileges, or benefits for or on any person. Where a guideline states a requirement imposed by statute or regulation, however, the requirement is law and its force and effect are not changed in any way by virtue of its inclusion in the guideline. CVM invites public comments on all guidelines at any time.

Documents that are not guidelines but that are intended to aid in animal drug development are being moved to a new section of the list entitled "(E) Other Available Information." The generic animal drug policy letters are being added to that section as are references to "CVM's Policy and Procedures Manual Guides" and to various toxicology and environmental handbooks.

II. Four Categories of Guidelines and Other Available Information

The following includes a list of CVM's four categories of guidelines, based on the current status of the guideline, and a new category of document entitled "Other Available Information."

A. Obsolete Guidelines

(The numerical designation of each guideline is identical to that of the May 1992 list.)

1. "Anticoccidial Guidelines" (January 1974). These guidelines are being replaced by the "Draft Guideline for the Evaluation of the Efficacy of Anticoccidial Drugs and Anticoccidial Drug Combinations in Poultry" (April 1992) (57 FR 20835, May 15, 1992).

2. "The Anthelmintics Guidelines." These guidelines have been replaced by species-specific guidelines (e.g., "Guidelines for the Effectiveness Evaluation of Swine Anthelmintics;" similarly entitled guidelines are available for bovine, equine, and canine/feline).

4. "Guidelines for Efficacy Studies for Systemic Sustained Release Sulfonamide Boluses for Cattle." These guidelines deal with a special class of product that was once, but is no longer, of particular significance to CVM. The principles embodied in the guidelines are more accurately presented in CVM's 1990 "Bioequivalence Guideline."

6. "Guidelines for Submitting NADA's for Generic Drugs Reviewed for Effectiveness Under the National Academy of Sciences/National Research Council, Drug Efficacy Study Implementation" (NAS/NRC DESI) Program (October 1971, editorial revisions in March 1976). These guidelines are obsolete because FDA is no longer accepting generic "me too" NADA's under the NAS/NRC DESI program.

8. "Guidelines for Toxicological Investigations." These guidelines have been replaced by guideline number 3, "General Principles for Evaluating the Safety of Compounds Used in Food-Producing Animals" (September 1986) (See guideline number 3 in section II.B. of this document.)

11. "BVM Environmental Guidelines." These guidelines have been replaced by the "FDA Environmental Assessment Technical Assistance Handbook" which is listed under "Other Available Information." The handbook (order number PB 87–175345) is available from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161, (703–487–4650).

12. "BVM Policy and Procedures Guide: Export of New Animal Drugs for Investigational Use." This guideline has been moved to "CVM's Policy and Procedures Manual Guides" as Guide 1240.3030.

14. "Guideline and Format for Reporting the Details of Clinical Trials Using an Investigational New Animal Drug in Food-Producing Animals." This document is not so much a guideline as it is a suggested format for reporting to CVM certain information required by 21 CFR 511.1. Accordingly, it has been moved from the guidelines section of the list to "Other Available Information," as indicated in section II.E. of this document. It is available from the Communications and Education Branch and routinely accompanies outgoing CVM correspondence on investigational new animal drugs.

15. "Guideline and Format for Reporting the Details of Clinical Trials Using an Investigational New Animal Drug in Non-Food Producing Animals" (February 1977). This document is not so much a guideline as it is a suggested format for reporting to CVM certain information required by 21 CFR 511.1. Accordingly, it has been moved from the guideline section to "Other

Available Information" in section II.E. of this document.

17. "Working Guidelines for Assigning Residue Tolerances" (September 1978). These guidelines have been replaced by guideline number 3 (see section II.B. of this document).

18. "Antibacterial Drugs in Animal Feeds: Human Health Safety Criteria."

19. "Antibacterial Drugs in Animal Feeds: Animal Health Safety Criteria."

20. "Antibacterial Drugs in Animal Feeds: Antibacterial Effectiveness Criteria."

Guidelines 18, 19, and 20 are moved from the guidelines section of the list to "Other Available Information," as indicated in section II.E. of this document, because they reflect CVM policies rather than guidelines, but they remain intact and are still available from CVM.

27. "New Animal Drug Determination" (June 1980). This document is actually Guide 1240.3500 (revised July 24, 1989) in "CVM's Policy and Procedures Guides."

28. "Fast Track Drug Classification Guide" (July 1980). This guideline has been superseded by another policy and procedures guide entitled "Animal Drug Applications Expedited Review Guide 1240.3135" (June 6, 1990).

32. "Guideline for Threshold Assessment." This guideline is included in guideline number 3 (See section II.B. of this document.).

34. "Biomass Guideline." This guideline has been incorporated into guideline number 3 (See section II.B. of this document.).

38. "Guideline for Effectiveness Evaluation of Topical/Otic Animal Drugs" (August 1984). Sponsors are advised to check with the appropriate CVM division for advice during protocol development for these drugs.

B. Guidelines Still Applicable But Undergoing Revision

(The numerical designation of each guideline is identical to that of the May 1992 list.)

CVM recognizes that certain aspects of the following guidelines should be revised to reflect new regulatory philosophies or new scientific principles. CVM recommends that sponsors check with the appropriate CVM division before initiating studies under any of the following guidelines which are currently being revised:

3. "General Principles for Evaluating the Safety of Compounds Used in Food-Producing Animals" (September 1986). All seven guidelines in this document are being revised.

5. "Stability Guidelines" (December 1990).

9. "Preclearance Guidelines for Production Drugs" (October 1975).

21. "BVM Position Statement—Status of Nutritional Ingredients in Animal Drugs and Feed" (April 1976) (BVM will be changed to CVM).

24. "Guidelines for Drug Combinations for Use in Animals" (October 1983).

25. "Guidelines for the Efficacy Evaluation of Equine Anthelmintics" (January 1979).

26. "Guidelines for the Preparation of Data to Satisfy the Requirements of Section 512 of the Act Regarding Animal Safety, Effectiveness, Human Food Safety and Environmental Considerations for Minor Use of New Animal Drugs" (April 1986).

29. "Guidelines for the Effectiveness Evaluation of Swine Anthelmintics" (September 1980).

30. "Guidelines for Anti-infective Bovine Mastitis Product Development" (June 1985).

31. "Guidelines for the Evaluation of Bovine Anthelmintics" (July 1981).

33. "Target Animal Safety Guidelines for New Animal Drugs" (June 1989).

35. "Bioequivalence Guideline" (April 1990).

36. "Guidelines for Efficacy Evaluation of Canine/Feline Anthelmintics" (July 1985).

C. Recently Developed Guidelines

The following draft guidelines were recently developed by CVM, and notices of their availability have been published in the **Federal Register** to invite public comment:

- "Guideline on the Conduct of Clinical Investigations: Responsibilities of Clinical Investigators and Monitors for Investigational New Animal Drugs" (57 FR 20495, May 13, 1992).
- "Guideline for the Evaluation of the Efficacy of Anticoccidial Drugs and Anticoccidial Drug Combinations in Poultry" (57 FR 20835, May 15, 1992).
- "Guideline for Formatting, Assembling, and Submitting New Animal Drug Applications" (57 FR 34299, August 4, 1992).
- A series of four guidelines entitled "Animal Drug Manufacturing Guidelines, 1992" (57 FR 37979, August 21, 1992).
- "Guideline for Generic Animal Drug Products Containing Fermentation-Derived Drug Substances" (57 FR 38517, August 25, 1992).
- "Guideline for Uniform Labeling of Drugs for Dairy and Beef Cattle" (58 FR 8054, February 11, 1993).
- "Guideline for Target Animal and Human Food Safety, Drug Efficacy, Environmental and Manufacturing Studies for Teat Antiseptic Products" (58 FR 7894, February 10, 1993).
- "Guideline for Target Animal and Human Food Safety, Drug Efficacy, Environmental and Manufacturing Studies for Anti-Infective Bovine Mastitis Products" (58 FR 7893, February 10, 1993).

The following draft guidelines are being developed by CVM. Once they are completed, notices of their availability will be published in the **Federal Register** to invite public comment.

- "Guideline for Conducting an In-vivo Bioavailability/Pharmacokinetics Investigation."
- "Guideline for Animal Drug Master Files."
- "Guideline on Sterile Process Validation."

D. Current Guidelines Not Requiring Revision or Deletion

(The numerical designation of each guideline is identical to that of the May 1992 list.)

7. "Antibiotic Residues in Milk, Dairy Products, and Animal Tissues: Methods, Reports, and Protocols" (October 1968). This microbiological, analytical methods manual is still acceptable but it is being moved to the "Other Available Information" category in section II.E. of this document because it is not a guideline.

10. September 1976 amendment of section II(G)(1)(b)(4) of the "Preclearance Guidelines" (October 1975).

13. "Guidelines for Evaluation of Effectiveness of New Animal Drugs for Use in Free-Choice Feeds" (revision of Medicated Block) (January 1985).

16. FOI Summary Guideline (May 1985).

22. "Guideline Labeling of Arecoline Base Drugs Intended for Animal Use."

23. "Medicated Free Choice Feeds—Manufacturing Control" (July 1985).

37. "Guidelines for Evaluation of Effectiveness of New Animal Drugs for Use in Poultry Feed for Pigmentation" (March 1984).

E. Other Available Information

In addition to guidelines, CVM has policy and procedure guides that are indexed in "CVM's Policy and Procedures Manual Guides;" these documents are available upon request from the Freedom of Information Staff (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6310.

CVM has also prepared various handbooks, format guides, position statements, and policy letters that are intended to help drug sponsors understand how to interpret certain CVM procedures, positions, and

policies. These documents are included in this section for convenient reference:

- "Center for Veterinary Medicine Policy and Procedures Manual."
- "CVM's Position on Unapproved Aquaculture Drugs."
- "Guide for Reporting Drug Shipment(s) for Clinical Trials."
- "Antibacterial Drugs in Animal Feeds: Human Health Safety Criteria."
- "Antibacterial Drugs in Animal Feeds: Animal Health Safety Criteria."
- "Antibacterial Drugs in Animal Feeds: Antibacterial Effectiveness Criteria."
- "Toxicological Principles for the Safety Assessment of Direct Food Additives and Color Additives Used in Food (Red Book), NTIS Order No. PB83–170696."
- "FDA Environmental Assessment Technical Assistance Handbook," NTIS Order No. PB87–175345/AS.

The following are Generic Animal Drug and Patent Term Restoration Act (GADPTRA) policy letters and a description of their contents:

- First Policy Letter (dated November 23, 1988) (53 FR 50460, December 15, 1988) including a description of the patent and exclusivity information to be submitted to FDA by holders of approved NADA's and NADA applicants.
- Second Policy Letter (dated June 7, 1989) (54 FR 26111, June 21, 1989) including: Format and content for suitability petitions, format and content for ANADA's, manufacturing requirements for ANADA's, and environmental review of generic animal drugs.
- Third Policy Letter (dated August 2, 1989) (54 FR 35534, August 28, 1989) including: "Exclusivity for Human Food Safety Data Submitted in Supplemental Application," "Withdrawal Period for Generic Drugs," "Substitution of an Active Ingredient in a Combination Drug or in a Feed Use Combination," "Labeling Requirements for Generic Drugs," and "Can a Generic Animal Drug Sponsor Obtain Exclusivity for an Innovation Approved Under a Supplement to an ANADA and Can the Pioneer Drug Sponsor Copy the Generic Innovation Without Submitting Additional Data?"
- Fourth Policy Letter (dated November 2, 1989) (55 FR 3107, January 30, 1990) including: "Actions Concerning ANADA's When a Pioneer Drug has Been Withdrawn from Sale," "Effect of GADPTRA on Approval of Pre-62 Drugs Under the DESI Program," and "Generic Feed Use Combination Drugs (Type A Article, Type B or Type C Medicated Feeds)."
- Fifth Policy Letter (dated April 12, 1990) (55 FR 24645, June 18, 1990) including the "Bioequivalence Guideline" (April 12, 1990).
- Sixth Policy Letter (dated October 17, 1990) (55 FR 45860, October 31, 1990) including: "Withdrawal Period for Generic Animal Drug Products" and "Eligibility of a New Salt or Ester of a Pioneer Animal Drug."
- Seventh Policy Letter (dated March 20, 1991) (56 FR 15083, April 15, 1991) including: "Guidance for Analytical Methods for ANADA's," "ANADA's, NADA's and Supplemental Approvals for Subtherapeutic Antibiotics," "Hybrid Applications," and "Waivers of *In Vivo* Bioequivalence Studies for Topical Products."
- Eighth Policy Letter (dated July 23, 1991) (56 FR 41561, August 21, 1991) including policy concerning generic copying of certain drugs that were subject to review under the DESI program.

Interested persons may, at any time, submit to the Dockets Management Branch (address above) written comments regarding this notice. Two copies are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 24, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–7668 Filed 4–1–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93E–0036]

Determination of Regulatory Review Period for Purposes of Patent Extension; DAYPRO®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for DAYPRO® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product DAYPRO®. DAYPRO® (oxaprozin) is indicated for acute and long-term use in the management of the signs and symptoms of osteoarthritis and rheumatoid arthritis. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for DAYPRO® (U.S. Patent No. 4,190,584) from John Wyeth & Brother Ltd., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. FDA, in a letter dated February 12, 1993, advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of DAYPRO®

represented the first commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for DAYPRO® is 7,765 days. Of this time, 4,038 days occurred during the testing phase of the regulatory review period, while 3,727 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* July 29, 1971. Applicant claims July 28, 1971, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was July 29, 1971, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* August 17, 1982. The applicant claims August 10, 1982, as the date the new drug application (NDA) for DAYPRO® (NDA 18–841) was initially submitted. However, FDA records indicate that NDA 18–841 was initially submitted on August 17, 1982.

3. *The date the application was approved:* October 29, 1992. FDA has verified the applicant's claim that NDA 18–841 was approved on October 29, 1992.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 2 years of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 1, 1993, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before September 29, 1993, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 23, 1993.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 93–7666 Filed 4–1–93; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[HSQ–203–N]

Medicare Program; Peer Review Organization Contracts: Solicitation of Statements of Interest From In-State Organizations—Kentucky

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: General notice.

SUMMARY: This notice, in accordance with section 1153(i) of the Social Security Act, gives at least 6 months advance notice of the dates when contracts with out-of-State Utilization and Quality Control Peer Review Organizations (PROs) end. It also specifies the period of time in which in-State organizations may submit a statement of interest so that they may be eligible to compete for those contracts. The State currently affected is Kentucky, whose contract expires September 30, 1993.

DATES: Written statements of interest must be received at the address specified no later than 5 p.m. e.s.t., May 3, 1993.

Due to staffing and resource limitations, we cannot accept statements submitted by facsimile (FAX) transmission.

ADDRESSES: Statements of interest must be submitted to: Health Care Financing Administration, OBA, Attn.: Brian Hebbel, room G–M–1, East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

FOR FURTHER INFORMATION CONTACT: Kathleen Kelso, (410) 966–7214.

SUPPLEMENTARY INFORMATION:

I. Background

The Peer Review Improvement Act of 1982 (Title I, Subtitle C of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), Pub. L. 97–248) amended Part B of Title XI of the Social Security Act (the Act) by establishing the Utilization and Quality Control Peer Review Organization (PRO) program.

PROs currently review certain health care services furnished under Title XVIII of the Act (Medicare) and under certain other Federal programs to determine whether those services are reasonable, medically necessary, furnished in the appropriate setting, and are of a quality that meets professionally recognized standards. Congress created the PRO program in order to redirect, simplify and enhance the cost-effectiveness and efficiency of the peer review process.

In June of 1984, HCFA began awarding contracts to PROs. We currently maintain 53 PRO contracts with organizations that provide medical review activities for 49 of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, and the combined review area of the State of Hawaii, Guam and American Samoa. The organizations that are eligible to contract as PROs have satisfactorily demonstrated that they are either physician-sponsored or physician-access organizations in accordance with sections 1152 and 1153 of the Act and our regulations at 42 CFR 462.102 and 462.103. A physician-sponsored organization is one that is both composed of a substantial number of the licensed doctors of medicine or osteopathy practicing medicine or surgery in the respective review area and is representative of the physicians practicing in the review area. A physician-access organization is one that has available to it, by arrangement or otherwise, the services of a sufficient number of licensed doctors of medicine or osteopathy practicing medicine or surgery in the review area to assure adequate peer review of the services furnished by the various medical specialties and subspecialties. In addition, the organization must not be a health care facility, health care facility association, or a health care facility affiliate, and must have a consumer representative on its governing board.

The Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100–203) amended section 1153 of the Act by adding a new subsection (i) that prohibits the Secretary from renewing the contract of any PRO that is not an in-State organization without first publishing in the **Federal Register** a notice announcing when the contract will expire. This notice must be published no later than 6 months before the date of expiration, and must specify the period of time during which an in-State organization may submit a proposal for the contract. If one or more qualified in-State organizations submits a proposal within the specified period of time, HCFA may not automatically renew the

contract on a noncompetitive basis, but must instead provide for competition for the contract in the same manner used for a new contract. An in-State organization is defined as an organization that has its primary place of business in the State in which review will be conducted (or, that is owned by a parent corporation, the headquarters of which is located in that State).

There are currently 11 PRO contracts with entities that do not meet the statutory definition of an in-State organization. The area affected for purposes of this notice is Kentucky.

II. Provisions of the Notice

This notice announces that the current contract between HCFA and the out-of-State PRO responsible for review in Kentucky is scheduled to expire on September 30, 1993. Interested in-State organizations may submit statements of interest to be the PRO for the State of Kentucky. The statements must be received by HCFA no later than [30 days after date of publication in the **Federal Register**], and, in its statement of interest, the organization must furnish materials that demonstrate that it meets the definition of an in-State organization. Specifically, the organization must have its primary place of business in the State in which review will be conducted (or, that is owned by a parent corporation, the headquarters of which is located in that State). In its statement, each interested organization must further demonstrate that it meets the following requirements:

A. Be Either a Physician Sponsored or a Physician Access Organization

1. Physician sponsored organization

i. The organization must be composed of a substantial number of the licensed doctors of medicine and osteopathy practicing medicine or surgery in the review area, and be representative of the physicians practicing in the review area.

ii. The organization must not be a health care facility, health care facility association, or health care facility affiliate.

iii. In order to meet the substantial number requirement of A.1.i., an organization must be composed of at least 10 percent of the licensed doctors of medicine and osteopathy practicing medicine or surgery in the review area. In order to meet the representation requirement of A.1.i., an organization must state and have documentation in its files demonstrating that it is composed of at least 20 percent of the licensed doctors of medicine and osteopathy practicing medicine or surgery in the review area; or, if the organization does not demonstrate that it is composed of at least 20 percent of the licensed doctors of medicine and osteopathy practicing medicine or surgery in the review area, then the organization must demonstrate in its statement of interest, through letters of support from physicians or physician organizations, or through other means, that it is representative of the area physicians.

2. Physician access organization

i. The organization must have available to it, by arrangement or otherwise, the services of a sufficient number of licensed doctors of medicine or osteopathy practicing medicine or surgery in the review area to assure adequate peer review of the services provided by the various medical specialties and subspecialties.

ii. The organization must not be a health care facility, health care facility association, or health care facility affiliate.

iii. An organization meets the requirements of A.2.i. if it demonstrates that it has available to it at least one physician in every generally recognized specialty; and has an arrangement or arrangements with physicians under which the physicians would conduct review for the organization.

B. Have at Least One Individual Who is a Representative of Consumers on its Governing Board

If one or more organizations meet the above requirements in a PRO area, and submit statements of interest in accordance with this notice, HCFA will consider those organizations to be potential sources for the contract that is expiring on September 30, 1993. These organizations will be entitled to participate in a full and open competition for the PRO contract to provide medical review services for Kentucky.

III. Regulatory Impact Statement

This notice announces the date when a contract with an out-of-State PRO expires, and the period of time in which in-State organizations may file statements of interest. We have determined and the Secretary certifies that no analyses are required under Executive Order 12291, the Regulatory Flexibility Act (5 U.S.C. 601 through 612), or section 1102(b) of the Act.

IV. Information Collection Requirements

This notice contains information collection requirements that have been approved and assigned Control Number OMB 0938–0526 by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This approval expires on May 31, 1994.

Authority: Section 1153 of the Social Security Act (42 U.S.C. 1320c–2)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program).

Dated: March 9, 1993.

William Toby, Jr.,

Acting Deputy Administrator, Health Care Financing Administration.

[FR Doc. 93–7798 Filed 3–31–93; 11:19 am]

BILLING CODE 4120–01–P

Health Resources and Services Administration

Announcement of Application Deadlines for Fiscal Year 1993 for Selected Programs of the Maternal and Child Health Bureau

AGENCY: Health Resources and Services Administration (HRSA).

ACTION: Advance notice of application deadline dates.

SUMMARY: The Health Resources and Services Administration's Maternal and Child Health Bureau (MCHB) expects to provide funding for new and competing renewal grant projects and cooperative agreements for the following programs during fiscal year 1993. The HRSA is announcing anticipated application deadline, award, funding and project period information for the following categories of: (1) Special Projects of Regional and National Significance (SPRANS) under the MCH Federal Set-Aside Program, funded under section 502(a) of the Social Security Act; and (2) Pediatric AIDS Health Care Demonstration Projects, funded under Public Law 102–394.

FOR FURTHER INFORMATION CONTACT: Potential applicants may contact Chief, Grants Management Branch, Office of Program Support, Maternal and Child Health Bureau, Health Resources and Services Administration, room 18–12, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1440 for application information and other programmatic information concerning these programs. Requests should specify the category or categories of activities for which an application is requested.

SUPPLEMENTARY INFORMATION: A Notice of Availability of Funds will be published in the **Federal Register** for each of these programs, announcing program provisions, priorities, and

review criteria. The actual amounts available for awards and their allocation may vary from those in this notice, based on the volume and quality of applications received.

Set forth below is the application information, in table form:

MCH FEDERAL SET-ASIDE GRANT AND COOPERATIVE AGREEMENTS ANTICIPATED DEADLINE, AWARD, FUNDING, AND PROJECT PERIOD INFORMATION, BY CATEGORY FY 1993

Funding source category	Application deadline	Estimated number of awards	Estimated amounts available	Project period
(1) Grants in the following areas:				
1.1 Research	Cycle 1: May 4, 1993 Cycle 2: August 2, 1993	up to 20	$2.5 million	up to 5 years.
1.2 Training:				
1.2.1 Long term	May 3, 1993	up to 35	4.5 million	up to 5 years.
1.2.2 Continuing education	July 1, 1993	up to 30	500,000	up to 3 years.
1.3 Genetic disease testing, counseling and information.	May 7, 1993	up to 7	1.7 million	3 years.
1.4 Special MCH improvement projects (MCHIP) of regional and national significance in the following areas:				
1.4.1 Maternal, infant, child, and adolescent health.	June 8, 1993	up to 18	2.0 million	up to 3 years, except as noted.
1.4.2 State systems development initiative	June 22, 1993	up to 59	5.9 million	2–3 years.
1.4.3 CSHCN habilitative services priorities	May 11, 1993	5–10	1.5 million	up to 4 years.
1.4.4 Hemophilia center/title V collaboration	May 14, 1993	2	100,000	2–3 years.
1.4.5 Comprehensive hemophilia treatment center grants.	June 4, 1993	up to 30	4.9 million	3 years.
1.4.6 Data utilization	June 15, 1993	up to 15	1.2 million	up to 3 years.
1.4.7 Healthy tomorrows partnership for children.	May 28, 1993	up to 5	250,000	5 years.
1.4.8 Field-initiated projects	July 1, 1993	10–15	500,000	up to 5 years.
(2) Cooperative agreements (MCHIPs) in the following areas:				
2.1 CSHCN policy and program coordination	May 11, 1993	1	up to $500,000	4 years.
2.2 Comprehensive hemophilia cooperative agreements.	May 14, 1993	up to 3	2 million	up to 4 years.

PEDIATRIC AIDS HEALTH CARE DEMONSTRATION GRANTS AND COOPERATIVE AGREEMENTS ANTICIPATED DEADLINE, AWARD, FUNDING, AND PROJECT PERIOD INFORMATION BY CATEGORY FY 1993

Funding source category	Application deadline	Estimated number of awards	Estimated amounts available	Project period
(1) Grants in the following categories:				
1.1 Pediatric AIDS health care demonstration projects.	May 14, 1993	up to 8	$2.6 million	3 years.
1.2 Pediatric AIDS comprehensive center demonstration projects.	May 14, 1993	up to 2	1.9 million	3 years.
1.3 Hemophilia treatment center expansion for HIV/AIDS.	May 14, 1993	up to 2	150,000	3 years.
(2) Cooperative agreement in the following category:				
2.1 Pediatric/family HIV/AIDS health care demonstration program resource centers cooperative agreements.	May 14, 1993	up to 2	1.9 million	1–3 years.

Dated: March 30, 1993.

Robert G. Harmon,

Administrator.

[FR Doc. 93–7757 Filed 4–1–93; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

National Cancer Institute; Meeting of the Biometry and Epidemiology Contract Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, National Institutes of Health, on April 19, 1993, at the Executive Plaza North Building, Conference Room G, 6130 Executive Boulevard, Rockville, Maryland 20892.

This meeting will be open to the public from 9 a.m. to 10 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting

will be closed to the public on April 19 from 10 a.m. to adjournment for the review, discussion, and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Officer, National Cancer Institute, Executive Plaza North, room 630, National Institutes of Health, Rockville, Maryland 20892, Tel. 301/496–5708, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Harvey P. Stein, Scientific Review Administrator, Biometry and Epidemiology Contract Review Committee, 6130 Executive Boulevard, room 609, Rockville, Maryland 20892, Tel. 301/496–7030, will furnish substantive program information.

Individuals who plan to attend and need special assistance, such as, sign language interpretation or other reasonable accommodations should contact Ms. Alma O. Carter, (301) 496–7523 in advance of the meeting.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: March 26, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–7657 Filed 4–1–93; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting of the Cancer Biology-Immunology Contracts Review Subcommittee A

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Cancer Biology-Immunology Contract Review Subcommittee A, National Cancer Institute, National Institutes of Health, on April 14–15, 1993, at the Executive Plaza North, Conference Rooms E and F, Rockville, Maryland 20892.

This meeting will be open to the public April 14 from 8:30 a.m. to 9:30 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on April 14 from 930 a.m. to recess and on April 15 from 8:30 a.m. to adjournment for the review, discussion, and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Officer, National Cancer Institute, Executive Plaza North, room 630, National Institutes of Health, Rockville, Maryland 20892, Tel. 301/496–5708, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Lalita D. Palekar, Scientific Review Administrator, Cancer Biology-Immunology Contracts Review Committee, 6130 Executive Boulevard, room 609, Rockville, Maryland 20892, Tel. 301/496–7575, will furnish substantive program information.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Alma O. Carter, Tel. 301/496–7523 in advance of the meeting.

(Catalog of Federal Domestic Assistance Program Numbers; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: March 26, 1993

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–7654 Filed 4–1–93; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting of the Developmental Therapeutics Contracts Review Subcommittee A

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Developmental Therapeutics Contracts Review Subcommittee A, National Cancer Institute, National Institutes of Health, on April 19, 1993, at the Chevy Chase Holiday Inn, Palladium West Conference Room, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

This meeting will be open to the public from 9 a.m. to 10 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on April 19 from 10 a.m. to adjournment for the review, discussion, and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Officer, National Cancer Institute, Executive Plaza North, room 630, National Institutes of Health, Rockville, Maryland 20892, Tel. 301/496–5708, will provide a summary of the meeting and a roster of the committee members upon request.

Dr . Susan E. Feinman, Scientific Review Administrator, Developmental Therapeutics Contracts Review Committee, 6130 Executive Boulevard, room 609, Rockville, Maryland 20892, Tel. 301/402–0944, will furnish substantive program information.

Individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations, should contact Ms. Alma O. Carter, (301) 496–7523 in advance of the meeting.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: March 26, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–7656 Filed 4–1–93; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting of the National Cancer Advisory Board Program Project Task Force

Pursuant of Public Law 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board, Program Project Task Force, April 21, 1993, at 6130 Executive Boulevard, Executive Plaza North, Room 600A, Bethesda, Maryland 20892 and will be conducted as a telephone conference with the use of a speaker phone.

The entire meeting will be open to the public from 1 p.m. to approximately 4 p.m. The Task Force will review data and formulate strategy for the overall

P01 review mechanism as it relates to the National Cancer Program. Attendance by the public will be limited to space available.

Ms. Carole Frank, Committee Management Specialist, National Cancer Institute, National Institutes of Health, Executive Plaza North, room 630, 9000 Rockville Pike, Bethesda, Maryland 20892–9903 (301/496–5708) will provide a summary of the meeting and a roster of the Task Force members upon request.

Individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations should contact Ms. Lorrie Smith (301/496–5147) in advance of the meeting.

Mrs. Barbara S. Bynum, Executive Secretary, Program Project Task Force, National Cancer Advisory Board, National Cancer Institute, Executive Plaza North, room 600A, 9000 Rockville Pike, National Institutes of Health, Bethesda, Maryland 20892–9903 (301/496–5147) will furnish substantive program information.

Dated: March 26, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–7658 Filed 4–1–93; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meeting

Notice is hereby given of the meeting of the National Heart Attack Alert Program Coordinating Committee, sponsored by the National Heart, Lung, and Blood Institute on Tuesday, June 8, 1993, from 8:30 a.m. to 3:15 p.m., at the Hyatt Regency Bethesda Hotel, 1 Bethesda Metro Center, Bethesda, Maryland, 20814 (301) 657–1234. The entire meeting is open to the public. The Coordinating Commission is meeting to discuss the progress of the National Heart Attack Alert Program with its participating organizations.

Attendance by the public will be limited to space available.

For detailed program information, agenda, list of participants, and meeting summary, contact: Ms. Mary McDonald, Coordinator, of the National Heart Attack Alert Program, Health Education Branch, Office of Prevention, Education, and Control, National Heart, Lung, and Blood Institute, National Institutes of Health, Building 31, room 4A18, Bethesda, Maryland 20892, (301) 496–1051.

Dated: March 29, 1993.

Bernadine Healy,

Director, NIH.

[FR Doc. 93–7655 Filed 4–1–93; 8:45 am]

BILLING CODE 4140–01–M

National Institute of General Medical Sciences; Meeting of the National Advisory General Medical Sciences Council

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, National Institutes of Health, on May 19–21, 1993, Building 31, Conference Rooms 9 and 10, Building 31, Bethesda, Maryland.

This meeting will be open to the public on May 19, from 12 noon to 5:30 p.m. in Conference Room 9, for the discussion of program policies and issues; and from 8:30 a.m. to 1:30 p.m. on May 20, in Conference Room 10, for opening remarks, report of the Director, NIGMS, and other business of the Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on May 20 from 1:30 p.m. to 5:30 p.m., and on May 21 from 8:30 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, room 4A52, Bethesda, Maryland 20892, telephone: 301–496–7301 will provide a summary of the meeting and a roster of council members. Dr. W. Sue Shafer, Executive Secretary, NAGMS Council, National Institutes of Health, Westwood Building, room 938, Bethesda, Maryland 20892, telephone: 301–496–7061 will provide substantive program information upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, room 4A52, Bethesda, Maryland 20892, telephone: 301–496–7301, FAX 301–402–0224.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93–859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS]).

Dated: March 23, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–7659 Filed 4–1–93; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the following National Institute on Deafness and Other Communication Disorders Special Emphasis Panel.

The meeting will be closed in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications, contract proposals, and/or cooperative agreements. These applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such a patentable material, and personal information concerning individuals associated with the applications an/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Panel: National Institute of Deafness and Other Communication Disorders Special Emphasis Panel

Dates of Meeting: April 27–29, 1993

Time of Meeting: April 27—8 a.m. until recess; April 28—8 a.m. until recess; April 29—8 a.m. until adjournment

Place of Meeting: Chevy Chase, MD, Holiday Inn

Agenda: Review of Applications for NIDCD–NASA Center for Vestibular Research

Contact Person: Dr. Mary Nekola, Scientific Review Administrator, NIDCD/SRB, Executive Plaza South, Room 400B, Bethesda, Maryland 20892, (301) 496–8683.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Other Communicative Disorders)

Dated: March 23, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–7660 Filed 4–1–93; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Indian Health Service; Medical Reimbursement Rates for Calendar Year 1993; Inpatient and Outpatient Medical Care

Notice is given that the Assistant Secretary for Health, under the authority of sections 321(a) and 322(b) of the Public Health Service Act (42 U.S.C. 248(a) and 249(b)), has approved the following reimbursement rates for inpatient and outpatient medical care in facilities operated by the Indian Health Service for Calendar Year 1993: Emergency Non-Beneficiaries, Beneficiaries of other Federal Agencies, Medicare, and Medicaid Beneficiaries.

Inpatient Hospital Per Diem Rate (Medicaid Only)

$450 (Lower 48)
$527 (Alaska)

Part B Inpatient Ancillary Per Diem (Medicare Only)

$202 (Lower 48)
$237 (Alaska)

Outpatient Per Visit Rate (Medicare and Medicaid)

$88 (Lower 48)
$147 Alaska

Outpatient Surgery (Medicare Only)

Established Rates for Freestanding ASCs

These rates will be effective February 1, 1993.

Dated: March 25, 1993.

Audrey F. Manley,

Acting Assistant Secretary for Health.

[FR Doc. 93–7623 Filed 4–1–93; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–93–1817; FR–3350–N–25]

Federal Property Suitable as Facilities to Assist the Homeless

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

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *U.S. Navy*: John J. Kane, Deputy Division Director, Dept. of Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–0474; *U.S. Air Force*: Bob Menke, USAF, Bolling AFB, SAF–MIIR, Washington, DC 20332–5000; (202) 767–6235; *GSA*: Leslie Carrington, Federal Property Resources Services, GSA, 18th and F Streets NW, Washington, DC 20405; (202) 208–0619; *Corps of Engineers*: Gary B. Paterson, Chief, Base Realignment and Closure Office, Directorate of Real Estate, 20 Massachusetts Ave., NW, rm. 4133, Washington, DC 20314–1000; (202) 272–0520; (These are not toll-free numbers).

Correction

Property number 579220001 was inadvertently published as suitable/available in the March 19, 1993 notice. The property should have been published as suitable/to be excess.

Dated: March 26, 1993.

Don I. Patch,

Acting Deputy Assistant Secretary for Grant Programs.

Suitable/Available Properties

BUILDINGS (by State)

Iowa

Bldg. 00106, Fort Dodge
Ft. Dodge Co: Webster IA 50501–
Landholding Agency: Air Force
Property Number: 189310051
Status: Unutilized
Comment: 200 sq. ft., 1-story wood frame, needs rehab, most recent use—storage.

Maine

31 Capehart Family Houses
Charleston Family Housing Annex, Union St.
Bangor Co: Penobscot ME
Landholding Agency: Air Force
Property Number: 189310052
Status: Excess
Comment: 2916–2097 sq. ft., 1–2 story wood, 3-duplexes, 27-four plexes totaling 114 units with garages.

LAND (by State)

California

Land—2.5 acres
Hamilton Army Airfield
Novato Co: Marin CA 94945–
Landholding Agency: COE—BC
Property Number: 329310001
Status: Excess
Base closure Number of Units: 1
Comment: 2.5 acres, potential utilities, access restriction, subject to flooding, wetlands and storm water runoff, potential for contamination from adjoining areas.

Suitable/Unavailable Properties

BUILDINGS (by State)

New York

(P) Form. Alex. Bay CG Station
Landon Road, Wellesley Island
Alexandria Co: Jefferson NY
Landholding Agency: GSA
Property Number: 549310006
Status: Excess
Comment: 2500 sq. ft. 2-story wood bldg., new septic system needed, needs rehab with approximately 15 acres of land.
GSA Number: 2–GR–NY–0730A.

Unsuitable Properties

BUILDINGS (by State)

Hawaii

Facility 5985
Naval Station Pearl Harbor
Honolulu Co: Honolulu HI 96860–
Landholding Agency: Navy
Property Number: 779310086
Status: Excess
Reason: Other
Comment: Extensive deterioration.

[FR Doc. 93–7588 Filed 4–1–93; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–967–4230–15]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that decisions to issue conveyance under the provisions of section 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(1), will be issued to Sealaska Corporation. The lands involved are in the vicinity of Juneau, Alaska.

Serial No.	Approximate land description	Acreage
AA–10513	T. 51 S., R. 66 E., Copper River Meridian, Alaska.	7 acres.
AA–10505	T. 36 S., R. 63 E., Copper River Meridian, Alaska.	16.7 acres.

A notice of the decisions will be published once a week, for four (4) consecutive weeks, in the Juneau Empire. Copies of the decisions may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decisions, an agency of the Federal government, or regional corporation, shall have until May 3, 1993 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Terry R. Hassett,

Chief, Branch of KCS Adjudication.

[FR Doc. 93–7615 Filed 4–1–93; 8:45 am]

BILLING CODE 4310–JA–M

[040–4410–02]

Availability of Draft Oklahoma Resource Management Plan/ Environmental Impact Statement (OK RMP/EIS)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability and public hearings.

SUMMARY: The Bureau of Land Management (BLM), Tulsa District, Oklahoma Resource Area, announces the availability of the Draft Oklahoma RMP/EIS for public review and comment. This document analyzes land use planning options for BLM managed Federal lands and minerals throughout the state of Oklahoma.

DATES: Comments on the Draft RMP/EIS will be accepted if they are submitted or post-marked no later than July 2, 1993. Comments can be sent to: Paul Tanner, Area Manager, BLM, Oklahoma Resource Area, 221 North Service Road, Moore, Oklahoma 73160, or submitted at one of the four public hearings. The public hearings conducted to receive oral and written comments on the Draft Oklahoma RMP/EIS will be at the following locations:

Date	Time	City/location
June 3, 1993 ...	3 p.m. ...	Moore, Ok. BLM Office, 221 North Service Road.
June 7, 1993 ...	3 p.m. ...	Tulsa, Ok. BLM Office, 9522–H East 47th Place.
June 9, 1993 ...	3 p.m. ...	McAlester, Ok. Holiday Inn, 1500 George Nigh Expressway.
June 10, 1993 .	3 p.m. ...	Lawton, Ok. Ramada Inn, 601 North 2nd Street.

Oral testimony at these hearings will be limited to ten minutes per person. A copy of the Draft RMP/EIS will be sent to all individuals, Government agencies, and groups who have expressed interest in the Oklahoma planning process.

SUPPLEMENTARY INFORMATION: The Draft Oklahoma RMP/EIS identifies and analyzes the future options for managing the approximately 2 million acres of Federal land and mineral estate situated within Oklahoma administered by the BLM, Tulsa District, Oklahoma Resource Area.

The Oklahoma RMP is being prepared using the BLM planning regulations issued under the authority of the

Federal Land Policy and Management Act of 1976.

When completed, the RMP will provide a comprehensive framework for managing and allocating Federal lands and minerals within Oklahoma over the next 20 years.

The contents of this Draft RMP/EIS primarily focus on resolving four land allocation or resource management issues.

The four Planning issues include: (1) Oil and Gas Leasing, (2) Coal Leasing, (3) Townsite Disposal, and (4) Red River Management.

Four RMP alternatives have been developed to describe the different management options available to the BLM for addressing these issues. These alternatives were developed to respond to the issues and concerns expressed by the public and BLM in earlier phases of the planning effort. Each alternative presents a different blend of resource allocation levels and uses.

Alternative A. No Action

This alternative represents a continuation of present resource allocation levels and management practices. This alternative provides a baseline for comparison of other alternatives, and may not adequately resolve the issues identified in the RMP/EIS.

Alternative B. Maximum Resource Production Alternative

This represents an alternative which would promote maximum resource production and development. This would provide for maximizing both oil and gas and coal leasing as well as intensive surface resource management of any identified Federal lands along the Red River. This alternative would attempt to resolve the RMP/EIS issues by emphasizing economic development and commodity production from the public resource.

Alternative C. Maximum Resource Protection Alternative

This represents an alternative which would promote maximum resource protection. This alternative would provide for elimination of mineral leasing as well as decrease potential surface uses or impacts to the Federal lands along the Red River. Also known as the conservation alternative this alternative would place an emphasis on maintaining or improving environmental values and conservation of public resources.

Alternative D. The Preferred or Balanced Alternative

This alternative is a combination of the previous alternatives and provides for a variety of uses by incorporating features of the other three alternatives.

FOR FURTHER INFORMATION OR COPIES OF THE DRAFT RMP/EIS CONTACT: Paul W. Tanner, Area Manager, or Brian D. Mills, RMP Team Leader, Oklahoma Resource Area, 221 North Service Road, Moore, Oklahoma 73160. Telephone: (405) 794–9624.

Dated: March 24, 1993.

Larry L. Woodard,

State Director.

[FR Doc. 93–7613 Filed 4–1–93; 8:45 am]

BILLING CODE 4310–NM–M

[OR–943–4210–06; GP3–165; OR–45689]

Conveyance of Public Land; Order Providing for Opening of Lands; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 40 acres of public land out of Federal ownership. This action will also open 116.30 acres of reconveyed lands to surface entry, mining and mineral leasing.

EFFECTIVE DATE: May 10, 1993.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208, 503–280–7171.

SUPPLEMENTARY INFORMATION:

1. Notice is hereby given that in an exchange of lands made pursuant to section 206 of the Act of October 21, 1976, 43 U.S.C. 1716, a patent has been issued transferring 40 acres in Douglas County, Oregon, from Federal ownership to private ownership.

2. In the exchange, the following described lands have been reconveyed to the United States:

Willamette Meridian

T. 21 S., R. 11 W.,
Sec. 33, lot 8 and SE¼SE¼;
Sec. 34, lots 5 and 6.
T. 22 S., R. 11 W.,
Sec. 3, lot 15.

The areas described aggregate 116.30 acres in Douglas County.

3. At 8:30 a.m., on May 10, 1993, the lands described in paragraph 2 will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid existing applications received at or prior to 8:30 a.m., on May 10, 1993, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

4. At 8:30 a.m., on May 10, 1993, the lands described in paragraph 2 will be opened to location and entry under the United States mining laws. Appropriation of land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

5. At 8:30 a.m., on May 10, 1993, the lands described in paragraph 2 will be opened to applications and offers under the mineral leasing laws.

Dated: March 25, 1993.

Robert E. Mollohan,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 93–7609 Filed 4–1–93; 8:45 am]

BILLING CODE 4310–33–M

[UT–060–03–4333–04]

Recreation Permits and Restrictions

March 26, 1993.

AGENCY: Bureau of Land Management, Moab District, Utah.

ACTION: Notice of noncommercial recreation permit requirements and restrictions upon recreation use.

SUMMARY: This notice extends requirements for individual noncommercial special recreation permits (SRPs) to portions of the Colorado, Green, and San Juan Rivers; establishes SRP and fee requirements for overnight use of certain recreation areas; and extends river protection measures involving recreation use to include additional public lands along the Green and Colorado Rivers. Actions are implemented under the authority of 43 CFR 8364.1, 8365 through 8365.2–5, and 8372.0–7 through 8372.6.

FOR FURTHER INFORMATION CONTACT: Russell von Koch, Moab District Office, P.O. Box 970, Moab, Utah 84532 at (801) 259–6111.

SUPPLEMENTARY INFORMATION: Noncommercial, individual, SRPs are currently required all year for float trips on the Green River between Sand Wash

and Swaseys Rapid and for the San Juan River between Montezuma Creek and Clay Hills Crossing. In 1993, noncommercial, individual, SRPs are required for all Colorado River float trips between the Westwater Ranger Station and Cisco Landing from April 1 through September 30 and for overnight use during the month of October. Beginning in 1994, the requirement to obtain a permit for this section of the Colorado River is extended to include October day trips. Payment of use fees is required to obtain permits for use of these river areas, where permits are required, between April 1 and October 31, except the Montezuma Creek to Sand Island portion of the San Juan River.

Individuals and groups making overnight use of the Big Bend recreation area on the Colorado River are required to obtain a noncommercial special recreation permit and pay a use fee. Permits are necessary to manage intensive recreation use and protect natural and scenic resources at Big Bend. Noncommercial permits and use fees may be required at the following recreation sites and areas within the Moab District as the Bureau of Land Management completes planned site improvements and posts permit and use requirements where the authorized officer determines that resources require special management and control measures for their protection: The Hittle Bottom; Dewey Bridge; Hal Canyon; Goose Island; Onion Creek; Richardson Amphitheater; Jaycee Park; Sand Island; Comb Wash; San Rafael Bridge; Swaseys Rapid; Nefertiti Rapid; Mineral Bottom; and Kokopelli's Trail recreation sites; the Labyrinth Canyon Special Recreation Management Area; the Slickrock Planning Area; and designated, undeveloped Colorado Riverway sites. The Slickrock Planning Area and the Utah section of Kokopelli's Trail are designated as special areas for permitting purposes. Maps showing these areas are available from the Grand Resource Area.

Basic protection measures applicable to river areas managed by the Bureau of Land Management in southeastern Utah are extended to include the Labyrinth Canyon and the "daily" section of the Green River. The protective measures apply to public lands within ¼ mile of the Green River for the daily section defined as Nefertiti rapid launch area to the Swaseys rapid take-out and for Labyrinth Canyon defined as Interstate 70 to the boundary of Canyonlands National Park. The following requirements apply to both areas: Firewood collection is limited to driftwood. All garbage, trash, solid human waste, and campfire ash and charcoal must be carried out of the areas and disposed of properly. Individuals on overnight river float trips are required to possess a durable metal fire pan at least 12 inches wide with at least a 1.5 inch lip around its outer edge and to utilize it to contain their campfires. Beginning on January 1, 1994, recreational users on overnight river float trips will be required to possess and utilize washable, reusable toilet systems that allow for disposal of solid human body waste through authorized sewage systems, except when camping at sites with permanent public toilets. Group size for Labyrinth Canyon trips is limited to twenty-five persons. The discharge of firearms for all purposes is prohibited at improved recreation sites along the daily section. Outside of these improved recreation sites, the discharge of firearms for non-hunting purposes is prohibited along the Green River daily section.

The Bureau of Land Management is implementing restrictions upon recreation use on public lands within the Colorado Riverway Planning Area to prevent further deterioration of the area's natural and scenic resources and for public health and safety. The riverway includes approximately 22,158 acres of public land and stretches from Dewey Bridge to the boundary of private lands at the Moab Salt Plant. The planning area is roughly defined by the canyon of the Colorado River and the section of Kane Creek from Hunters Canyon to the Colorado River. A map of the area may be viewed at the Grand Resource Area Office located at 885 South Sand Flats Road, Moab, Utah 84532. Within the riverway, overnight camping on public lands is restricted to improved recreation sites with facilities managed for overnight use and designated, undeveloped campsites. Designated, undeveloped campsites are identified with posts and a tent symbol. At improved recreation sites, campfires may only be built at fire grills and designated campfire rings. Outside of improved recreation sites, campfires may only be built in fire pans or existing fire rings at designated, undeveloped camping areas. Firewood collection is limited to river driftwood. Campers using designated, undeveloped, campsites without permanent public toilets are required to carry out solid human body waste and must possess and utilize washable, reusable toilet systems, such as porta-potties or recreational vehicles with holding tanks, that allow for the disposal of solid human body waste through authorized sewage systems. Individuals on overnight river trips must carry out all campfire ash and charcoal and dispose of it properly outside of the area. Overnight camping and fires are prohibited at the following areas: The parking area adjacent to Utah highway 128 at the mouth of Negro Bill Canyon, Take-out Beach boat ramp and the adjacent upstream beach area, Sandy beach, the beach area at Big Bend Recreation Site, Hittle Bottom boat ramp/launch area, the Rocky Rapid launch area, Short Canyon, and within the flood plain of the lower section of Kane Creek. The Fisher Towers, Negro Bill Canyon, Hunter Canyon, and Corona Arch trails are closed to mountain bikes. The discharge of firearms for all purposes is prohibited at improved recreation sites within the riverway. Outside of improved recreation sites, the discharge of firearms for non-hunting purposes is prohibited from Dewey Bridge to Hittle Bottom and from Castle Creek to the western end of the riverway. Visitors are required to adhere to vehicle control signs and devices, i.e., "No Parking" and "One-Way Signs" installed for public safety and protection of resources.

Personnel exempt from the requirements of this notice include any Federal, State, or local officer, and members of any organized rescue or fire-fighting force in the performance of an official duty, or any person authorized by the Bureau. These orders shall remain in effect until rescinded or modified by the authorized officer.

Roger Zortman,

District Manager.

[FR Doc. 93-7653 Filed 4-1-93; 8:45 am]

BILLING CODE 4310-DQ-M

[CA-067-02-4740-10]

Establishment of a Supplementary Rule

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of a supplementary rule prohibiting persons under 21 years of age from possessing alcoholic beverages on public land.

BACKGROUND: Underage drinking is a growing problem on public lands. Such activity poses a significant health and safety hazard to both underage violators and other users of the public lands. This rule will allow BLM officers to restrict the possession of alcoholic beverages by minors in a manner consistent with state law.

EFFECTIVE DATE: This restriction will be effective April 2, 1993 and will remain

in effect until rescinded or modified by the authorized officer.

FOR FURTHER INFORMATION CONTACT: State Staff Ranger, Bureau of Land Management, California State Office, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825, (916) 978–4727.

SUPPLEMENTARY INFORMATION: The authority for this restriction is provided in 43 CFR 8365.1–6. Violation of this restriction is punishable by fine and/or imprisonment.

Dated: March 24, 1993.

Ed Hastey,

State Director.

[FR Doc. 93–7611 Filed 4–1–93; 8:45 am]

BILLING CODE 4130–40–M

[OR–942–00–4730–02: GP3–158]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 9 S., R. 2 E., accepted March 8, 1993
T. 41 S., R. 7 E., accepted February 18, 1993
T. 2 N., R. 2 W., accepted February 24, 1993
T. 29 S., R. 3 W., accepted March 2, 1993
T. 36 S., R. 3 W., accepted February 25, 1993
T. 37 S., R. 3 W., accepted February 25, 1993
T. 14 S., R. 6 W., accepted March 15, 1993
T. 14 S., R. 7 W., accepted March 15, 1993
T. 21 S., R. 7 W., accepted March 10, 1993
T. 19 S., R. 9 W., accepted February 22, 1993
T. 19 S., R. 11 W., accepted February 17, 1993
T. 30 S., R. 13 W., accepted March 12, 1993

Washington

T. 35 N., R. 3 W., accepted March 1, 1993 (Amended)

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 1300 NE. 44th Avenue, Portland, Oregon 97213, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 1300 NE. 44th Avenue, P.O. Box 2965, Portland, Oregon 97208.

Dated: March 24, 1993.

Robert E. Mollohan,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 93–7612 Filed 4–1–93; 8:45 am]

BILLING CODE 4310–33–M

Fish and Wildlife Service

Public Hearings Scheduled to Receive Testimony Concerning the Adequacy of the Draft Environmental Impact Statement "Refuges 2003—A Plan for the Future of the National Wildlife Refuge System"

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of public hearings to receive comments on the draft environmental impact statement for the future management of the national wildlife refuges.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is holding public hearings to receive comments on the Draft Environmental Impact Statement "Refuges 2003—A Plan for the Future of the National Wildlife Refuge System." Notice of availability of the draft document was published in the **Federal Register**, Vol. 58, No. 47, Friday, March 12, 1993, Notices.

DATES AND ADDRESSES: The public hearings will be held from 1–5 p.m. and 7–10 p.m. at the following locations on the dates listed: April 29, 1993, Holiday Inn, Ballston Room, Arlington at Ballston, I–66 and Glebe Road, 4610 North Fairfax Drive, Arlington, Virginia 22203; May 11, 1993, Ramada Atlanta Airport, 1419 Virginia Avenue, Atlanta, Georgia 30337; May 13, 1993, YWCA Leadership Development Center, 9440 N. 25th Ave., Phoenix, Arizona 85021; May 18, 1993, FWS Regional Office, B.P.A. Building, 911 NE. 11th Ave., 1st Floor Auditorium, Portland, Oregon 97232; May 20, 1993, Fairview Community Recreation Center, 1121 E. 10th Ave., Anchorage, Alaska 99501; May 25, 1993, Minnesota Valley National Wildlife Refuge, 3815 E. 80th Street, Bloomington, Minnesota 55425; May 26, 1993, Radisson Hotel, 2 Forbes Road, Woburn, Massachusetts 01801; June 1, 1993, FWS Regional Office, 3rd Floor Conference Room, 134 Union Boulevard, Lakewood, Colorado 80228.

FOR FURTHER INFORMATION CONTACT: Rob Shallenberger, Division of Refuges, U.S. Fish and Wildlife Service, 1849 C Street, NW., MS 670 ARLSQ, Washington, DC 20240; Telephone (703) 358–1744.

SUPPLEMENTARY INFORMATION: The Service has prepared a draft environmental impact statement entitled "Refugees 2003—A Plan for the Future of the National Wildlife Refuge System" pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969. This draft statement was developed with assistance from the comments received at the various public meetings held throughout the United States, a team of wildlife and environmental experts in the various fields reviewed in the draft statement, and the expertise of the professional staff within the Division of Refuges of the Service, including field stations, Regional Offices and the Washington Office. A summary of the draft statement has been prepared and was sent to all persons and organizations who participated in any part of the review process, such as scoping meetings or in other types of communication with the planning team. Copies of the complete draft statement was sent to Federal and State agencies, local governments, and other organizations and individuals who have already requested copies. A limited number of copies of both documents are available upon request at the Division of Refuges, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, 670 ARLSQ, Arlington, VA 22203.

Copies of the Draft Environmental Impact Statement are available for public review at the Regional Offices of the Service at the following addresses:

Region 1—

California, Hawaii, Idaho, Nevada, Oregon, and Washington, Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Eastside Federal Complex, suite 1692, 911 NW. 11th Avenue, Portland, Oregon 97232–4181; Telephone (503) 231–6214.

Region 2—

Arizona, New Mexico, Oklahoma and Texas, Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 1306, Albuquerque, New Mexico 87103; Telephone (505) 766–1829.

Region 3—

Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin, Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota, 55111; Telephone (612) 725–3507.

Region 4—

Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Tennessee, South Carolina, Puerto Rico, and the Virgin Islands, Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303; Telephone (404) 331–0833.

Region 5—

Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia, Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 300 W. Gate Center Drive, Hadley, Massachusetts 01035; Telephone (413) 253–8200.

Region 6—

Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming, Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 25486, Denver Federal Center, Denver, Colorado 80225; Telephone (303) 236–8145.

Region 7—

Alaska, Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; Telephone (907) 786–3538.

Dated: March 26, 1993.

Bruce Blanchard,

Acting Director.

[FR Doc. 93–7678 Filed 4–1–93; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Cape Cod National Seashore, South Wellfleet, MA; Environmental Assessment for Temporary Access Route; Availability and Public Comment Period

In accordance with the National Environmental Policy Act (P.L. 91–190), the National Park Service, U.S. Department of the Interior, announced that an Environmental Assessment has been prepared, for the use of a temporary access route to the Race Point Beach corridor of Cape Cod National Seashore for Off-Road Vehicles. This assessment is available for public and interagency review. Copies have been sent to known parties of interest; others may request copies from the Superintendent, Marconi Area, South Wellfleet, Massachusetts 02663, or phone (508) 349–3785, extension 213. This temporary access route, for use during the critical reproductive period, is necessary to protect and aid the recovery of the piping plover shore bird which is a Federally listed threatened species.

The document review period is running from April 3 to May 3, 1993. Comments should be received by the Superintendent by May 5, 1993.

Dated: March 25, 1993.

John C. Reed,

Acting Regional Director.

[FR Doc. 7637 Filed 4–1–93; 8:45 am]

BILLING CODE 4310–70–M

General Management Plan, Draft Environmental Impact Statement, Timpanogos Cave National Monument, UT

AGENCY: National Park Service, Interior.

ACTION: Availability of draft environmental impact statement and general management plan for Timpanogos Cave National Monument.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Park Service (NPS) announces the availability of a draft Environmental Impact Statement and General Management Plan (DEIS/GMP) for Timpanogos National Monument, Utah.

DATES: The DEIS/GMP will remain available for public review through June 11, 1993. If any public meetings are held concerning the DEIS/GMP, they will be announced at a later date.

ADDRESSES: Comments on the DEIS/GMP should be sent to the Superintendent, Ms. Sue McGill, Timpanogos Cave National Monument, Rural Route 3, P.O. Box 200, American Fork, Utah 84003–9803. Public reading copies of the DEIS/GMP will be available for review at the following locations:

Office of the Superintendent, Timpanogos Cave National Monument, Telephone: (801) 756–5238

Division of Planning and Compliance, Rocky Mountain Regional Office, National Park Service, 12795 W. Alameda Parkway, Lakewood, CO 80225, Telephone: (303) 969–2828

Office of Public Affairs, National Park Service, Department of Interior, 18th and C Streets NW., Washington, DC 20240, Telephone: (202) 208–6843

SUPPLEMENTARY INFORMATION:

The DEIS/GMP analyzes 5 alternatives to accomplish the management objectives and resolve the issues as listed below:

Management Objectives

To provide opportunities for visitors to safely enjoy and gain an understanding and appreciation of the natural processes that form the Timpanogos Cave system.

To manage natural resources to maintain the natural setting surrounding the cave and complement adjacent wilderness areas managed by the U.S. Forest Service.

To insure that management and development of the monument balances with preservation and protection of cultural and natural resources, with efforts to provide for visitor enjoyment and to accommodate administrative needs and obligations.

Issues

The issues involve visitor and employee safety, circulation and congestion of vehicles and pedestrians, floodplains, geologic hazards, avalanches, facility needs relative to administrative and maintenance operations, housing, natural and cultural resource management impacts, and interpretation.

Alternatives

The alternatives represent a diverse range of options including (1) Proposed Plan—Maintain a full range of visitor and administrative services and facilities but relocate the majority of them outside the monument and implement a visitor transportation system, (2) Alternative A—Maintain a full range of visitor and administrative services but confine all development proposals to the area within the monument, (3) Alternative B (Minimum Action)—Limit development to the

minimum essential for accommodating visitors to the cave and meeting administrative needs, (4) Alternative C (Mothball/Caretaker)—Until adequate funding becomes available to move facilities outside the monument, vacate and secure access to all structures and permit access to the cave only for bona fide research purposes. Another local, Federal, or State agency would be responsible for overseeing the area under a memorandum of agreement, and (5) Alternative D (no action)—Under this alternative, existing facilities and management actions would remain unchanged.

The DEIS/GMP in particular evaluates the environmental consequences of the proposed action and the other alternatives on water resources, floodplains, wetlands, geology, soils, vegetation, wildlife, threatened and endangered species, air quality, archaeological, historical and ethnographic resources, visitor use, socioeconomic data, other agencies, management and operations, and cumulative impacts.

FOR FURTHER INFORMATION CONTACT: Superintendent, Timpanogos Cave National Monument, at the above address and telephone number.

Dated: March 18, 1993.

Michael D. Snyder,

Regional Director, Rocky Mountain Region, National Park Service.

[FR Doc. 93–7636 Filed 4–1–93; 8:45 am]

BILLING CODE 4310–70–M

Chesapeake and Ohio Canal National Historic Park Commission; Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting will be held at 1 p.m., Saturday, April 3, 1993, at Trinity Episcopal Church chapel, Shepherdstown, West Virginia.

The Commission was established by Public Law 91–664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mrs. Sheila Rabb Weidenfeld, Chairman, Washington, DC
Ms. Diane C. Ellis, Brunswick, Maryland
Brother James T. Kirkpatrick, F.S.C., Cumberland, Maryland
Ms. Anne L. Gormer, Cumberland, Maryland
Ms. Elise B. Heinz, Arlington, Virginia
Mr. George M. Wykoff, Jr., Cumberland, Maryland
Mr. Rockwood H. Foster, Washington, DC
Mr. Barry A. Passett, Washington, DC
Mrs. Jo Reynolds, Potomac, Maryland
Ms. Nancy C. Long, Glen Echo, Maryland
Ms. Mary Elizabeth Woodward, Shepherdstown, West Virginia
Dr. James H. Gilford, Frederick, Maryland
Mr. Edward K. Miller, Hagerstown, Maryland
Mrs. Sue Ann Sullivan, Williamsport, Maryland
Mr. Terry W. Hepburn, Hancock, Maryland
Mr. Laidley E. McCoy, Charleston, West Virginia
Ms. Jo Ann M. Spevacek, Burke, Virginia
Mr. Charles J. Weir, Falls Church, Virginia
Ms. Donna Pope, Alexandria, Virginia

The agenda for this meeting includes Old and New Business, Superintendent's Report and public comments.

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed. Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Thomas O. Hobbs, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782.

Minutes of the meeting will be available for public inspection six (6) weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: March 24, 1993.

Chrysandra L. Walter,

Acting Regional Director, National Capital Region.

[FR Doc. 93–7616 Filed 4–1–93; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

Notice of Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Associated Grocers, Incorporated, 3301 South Norfolk, Seattle, Washington 98124

2. Wholly-owned subsidiary which will participate in the operations, and State of Incorporation: Market Food Services, Inc., State of Incorporation: Washington.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–7705 Filed 4–1–93; 8:45 am]

BILLING CODE 7035–01–M

[No. 40265]

Georgia-Pacific Corporation—Petition for Declaratory Order—Certain Rates and Practices of Oneida Motor Freight, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice; Request for comments.

SUMMARY: The Commission is seeking public comment on the approach for determining the reasonableness of motor carrier rates assessed for past transportation that it articulated in Georgia-Pacific Corp.—Pet. for Declaratory Order, 9 I.C.C.2d 103 (1992).

DATES: Comments are due by May 3, 1993.

ADDRESSES: Send an original and 15 copies of comments referring to No. 40265 to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660 (TDD for hearing impaired: (202) 927–5721).

SUPPLEMENTARY INFORMATION: We are requesting comment from all interested persons with respect to the approach that we articulated in Georgia-Pacific Corp.—Pet. for Declaratory Order, 9 I.C.C.2d 103 (1992) (*Georiga-Pacific*) for determining the reasonableness of motor carrier rates assessed for past transportation. In particular, we invite comments on the impact (if any) of the recent Supreme Court decision in *Reiter* v. *Cooper*, 61 U.S. Law Week 4232 (U.S. March 8, 1993) (No. 91–1496). Interested persons may also comment on any other aspect of concern regarding the approach, including any foreseeable evidentiary concerns with the approach.

Comments should be submitted within 30 days; we do not expect to grant any extensions of time to file comments. Following receipt of the comments, we will reexamine the approach set forth in Georgia-Pacific and act as quickly as possible to make such adjustments (if any) as may appear necessary. We will then issue scheduling orders for each pending case in our docket involving the reasonableness of motor carrier rates assessed for past transportation, requiring those cases to go forward under whatever approach is ultimately

adopted. We will serve a decision on the parties to all undercharge cases now pending before us.

DEPARTMENT OF JUSTICE

Lodging of Consent Decrees; United States v. Lore Fiano, et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on December 10, 1992, two proposed Consent Decrees in *United States* v. *Lore Fiano, et al.*, Civil No. 2:91CV00814, were lodged with the United States District Court for the District of Connecticut. The proposed Consent Decrees settle the United States' claims that the defendants had violated provisions of the National Emission Standards for Hazardous Air Pollutants for Asbestos ("NESHAP") promulgated pursuant to the Clean Air Act.

Under the terms of the Consent Decrees, settling defendants will pay a total of $68,250 in civil penalties, comply with the asbestos NESHAP and the Clean Air Act in the future, and undertake certain additional activities as part of a remedial program.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decrees. Comments should be addressed to the Section Chief of the Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to the *United States* v. *Lore Fiano*, D.O.J. Ref. 90–5–2–1–1602.

The proposed Consent Decrees may be examined at the Region I Office of the Environmental Protection Agency, 1 Congress Street, 10th Floor, Boston, Massachusetts 02203. Copies of the Consent Decrees may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20044, (202–272–2072). A copy of the proposed Consent Decrees may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Box 1097, Washington, DC 20044. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $7.75 per Decree (25 cents per page reproduction cost) made payable to Consent Decree Library.

John C. Cruden,

Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–7652 Filed 4–1–93; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Council; Meetings and Agenda

The regular Spring meetings of the Board and Committees of the Business Research Advisory Council will be held on April 21 and 22, 1993. All of the meetings will be held in the Conference Center of the Postal Square Building, 2 Massachusetts Avenue, NE., Washington, DC.

The Business Research Advisory Board and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda for the meetings are as follows:

Wednesday, April 21, 1993

10 a.m.—Committee on Compensation and Working Conditions

1. New PC system to 'cost out' collective bargaining settlements
2. Employment Cost Index public use file
3. Impact of the Financial Accounting Standards Board standard 106 (unfunded liability for health insurance for future retirees) on the Employment Cost Index

10 a.m.—Committee on Employment and Unemployment

1. Progress in understanding and incorporating the benchmark adjustment for March 1991
2. Impact of the Current Population Survey (CPS) redesign
3. Results of the user survey
4. Summary of Bortnick and Ports Monthly Labor Review article, "Job Search Methods of the Unemployed, 1991"
5. Impact of the Department of Commerce decision on use of the 1990 Census of Population by survey sponsors
6. Other business

1 p.m.—Committee on Occupational Safety and Health Statistics

1. Status report on redesign of the annual survey of Occupational Injuries and Illnesses (ROSH)
2. Proposed format for presenting data from ROSH
3. University of Michigan study on injury severity
4. BLS research on methods for measuring costs of injuries and illnesses
5. Status report on the Census of Fatal Occupational Injuries
6. "Capture/Recapture" method for estimating undercounts of fatal injuries
7. Program budgets
8. Other business

3:15 p.m.—Committee on Productivity-Foreign Labor

1. Summary of recent developments in the Office of Productivity and Technology
2. Service sector productivity
   a. An overview: problems of developing improved service sector measures
   b. Service sector work at the industry level
3. Report on international technical assistance and training

Thursday, April 22, 1993

9 a.m.—Committee on Prices

1. Consumer Price Index
   a. Treatment of coupons
   b. Treatment of mail order outlets
2. Producer Price Index: New output price indexes for hospitals
3. Other business

9 a.m.—Committee on Economic Growth

1. Update on work in the economic growth and employment projections programs
2. An analysis of the projected impact of the decline in defense expenditures

1 p.m.—Board of the Business Research Advisory Council

1. Chairperson's remarks
2. Deputy Commissioner's remarks
3. Brief committee reports
   a. Committee on Compensation and Working Conditions
   b. Committee on Employment and Unemployment
   c. Committee on Occupational Safety and Health Statistics
   d. Committee on Productivity-Foreign Labor
   e. Committee on Economic Growth
   f. Committee on Price Indexes
4. Discussion: The Economic Classification Policy Committee and SIC revision
5. Chairperson's closing remarks

The meetings are open to the public. Persons planning to attend these meetings as observers may obtain more information from Constance B. DiCesare, Liaison, Business Research Advisory Council, at (202) 606–5886.

Signed at Washington, DC the 25th day of March 1993.

William G. Barron, Jr.,

Deputy Commissioner.

[FR Doc. 93–7700 Filed 4–1–93; 8:45 am]

BILLING CODE 4510–24–M

Employment and Training Administration

[TA–W–28,364]

Ardyne, Inc.; Grand Haven, MI; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 1, 1993 in response to a worker petition which was filed on March 1, 1993 on behalf of workers at Ardyne, Inc., Grand Haven, Michigan.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 26th day of March, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–7706 Filed 4–1–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–27,517]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance; Arkla Exploration Co.

ARKLA Exploration Co. a/k/a Seagull Mid-South Inc., Shreveport, LA and Operating at Various Locations in the Following States:

TA–W–27,517A Arkansas
TA–W–27, 517C Oklahoma
TA–W–27, 517D Texas
TA–W–27, 517B Louisiana (except Shreveport)
TA–W–27, 517E Mississippi

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 21, 1992, applicable to all workers of the subject firm. The notice was published in the **Federal Register** on November 3, 1992 (57 FR 49722). The Certification was subsequently amended on February 16, 1993 to show the proper name of the worker group.

New information received from the company shows that several workers of Arkla Exploration were laid off in Arkansas, Louisiana, Oklahoma, Texas and Mississippi.

The intent of the Department's certification is to include all workers of Arkla Exploration Company who were adversely affected by increased imports of crude oil and natural gas. Accordingly, the Department is amending the certification to show the additional locations.

The amended notice applicable to TA–W–27, 517 is hereby issued as follows:

"All workers of Arkla Exploration Company a/k/a Seagull Mid-South, Inc., Shreveport, Louisiana and operating at various locations in the States of Arkansas, Louisiana (except Shreveport), Oklahoma, Texas and Mississippi who became totally or partially separated from employment on or after July 14, 1991 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C., this 25th day of March 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–7701 Filed 4–1–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–27,933]

Bethlehem Steel Corporation; Bar Mill Plant; Lackawanna, NY; Revised Determination on Reopening

The Department of Labor, on its own motion, reopened the investigation regarding workers of Bethlehem Steel Corporation, Bar Mill Plant, Lackawanna, New York. The workers produce bar mill products. The Department's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance was issued on February 24, 1993.

Subsequently, new data has been received by the Department regarding customer imports of bar mill products during the relevant periods under investigation.

On reopening the investigation, the Department found that the new information indicates that a major customer of the subject firm significantly increased their imports of bar mill products while decreasing their purchases from the subject firm during the relevant periods.

In addition, the Department found that sales and employment at the subject firm have declined during the relevant periods.

Conclusion

After careful review of the additional facts obtained on reopening the investigation, it is concluded that increases of imports of articles like or directly competitive with bar mill products produced at Bethlehem Steel Corporation, Bar Mill Plant, Lackawanna, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Bethlehem Steel Corporation, Bar Mill Plant, Lackawanna, New York producing bar mill products who became totally or partially separated from employment on or after October 13, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 10th day of March, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–7708 Filed 4–1–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–27,869]

Monessen, Inc., Monessen, PA; Revised Determination on Reopening

On March 25, 1993, the Department, at the request of the United Steelworkers of America, reopened its investigation for the former workers of Monessen, Inc., in Monessen, Pennsylvania. The initial investigation resulted in a negative determination on December 18, 1992 because the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act was not met.

The investigation findings show that the predominant portion of Monessen's production in 1992 consisted of coke which was sold to its parent company—Sharon Steel in Farrell, Pennsylvania—which did not import coke nor were its workers under a worker group certification.

A review of the investigation files shows that Monessen had an integrated production relationship with Sharon Steel since Sharon took all of Monessen's coke for the production of steel. A further review shows that workers at Sharon (TA–W–28,048) were certified for trade adjustment assistance on March 5, 1993 and that Sharon's reduced purchases of coke from Monessen resulted in worker separations at Monessen. These findings permit the "contributed importantly" test to be met for workers of Monessen.

Other findings show that the Monessen plant ceased production in September 1992 and all production workers were laid off at that time.

Conclusion

After careful consideration of the new facts obtained on reopening, it is concluded that increased imports of articles like or directly competitive with carbon and alloy flat rolled steel

products produced by Sharon Steel contributed importantly to the decline in sales or production and to the total or partial separation of workers at the subject plant. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers and former workers of Monessen, Inc., Monessen, Pennsylvania who became totally or partially separated from employment on or after September 21, 1991 and before April 1, 1993 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 25th day of March 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 93–7707 Filed 4–1–93; 8:45 am]

BILLING CODE 4510–30–M

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character an in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S–3014, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume and State.

Volume I

New York:
NY93–27 (Apr. 2, 1993)
NY93–28 (Apr. 2, 1993)
NY93–29 (Apr. 2, 1993)
Vermont:
VT93–13 (Feb. 19, 1993)

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis—Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Delaware:
DE93–2 (Feb. 19, 1993)
DE93–5 (Feb. 19, 1993)
New Jersey:
NJ93–3 (Feb. 19, 1993)
New York:
NY93–13 (Feb. 19, 1993)
NY93–16 (Feb. 19, 1993)
Pennsylvania:
PA93–31 (Feb. 19, 1993)
West Virginia:
WV93–3 (Feb. 19, 1993)

Volume II

Indiana:
IN93–2 (Feb. 19, 1993)
IN93–6 (Feb. 19, 1993)
Michigan:
MI93–1 (Feb. 19, 1993)
MI93–2 (Feb. 19, 1993)
MI93–3 (Feb. 19, 1993)
MI93–4 (Feb. 19, 1993)
MI93–5 (Feb. 19, 1993)
MI93–7 (Feb. 19, 1993)
MI93–12 (Feb. 19, 1993)
MI93–17 (Feb. 19, 1993)
Texas:
TX93–1 (Feb. 19, 1993)
TX93–2 (Feb. 19, 1993)
Wisconsin:
WI93–7 (Feb. 19, 1993)

Volume III

Arizona:
AZ93–3 (Feb. 19, 1993)
Colorado:
CO93–1 (Feb. 19, 1993)
CO93–13 (Feb. 19, 1993)
Montana:
MT93–1 (Feb. 19, 1993)
North Dakota:
ND93–1 (Feb. 19, 1993)
ND93–2 (Feb. 19, 1993)
ND93–5 (Feb. 19, 1993)
Washington:
WA93–8 (Feb. 19, 1993)
WA93–9 (Feb. 19, 1993)
WA93–10 (Feb. 19, 1993)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400

Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 26 day of March 1993.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 93–7483 Filed 4–1–93; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 93–028]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act. Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee.

DATES: April 29, 1993, 8 a.m. to 4:30 p.m.; and April 30, 1993, 8 a.m. to noon.

ADDRESSES: ARC Professional Services Group, suite 950, 500 E Street SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Smith, Office of Aeronautics, National Aeronautics and Space Administration, Washington, DC 20546–0001 (202/544–0500).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Aeronautics Update
—Congressional Update
—Aeronautics Research & Technology Subcommittee Discipline Review Reports
—Task Force Updates
—Advanced Situation Awareness and Terrain Avoidance
—Multi-Agency Advanced Manufacturing Technology Program
—Generic Hypersonics Technology Program

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: March 29, 1993.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 93–7649 Filed 4–1–93; 8:45 am]

BILLING CODE 7510–01–M

[Notice 93–027]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC), Astrophysics Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting change.

Federal Register Citation of Previous Announcement

58 FR 9223, Notice Number 93–01, February 19, 1993.

Previously Announced Dates and Addresses of Meeting

March 30, 1993, 9:30 a.m. to 5:15 p.m.; and March 31, 1993, 8:15 a.m. to 4:30 p.m.; The National Aeronautics and Space Administration, room MIC–5, 300 E Street, SW., Washington, DC 20546.

Changes in the Meeting

Dates changed to April 13, 1993, 9:30 a.m. to 5:15 p.m.; and April 14, 1993, 8:15 a.m. to 4:30 p.m. Address changed to the National Council on The Aging, Inc., Conference Room B, 409 Third Street SW., suite 200, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT:

Ms. Lia LaPiana, Code SZ, National Aeronautics and Space Administration, Washington, DC 20546 (202/358–0346).

Dated: March 29, 1993.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 93–7648 Filed 4–1–93; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATES: Request for copies must be received in writing on or before May 17, 1993. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are

updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of State, Bureau of Educational and Cultural Affairs (N1–59–93–4). Routine, facilitative, and duplicative records.
2. Department of the Treasury, Internal Revenue Service (N1–58–92–2). Comprehensive schedule for the Statistics on Income Division.
3. Commission on Assignment of Women in the Armed Forces (N1–220–93–1). Public opinion mail.
4. Federal Communications Commission (N1–173–93–1). Digests of hearings on the telephone industry and copies of transcripts of hearings on the World Wide Broadcasting Corporation.
5. Federal Emergency Management Agency, National Fire Academy (N1–311–93–1). Records relating to the certification of instructors.
6. Federal Emergency Management Agency (N1–397–91–1). Administrative records from the files of the defunct Defense Civil Preparedness Agency Staff College, including still photos.
7. Office of Thrift Supervision (N1–483–93–10). Budget formulation records.
8. Office of Thrift Supervision, Director's Office (N1–483–93–11). Interagency meeting files, Implementation Group subject files.
9. Tennessee Valley Authority, Resource Group (N1–142–91–17). Quality Resources Project File.
10. Tennessee Valley Authority, Customer Group (N1–142–92–19). Transmission Line Crew Training Films.
11. United States Secret Service (N1–87–92–1). Duplicate, fragmentary, and unidentifiable training films.

Dated: March 23, 1993.

Trudy Huskamp Peterson,

Acting Archivist of the United States.

[FR Doc. 93–7614 Filed 4–1–93; 8:45 am]

BILLING CODE 7515–01–M

Nixon Presidential Historical Materials; Opening of Materials

AGENCY: National Archives and Records Administration.

ACTION: Notice of opening of materials.

SUMMARY: This notice announces the opening of additional files from the Nixon Presidential historical materials. Notice is hereby given that, in accordance with section 104 of title I of the Presidential Recordings and Materials Preservation Act ("PRMPA", 44 U.S.C. 2111 note) and 1275.42(b) of the PRMPA Regulations implementing the Act (36 CFR part 1275), the agency has identified, inventoried, and prepared for public access integral file segments of textual materials and Watergate-related portions of Nixon White House tapes among the Nixon Presidential historical materials.

DATES: The National Archives intends to make the integral file segments of textual materials and Watergate-related portions of Nixon White House tapes described in this notice available to the public beginning May 17, 1993. In accordance with 36 CFR 1275.44, any person who believes it necessary to file a claim of legal right or privilege concerning access to these materials should notify the Archivist of the United States in writing of the claimed right, privilege, or defense before May 3, 1993.

ADDRESSES: The materials will me made available to the public at the national Archives' facility located at 845 South Pickett Street, Alexandria, Virginia.

Petitions asserting claims of legal rights or privilege must be sent to the Archivist of the United States, National Archives and Records Administration, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Clarence F. Lyons, Jr., Acting Director, Nixon Presidential Materials Staff, 703–756–6498.

SUPPLEMENTARY INFORMATION: The integral file segments of textual materials to be opened consist of 56.4 cubic feet. In addition, the National Archives is proposing to open 41 segments of Watergate-related Nixon White House tapes from 25 separate conversations, totaling approximately 3 hours of listening time.

White House Central Files

The White House Central Files Unit is a permanent organization within the White House complex that maintains a central filing and retrieval system for the records of the President and his staff. This is the ninth of a series of openings of Central Files; the previous openings were on December 1, 1986; March 22, 1988; December 9, 1988; July 17, 1989; December 15, 1989; August 22, 1991; and February 19, 1992; and July 24, 1992.

Some of the materials designated for opening on May 17, 1993, were selected from the Subject Files of the Central Files. The Subject Files are based on an alphanumeric file scheme of 61 primary subject categories. Listed below is a subject category of the Subject Files that will be made available to the public on May 17, 1993.

Subject category	Volume (cubic feet)
Federal Government (FG): FG 6–14 Office of Telecommunications Policy	1.0

Four file groups from the Staff Member and Office Files will also be made available to the public. These consist of materials that were transferred to Central Files but were not incorporated into the Subject Files. Listed below are the Staff Member and Office Files that will be made available to the public on May 17, 1993:

File group	Volume (cubic feet)
Robert Finch	20.0
James W. McLane	3.2
Michael Raoul-Duval	12.0
Glen E. Wegner	20.0

A number of documents which were previously withheld from public access because they were national security classified have been reviewed and declassified under the Mandatory Review provisions of Executive Order 12356 and will be made available to the public on May 17, 1993.

	Volume (cubic feet)
Previously restricted material	less than .2.

Nixon White House Tapes

This is the third opening of Nixon White House tapes. The first opening, on May 28, 1980, included 12½ hours

of conversations used as evidence in Watergate trials. The second opening, on June 4, 1991, included 47½ additional hours of conversations obtained by the Watergate Special Prosecution Force but not used in court.

The National Archives proposed to open Watergate-related segments from Nixon White House tapes for May and June 1972. The National Archives will propose additional abuse of power segments for public access on a periodic basis in monthly groupings as final review and processing is completed.

There are no transcripts for these tapes. Tape logs, prepared by the National Archives, are offered for public access as a finding aid to the tape segments and a guide for the listener. There is a separate tape log entry for each segment of conversation released. Each tape log entry includes the names of participants; date, time, and location of the conversation; and an outline of the content of the conversation.

The sound recordings will be made available to the general public in the research room at 845 S. Pickett Street, Alexandria, Virginia, Monday through Friday between 8 a.m. and 4:30 p.m. Listening stations will be available for public use on a first come, first served basis. The National Archives reserves the right to limit listening time in response to heavy demand. In accordance with current regulations, no copies of the sound recordings will be sold or otherwise provided. No sound recording devices will be allowed in the listening area. Researchers may take notes. Copies of the tape log entries will be available for purchase.

Public access to some of the items in the textual file segments and some portions of the White House tapes will be restricted as outlined in 36 CFR 1275.50 or 1275.52 (PRMPA Regulations).

Dated: March 30, 1993.

Trudy Huskamp Peterson,

Acting Archivist of the United States.

[FR Doc. 93–7733 Filed 4–1–93; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Presenting and Commissioning Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Presenting and Commissioning Advisory Panel (Presenting and Commissioning Overview Section) will be held on April 20–21, 1993 from 9 a.m.—5:30 p.m. in room M–14 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting will be open to the public on a space available basis. The topics will include opening remarks, policy discussion and guidelines review.

Any interested person may observe meetings, or portions thereof, which are open to the public, and may be permitted to participate in the discussions at the discretion of the meeting chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682/5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: March 30, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–7676 Filed 4–1–93; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Chemical and Thermal Systems; Notice of Amendments

The following three announcements are being amended to reflect changes in meeting dates and locations. The notice for these meetings originally appeared in the March 25, 1993 issue of the **Federal Register**, Vol. 58, No. 56, pp. 16209–16210.

Name: Special Emphasis Panel in Chemical and Thermal Systems.

Date and Time: April 14–15, 1993; 8:30 a.m. to 5 p.m.

Place: Room 1133, National Science Foundation, 1800 G Street NW., Washington, DC.

Agenda: Review and evaluate nominations for the NSF Young Investigator Awards Program.

Contact Persons: Drs. Stephen Traugott and M.C. Roco, Program Directors, Division of Chemical and Thermal Systems, (202) 357–9606.

Date and Time: April 29–30, 1993; 8:30 a.m. to 5 p.m.

Place: Room 1133, National Science Foundation, 1800 G Street, NW., Washington, DC.

Agenda: Review and evaluate nominations for the NSF Research Initiation Awards Program.

Contact Persons: Drs. Stephen Traugott and M.C. Roco, Program Directors, Division of Chemical and Thermal Systems, (202) 357–9606.

Date and Time: May 11–12, 1993; 8:30 p.m. to 5 p.m.

Place: Room 1133, National Science Foundation, 1800 G Street, NW., Washington, DC.

Agenda: Review and evaluate nominations for the NSF Research Equipment Grants Program.

Contact Persons: Drs. Stephen Traugott and M.C. Roco, Program Directors, Division of Chemical and Thermal Systems, (202–357–9606.

Type of Meetings: Closed.

Reason for Closing: The nominations being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the nominations. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 30, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–7682 Filed 4–1–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on April 15–17, 1993, in room P–110, 7920 Norfolk Avenue, Bethesda, Maryland. Notice of this meeting was published in the **Federal Register** on March 25, 1993.

Thursday, April 15, 1993

8:30 a.m.—8:45 a.m.: Opening Remarks by ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting and comment briefly regarding items of current interest. During this session, the Committee will discuss priorities for preparation of ACRS reports.

8:45 a.m.—10:30 a.m.: Current License Renewal Issues (Open)—The Committee will hear a briefing by and hold discussions with representatives of the NRC staff and the industry on the status of current license renewal issues, and how the Maintenance Rule might be

used as a means to address the activities required of the licensees by the License Renewal Rule.

10:45 a.m.—12:15 p.m.: Resolution of SECY–90–016 Follow-On Issues (Open)—The Committee will review and comment on the NRC staff's proposed resolutions for the SECY–90–016 follow-on issues. Representatives of the NRC staff and the industry will participate, as appropriate.

1:15 p.m.—2:15 p.m.: Safety Goals/ Large Release (Open)—The Committee will review and comment on a revised Commission Paper on the definition of a large release within the context of the implementation of the NRC Safety Goal Policy. Representatives of the NRC staff will participate.

2:15 p.m.—5:15 p.m.: SALP Program (Open)—The Committee will discuss the overall SALP process and the changes made or proposed since the Regulatory Impact Survey. Representatives of the NRC staff and the industry will participate.

5:15 p.m.—6 p.m.: Research on Organizational Factors (Open)—The Committee will discuss a proposed ACRS report on the NRC-sponsored research on organizational factors. Representatives of the NRC staff will participate, as appropriate.

Friday, April 16, 1993

8:30 a.m.—9 a.m.: Regulatory Guide for the Implementation of the Revised 10 CFR part 20 (Open)—The Committee will review and comment on the proposed final regulatory guide DG–8006, "Control of Access to High and Very High Radiation Areas in Nuclear Power Plants." Representatives of the NRC staff will participate, as appropriate.

9: a.m.—10 a.m.: Meeting with the Director of the Office of Policy Planning (Open)—The Committee will meet with the Director of the Office of Policy Planning and discuss matters of mutual interest.

10:15 a.m.—11:45 a.m.: Maintenance Guidance Documents (Open)—The Committee will review and comment on the NRC staff's proposed guidance documents for the implementation of the Maintenance Rule. Representatives of the NRC staff and the industry will participate.

11:45 a.m.—12:30 p.m.: Generic Issue 152 "Design Basis for Valves that Might be Subjected to Significant Blowdown Loads" (Open)—The Committee will discuss a proposed ACRS report on the NRC staff's proposed priority ranking of this generic issue. Representatives of the NRC staff will participate, as appropriate.

1:30 p.m.—3 p.m.: Reactor Operating Experience (Open)—The Committee will hear a briefing regarding the effects of Hurricane Andrew on the Turkey Point Nuclear Plant. Representatives of the NRC staff and the industry will participate.

3:15 p.m.—4 p.m.: Future ACRS Activities (Open)—The Committee will discuss the report of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee.

4 p.m.—5 p.m.: Appointment of New Members (Open/Closed)—The Committee will discuss the qualifications of candidates proposed for appointment to the Committee.

Portions of this session will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

5 p.m.—6 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports regarding items considered during this meeting.

6 p.m.—6:15 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss NRC staff responses to recommendations made in ACRS reports.

Saturday, April 17, 1993

8:30 a.m.—10 a.m.: ACRS Subcommittee Activities (Open)—The Committee will discuss the status of ACRS Subcommittee assignments, including (a) activities of the NRC Region II office, (b) severe accident issues related to the GE ABWR, (c) the ABB/CE 80+ control room mock-up, (d) use of advanced graphics in nuclear power plant design process, and (e) the conduct and planning of ACRS business.

10 a.m.—12:30 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports regarding items considered during this meeting.

12:30 p.m.—1 p.m.: Miscellaneous (Open)—The Committee will discuss matters considered but not completed during previous meetings as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 16, 1992 (57 FR 47494). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those open portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director, Dr. John T. Larkins, as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepared telephone call to the ACRS Executive Director prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Public Law 92–463 that it is necessary to close portions of this meeting noted above to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Dr. John T. Larkins (telephone 301–492–4516), between 8 a.m. and 4:30 p.m. est.

Dated: March 29, 1993.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 93–7663 Filed 4–1–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 70–36]

Combustion Engineering, Inc.; Establishment of Local Public Document Room

The Nuclear Regulatory Commission (NRC) has established a local public document room (LPDR) for the uranium fuel facility of Combustion Engineering, Inc., located in Hematite, Missouri.

Members of the public may now inspect and copy documents and correspondence related to the Hematite facility of Combustion Engineering, Inc., at the Jefferson College Library, 1000 Viking Drive, Hillsboro, Missouri 63050. The library is open on the following schedule: Monday through Thursday

7:30 a.m. to 8 p.m.; Friday 7:30 a.m. to 4 p.m.; and Saturday 9 a.m. to 12 noon.

For Further Information Contact: Interested parties in the Jefferson County area may contact the LPDR directly through Ms. Loretta Ponzar, Technical Services/Documents Librarian, telephone number (314) 789–3951. Parties outside the service area of the LPDR may address their requests for records to the NRC's Public Document Room, 2120 L Street NW., Washington, DC 20555, telephone number (202) 634–3273.

Questions concerning the NRC's local public document room program or the availability of documents should be addressed to Ms. Jona L. Souder, LPDR Program Manager, Freedom of Information/Local Public Document Room Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone number (301) 492–4344, or toll-free 1–800–638–8081.

Dated at Bethesda, Maryland, this 30th day of March, 1993.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 93–7661 Filed 4–1–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 030–04530, 030–06923; License Nos. 19–00915–03, 19–00915–06; EA 93–028]

Department of Agriculture, Washington, DC 20250; Confirmatory Order Modifying License (Effective Immediately)

I

The U.S. Department of Agriculture (Licensee), Washington, DC is the holder of Byproduct/Source Material Licenses Nos. 19–00915–03 and 19–00915–06 (Licenses), issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR parts 30 and 33. License No. 19–00915–03 authorizes the Licensee to use byproduct material for research and development; in gauging and measuring devices; in field applications as approved by the Radiation Safety Committee (RSC); and for research studies in humans as approved by a Radioactive Drug Research Committee that has been approved by the Food and Drug Administration, and by the Licensee's Radiation Safety Committee (RSC). This is a large, multi-site, broad scope license with no stated possession limit. License No. 19–00915–06 authorizes the Licensee to use cobalt-60 and cesium-137 sealed sources in irradiators at sites and by users approved by the Licensee's RSC.

Licensed activities are conducted by a number of organizations within the Licensee's organization, including (1) the Agriculture Marketing Service (AMS); (2) the Animal, Plant, and Health Inspection Service (APHIS); (3) the Agricultural Research Service (ARS); (4) the Federal Grain Inspection Service (FGIS); (5) the Food Safety and Inspection Service (FSIS); (6) the National Forest Service (NFS); and (7) the Soil Conservation Service (SCS). Over 3500 permits have been currently issued to individuals in these services to use licensed material at numerous locations around the country.

The Licenses were most recently renewed on February 10, 1990 and May 22, 1986, respectively, and would have expired on February 28, 1991 and May 31, 1991, respectively. Both Licenses continue in force, pursuant to 10 CFR 30.37(b), because of the timely filing of applications by the Licensee to renew the Licenses.

II

Between March 5 and September 23, 1992, the NRC performed inspections of licensed activities at ten of the Licensee's facilities throughout the country. The inspections were continued until October 19, 1992, so that the NRC could review additional information submitted by the licensee. During the inspections, twelve violations of NRC requirements were identified, five of which were repetitive of violations identified during previous NRC inspections. Those repetitive violations involved: (1) Failure by the Licensee's radiation safety staff to inspect USDA facilities at the required frequency; (2) the failure to perform leak tests of sealed sources at certain locations at the required frequency, as well as the failure, at times, to maintain records of results of leak tests when they were performed; (3) the failure to evaluate incinerator ash and to maintain records of licensed material disposed of by incineration; (4) the failure to secure licensed material at certain locations; and (5) the failure to post required documents at certain facilities. In addition to the repetitive violations, seven other violations were identified, as described in the Notice of Violation and Proposed Imposition of Civil Penalty issued concurrently.

These repetitive violations, and, in particular, the violation involving the failure by the Licensee to inspect certain locations at the required frequency, are particularly disturbing to the NRC since the Licensee possesses a multi-site, broad scope license which places a significant responsibility on the RSC, as well as the Radiation Safety Officer (RSO), to ensure that licensed activities are conducted safely and in accordance with NRC requirements. Although the NRC issued a proposed civil penalty to the Licensee on August 16, 1990, for other violations of NRC requirements to emphasize the importance of Licensee management (including the RSC and the RSO) aggressively monitoring and evaluating licensed activities, sufficient management attention has not been provided to the program, as evidenced by the recent findings.

In the letter to the Licensee dated August 16, 1990, transmitting the Notice of Violation and Proposed Civil Penalty, the NRC noted that the Licenses issued to the Licensee allow great latitude in the management of the radiation safety program, and that in return for that latitude, the NRC expects an unusually high degree of responsibility by the Licenses to assure that all requirements of the NRC Licenses are met, and to identify and promptly correct potential violations of NRC requirements. The Licensee's repeated failure to maintain sufficient control of radioactive materials raises significant questions regarding the adequacy of its oversight of activities at its facilities, as well as the ability of the Licensee to assure that activities at those facilities are conducted safely and in accordance with Commission requirements.

Furthermore, although the Licensee made commitments, in a letter dated September 10, 1990, to have an audit of the program performed within six months, and to augment its inspection program by having Area Health and Safety Managers perform site reviews, these commitments were not implemented. The continued failure to perform inspections at the required frequencies, as identified during NRC's 1988, 1989, 1990, and 1992 inspections, demonstrates that the Licensee has not adequately discharged its responsibilities to assure that all requirements of the NRC Licenses are met. The failure of the Licensee to perform inspections of the various locations authorized under the Licenses at appropriate intervals has resulted in a lack of oversight of licensed activities and repeated failures to identify and correct other violations of regulatory requirements.

Accordingly, without additional requirements, there is inadequate assurance that licensed activities will be adequately controlled at the Licensee's facilities.

III

During an enforcement conference on January 19, 1993, and in a telephone conversation on March 2, 1993, between Ms. Jean Giles of the Licensee's staff and Mr. Richard Cooper and Ms. Betsy Ullrich of the NRC Region I staff, the Licensee committed to retaining an independent expert to perform an assessment of its radiation safety program. In addition, the Licensee committed to developing and implementing an improvement program based on the findings of the assessment. In view of the concerns set forth in section II of this Order, I have concluded that these additional actions are needed to increase and improve management attention to licensed activities and that the Licensee's commitments, as described in section IV, are necessary to assure that these activities are conducted safely and in accordance with NRC requirements. Specifically, I have determined that the public health and safety require that License Nos. 19–00915–03 and 19–00915–06 be modified to confirm the Licensee's commitment to: (1) Obtain an independent assessment of the Licensee's radiation safety program with particular attention to the management of that program, including an evaluation of which, if any, activities should be suspended until compliance with NRC requirements can be assured and (2) develop and implement in a timely manner an improvement program to correct the deficiencies identified by the assessment. The Licensee consented to the issuance of this Confirmatory Order during the March 2, 1993 telephone call referenced above. Pursuant to 10 CFR 2.202, based on the significance of the violations described above and on the licensee's consent to the Order, I have also determined that the public health and safety require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR parts 30 and 33, it is hereby ordered, effective immediately, that license nos. 19–00915–03 and 19–00915–06 are modified as follows:

A. The Licensee shall retain an expert, independent of the Licensee's staff, to perform an assessment of the Licensee's radiation safety program and provide recommendations for a performance improvement program based on the assessment findings and the specific concerns and violations described in the letter transmitting this Order and the attached Notice of Violation. Within 60 days from the date of this Order, the Licensee shall submit to the Regional Administrator, NRC Region I, for approval, the credentials of one or more experts (Consultant) with experience in the management and implementation of a broad scope radiation program, including activities similar to those authorized under the Licensee's program, to perform an assessment of the Licensee's radiation safety program. The Consultant shall have extensive experience in: (1) Assessing the adequacy of organizational and management structures; (2) planning and implementation of broad scope radiation protection and health physics programs; (3) assessing the adequacy of implementation of these programs; (4) developing recommendations for changes in resources, management, training, assignment of responsibilities and program requirements to ensure resolution of identified deficiencies; and (5) NRC licensing and regulatory requirements.

B. Within 30 days of NRC approval of the consultant selection as described above, the Licensee shall submit to the Regional Administrator, NRC Region I, for approval, an assessment plan. In developing the assessment plan, the Licensee or Consultant shall review the documents submitted to NRC in support of the license renewal applications and consider incorporation within the scope of the assessment any proposed changes in the Licensee's program. The consultant must commit to notify the licensee at any time during the program review if a specific location using radioactive materials does not have sufficient personnel or financial resources to comply with the USDA license. The assessment of the Licensee's radiation safety program shall include, but not be limited to, a review of the following:

1. The adequacy of organizational and management structures. For example, review the assigned responsibilities and authorities within the USDA organization including the relationship of the RSO with management and the respective users in each organizational unit, the relationship between the RSC and the organizational units, and the authority granted to the RSC and RSO. Additionally, review the USDA management methods for assuring that the radiation safety program complies with NRC requirements and that the program is provided the resources needed to implement potential corrective actions.

2. The adequacy of the radiation safety programs at specific locations:

(a) The Licensee's program for training and periodic retraining of individuals working with NRC-licensed materials in NRC regulations, the conditions of the Licenses, the Licensee's procedures, and in safe practices for using licensed material;

(b) The Licensee's program for approving individuals for the use of licensed materials, the adequacy of the RSC's review of specific projects authorized under the Licenses, an the adequacy of the RSC's periodic reviews of approved users; and

(c) The Licensee's program for developing and implementing procedures for the safe use of licensed materials.

3. The adequacy of the Licensee's management, oversight, and inspection functions including:

(a) The Licensee's program for training and qualifying management, users, RSC members, the RSO, and radiation safety staff involved in managing, supervising, inspecting and auditing licensed activities;

(b) The scope, methods, and frequency of the Licensee's program for surveillance and audits performed by the corporate and local radiation safety staff at individual locations to determine compliance by individual users of licensed materials with NRC regulations, the conditions of the Licenses, and the Licensee's own procedures for the safe use of radioactive material. This review should also include the licensee's effectiveness in ensuring broad and lasting corrective action for problems identified;

(c) The radiation safety staffing, both within the radiation safety department and at individual locations throughout the country; and

(d) The adequacy of the record keeping and documentation systems.

The assessment shall include: (1) Reviews performed at the licensee's corporate radiation safety office; (2) on-site reviews of activities and records maintained at sufficient numbers and types of users and geographical areas to represent an adequate sample of the Licensee's program; and (3) interviews and observations of selected authorized users working at the various locations.

C. Within 120 days of NRC approval of the assessment plan, the Consultant shall submit to the Licensee and the Regional Administrator, NRC Region I, the written assessment report; recommendations for a performance improvement program; and recommendation of groups and categories of activities that might be suspended from licensed activities until such time that the Licensee has sufficient financial and personnel

resources and expertise to properly manage these activities.

D. Within 60 days of receipt of the Consultant's report, the Licensee shall submit a performance improvement plan to the Regional Administrator, NRC Region I, either describing the methods of implementing each of the recommendations of the assessment report, or providing justification for not adopting any of the specific recommendations. This plan shall include:

1. Action items completed or to be completed with appropriate priorities assigned;

2. Completion date or date scheduled for completion of each specific action item; and

3. The system for monitoring and tracking the status and completion of the action items.

E. During implementation of the Consultant's assessment, as well as the subsequent performance improvement plan, the Licensee shall provide written quarterly status reports to the NRC Region I office concerning the findings of the assessment, the development of the improvement plan, and the implementation of the plan. Upon completion of all action items, a final report shall be submitted to the Regional Administrator, NRC Region I.

The Regional Administrator, NRC Region I, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

V

Any person, other than the Licensee, adversely affected by this Confirmatory Order, may request a hearing within 20 days of its issuance. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406, and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), 57 FR 20194 (May 12, 1992), any person other than the licensee adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in section IV above shall be final 20 days from the date of this Order without further order of proceedings. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

Dated at Rockville, Maryland this 26th day of March 1993.

For the Nuclear Regulatory Commission.

Hugh L. Thompson,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 93–7662 Filed 4–1–93; 8:45 am]

BILLING CODE 7590–01–M

RESOLUTION TRUST CORPORATION

Coastal Barrier Improvement Act; Property Availability; Forges Field Development, Plymouth County, MA

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Forges Field Development, Plymouth County, Massachusetts, is affected by Section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until July 1, 1993.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Ms. Maureen Redshaw, Resolution Trust Corporation, c/o BEI/Ritz Asset Management, 3000 Hadley Road; Department VF, South Plainfield, NJ 07080, (908) 412–9100; Fax (908) 412–9119.

SUPPLEMENTARY INFORMATION: The Forges Field Development property is located on Mast Road and Route 3, to the south and east, in Plymouth County, Massachusetts. The property has recreational value and is adjacent to the Myles Standish State Forest. The property is covered property within the meaning of Section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101–591 (12 U.S.C. 1441a–3).

Characteristics of the property include: The Forges Field Development property consists of approximately 628.1 acres of undeveloped land. The site is wooded with extensive areas that have been cleared in the past few years. The property contains numerous hills and small isolated wetland areas in the valleys. The land across Long Pond Road, at the southwest corner of the site, is part of the Myles Standish State Forest.

Property size: Approximately 628.1 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before July 1, 1993, by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal Government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by July 1, 1993, to Ms. Maureen Redshaw at the above **ADDRESSES** and in the following form:

Notice of Serious Interest

RE: Forges Field Development

Federal Register Publication Date: July 1, 1993.

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, Public Law 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)).

3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: March 30, 1993.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 93–7728 Filed 4–1–93; 8:45 am]

BILLING CODE 6714–01–M

Coastal Barrier Improvement Act; Property Availability; Oak Summit, San Bernardino County, CA

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Oak Summit, located in San Bernardino County, California, is affected by Section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until July 1, 1993.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. Jack Carney, Resolution Trust Corporation, c/o Oak Tree/Landmark, 79–9999 Old Avenue 52, La Quinta, CA 92253, (619) 564–8105; Fax (619) 564–8126.

SUPPLEMENTARY INFORMATION: The Oak Summit property is located in the foothills of the San Gabriel Mountains approximately 5 miles northeast of the Ontario International Airport, and 3 miles north of the intersection of Etiwanda and Interstate Highway 15. The property contains a wash area, freshwater marsh, and is adjacent to the San Bernardino National Forest. The property is covered property within the meaning of Section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101–591 (12 U.S.C. 1441a–3).This property may be marketed to the broader market during this 90-day notice and subsequent 90-day negotiation period, if applicable.

Characteristics of the property include: The Oak Summit property consists of approximately 761.8 acres of undisturbed raw land located in the foothills of the San Gabriel Mountains. The property contains a wash area and a coastal and valley freshwater marsh. This property is adjacent to the San Bernardino National Forest to the north.

Property size: Approximately 761.8 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before July 1, 1993, by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by July 1, 1993, to Mr. Jack Carney at the above **ADDRESSES** and in the following form:

Notice of Serious Interest

Re: Oak Summit

Federal Register Publication Date: April 2, 1993.

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, P.L. 101–591, Section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)).

3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: March 30, 1993.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 93–7729 Filed 4–1–93; 8:45 am]

BILLING CODE 6714–01–M

SELECTIVE SERVICE SYSTEM

Proposed Health Care Personnel Delivery System (HCPDS)

AGENCY: Selective Service System.

ACTION: Request for comments.

SUMMARY: The Selective Service System seeks public comments on the development of its standby, post-mobilization Health Care Personnel Delivery System (HCPDS).

DATES: Comments from the public should be submitted in writing no later than May 15, 1993.

ADDRESSES: Send comments to Richard S. Flahavan, Associate Director for Operations, Selective Service System, 1023—31st Street NW., Washington, DC 20435, telephone (202) 724–0851.

SUPPLEMENTARY INFORMATION:

1. Authority

Section 10(h) Military Selective Service Act, as amended by section 715, Public Law 100–180, approved December 4, 1987, in pertinent part provides:

> The Selective Service System shall be maintained as an active standby organization with (1) a complete registration and classification structure capable of immediate operation in the event of a national emergency (including a structure for registration and classification of persons qualified for practice or employment in a health care occupation essential to the maintenance of the Armed Forces) * * *.

2. Statutory Responsibility

The HCPDS, if ever implemented, would enable the Selective Service System to fulfill its statutory emergency manpower mobilization responsibility. Maintenance of a viable standby HCPDS for possible use in a future emergency fulfills a statutory peacetime Selective Service System responsibility.

3. Description of Subject Matter

Included herein are: (a) the currently proposed HCPDS concept, revised and expanded from that published at 54 FR 33644–33654, August 15, 1989; and, (b) background material on health care occupational deferments and advisory committees to provide pertinent historical backdrop.

4. Principal Changes From 1989 Concept

a. Registering in Other Than Highest Skill

Subspecialists who are qualified in a basic specialty shown on the list as required to register would be required to register in that basic specialty; for example, those qualified as hand surgeons (a subspecialty) would have to register as orthopedic surgeons (basic specialty). Although not specifically addressed in the 1989 concept, this was not the original intent. The need in the civil sector's local health care delivery system for a particular subspecialist's services could be a basis for an essentiality deferment.

b. State Advisory Committee Review at Local Board's Option

The 1989 concept called for every claim for essentiality deferment to be reviewed by a State Health Care Personnel Advisory Committee. Such review is in the current concept at the option of the local board concerned. Provision has been made for the various State Health Care Personnel Advisory Committees to publish, at their discretion, their assessments of which skills may be said to be essential or not essential to the health care delivery systems in particular geographic areas. Where such determinations cannot be

made for other geographical areas, those areas would simply be omitted from the lists published by the State Health Care Personnel Advisory Committee.

c. Single Occupational Deferment, Class 2–AM, Essentiality

The 1989 concept's Class 2–EM has been deleted and all occupational deferments for health care personnel on the basis of essentialty, whether essentiality to the local health care delivery system or some other basis identified in the future, have been combined under Class 2–AM.

d. Conscription Liability of Dual Registrants

Dual registrants would be age 20–25 men registered both as general registrants and as health care registrants. The 1989 concept provided that: "Once a record is annotated on the RIMS data base, processing as a general registrant ceases and further processing takes place under HCPDS procedures from the HCPDS data base." Under the current concept, a dual registrant would be liable for selection under both systems, and would be processed under the procedures of the system in which selected, if any.

5. Future Changes Possible

The concept remains subject to future change. The Selective Service System has contacted concerned Federal policy-making agencies concerning a Department of Defense recommendation that a registrant enrolled in education and/or training leading to qualification in a health care skill be deferred.

Robert W. Gambino,

Director of Selective Service.

Date signed: March 24, 1993.

Proposed HCPDS Concept

1. Introduction

a. Background

In accordance with 1987 legislation,[1] the Selective Service System (SSS) has developed a standby, post-mobilization Health Care Personnel Delivery System (HCPDS). The HCPDS is ready for immediate operation, if required by a future national emergency, to register and deliver health care personnel to the Department of Defense (DOD) for induction into the armed forces. Conscription under HCPDS will occur only after the Congress and President conclude that military health care personnel levels, including post-mobilization volunteers for military service, might be insufficient to care adequately for any potential casualties. The HCPDS emergency procedures must respond promptly in augmenting military health care capabilities.[2] SSS will maintain HCPDS on-the-shelf, with periodic reviews, tests, and updates, ready for possible emergency implementation. SSS cannot register, classify, select, or issue induction orders to health care personnel unless the Congress provides statutory authority and the President directs such processing.

b. General

A system flow chart showing major HCPDS processing steps is at Annex A. HCPDS was designed to: respond rapidly; be fair, equitable, flexible, simple, and workable; minimize adverse impact on local civilian health care delivery systems while conscripting civilian health care personnel to meet military needs;[3] and, parallel and interface with the SSS Registrant Information and Management System (RIMS).[4] In 1989 a broad concept for HCPDS was coordinated with concerned Federal agencies, briefed to several health care personnel associations and media representatives, and published in the **Federal Register**.[5] The 1989 HCPDS concept met with widespread acceptance, indicative of agreement with the Congressional determination that this standby system was necessary insurance and should be built to enhance military medical readiness. This revised, expanded HCPDS concept contains further details and some differences when compared to the 1989 concept. Further changes could result from any major revisions in DOD's mobilization requirements, significant changes in other Federal agencies' related contingency plans, new technology, needed enhancements identified in peacetime testing, and other factors.

c. Definition of Terms

See Annex B, Definitions, Abbreviations, and Acronyms.

d. Standby Proposed Legislation

SSS has provided the Assistant Secretary of Defense for Force Management and Personnel (OASD–FM&P) with standby proposed legislation. This proposed legislation will be retained on the shelf at DOD for possible use in a contingency. HCPDS has been developed within the framework of that standby proposed legislation and certain related references.[6]

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[1] *1987 Legislation.* Section 715 of Public Law 100–180, National Defense Authorization Act for Fiscal Year 1988/1989, signed by the President on December 4, 1987, which amended Section 10(h) of the Military Selective Service Act (MSSA) [50 U.S.C. App. 460(h)]. The amendment to the law and legislative intent materials are at Annex C. Although the resultant MSSA wording calls for a conscription system for health care personnel capable of immediate operation, Congress intended certain readiness constraints, such as a prohibition on readying forms beyond the prototype stage per the report language at Annex C.

[2] *Current Readiness for Worst-Case Scenario.* For example, the one-step combined examination and induction ADP system was completed in January 1991 and immediately provided a capability estimated to permit SSS first deliveries to DOD for examination and induction by M+42, assuming prompt passage of authorizing legislation. SSS has completed the associated operational non-automated policies and procedures, prototype forms, prototype reports, prototype computer-generated letters, other associated prototype materials. SSS will continue to review plans and procedures to ensure that HCPDS time frames are as short as is reasonable. The time required by SSS to implement HCPDS and begin making first deliveries of health care personnel depends upon the degree of SSS preparation authorized and achieved before M-Day.

[3] *Military and Civilian Health Care System Needs.* Today, in a time of peace, many of the health care skills potentially needed by DOD are in relatively short supply. During any major military conflict the availability of certain specialists, especially those with shock-trauma skills, would become scarcer because some would be called upon to treat military casualties. During such an emergency, a basic national objective would be to utilize carefully the nation's critical health care skills. By providing for a health care occupational essentiality deferment, the HCPDS could meet the armed forces' health care personnel needs while minimizing the impact on local civilian health care systems.

[4] *RIMS.* RIMS is the SSS system for conscripting general registrants to meet DOD needs for untrained manpower to receive subsequent military training and service. RIMS has been evaluated in many mobilization exercises and found to be an effective registrant processing system. Substantial portions of HCPDS were modeled on RIMS. The SSS RIMS Manual contains the policy and procedures to be used in processing general registrants eligible for military or alternative service under the MSSA, as amended. Copies of the current RIMS Manual are available to the public and may be obtained at minimal cost by directing a request to the Manager, Publications and Records Division, National Headquarters, SSS, Washington, DC 20435. SSS would not revise the RIMS Manual to include provisions on HCPDS and the processing of health care registrants until authority to do so was provided by new legislation and implemented by new SSS regulations.

[5] *Federal Register Citation (1989 HCPDS Concept).* 54 FR 33644–33654, August 15, 1989.

[6] *Related References.* HCPDS is consistent with: Executive Order 12656, November 18, 1988, "Assignment of Emergency Preparedness Responsibilities," Sections 1202(1) and (2), et. al., 53 FR 47491, Major Emergency Action HS–HR–03, September 1991, "Defer Workers with Critical Skills from Conscription." This document, published by FEMA, describes action which might be implemented "to ensure that civilian workers with critical skills needed for defense production, government service and other purposes during national security emergencies are not drafted into military service." It provides that: The Department of Commerce, with assistance by DOD and other Federal agencies, will compile the List of Currently Essential Activities; The Department of Labor will use this list and other available data to compile the List of Critical Occupations. At the same time, the Office of Personnel Management will compile information from departments and agencies on

e. DOD Mobilization Requirements

At Annex D are DOD's potential mobilization requirements "for planning purposes only" as provided to SSS in September 1988. These requirements show potential shortfalls of 72,936 health care personnel as well as a DOD worst-case-scenario need for SSS deliveries starting at D+10. DOD plans to refine periodically these estimated mobilization requirements, which are based on various dynamic factors, such as threat assessments, plans for contingency operations, and computer modeling assumptions. Although built-in flexibility permits HCPDS to respond relatively fast to changes in DOD's manpower requirements, DOD officials understand that even with peacetime registration SSS could not make first deliveries until M+13.

f. DOD Recruiting of Volunteers on Mobilization

Upon total mobilization, DOD will recruit health care personnel through at least M+90, the same period in which DOD plans to recruit untrained manpower from among general registrants. SSS will not accept and process health care personnel as volunteers for induction during that period. However, a standby proposed revision to the Military Selective Service Act (MSSA) will provide authority for SSS to establish a program to process volunteers for induction should the need arise.

g. Inclusion of Females

In any health care personnel draft, Congress and the President would decide, at the proper time, whether to include females with males. The HCPDS package on-the-shelf includes females and males without differentiation because all military health care jobs are non-combatant. To be prepared for any contingency, however, HCPDS has been constructed so that it may be quickly adjusted to accommodate—by specialty—males first, males alone, or any gender mix/sequence prescribed by proper authority.

h. SSS HCPDS M-Day Timetable

In a worst-case scenario, SSS plans for actions to be accomplished according to the following timetable, assuming emergency funds were available prior to enactment of authorizing legislation and appropriations:

Action	Estimated Date
SSS Receives Mobilization Notice.	M-Day.
SSS Notifies Support Agencies of MOU Implementation.	M-Day.
Mobilization Orders to SSS Reserve Forces Officers.	M-Day or M+1.
Initiate Forms/Materials Production/Distribution.	M-Day or M+1.
Law:	
Staffed within Government ..	M+3.
Enacted by Congress and Signed by President.	M+10.
Presidential Proclamation/SSS Press Release.	M+10.
SSS Regulations Issued	M+11.
Mass Registration Starts	M+13.
First Registration Forms Received.	M+15.
Start IRS and SSA Data Entry	M+16.
First Tapes Shipped by IRS and SSA.	M+16.
First IRS and SSA Tapes Received at SSS Data Management Center (DMC).	M+17.
First DMC Registration Data Base Cycle (300,000 registrants).	M+18.
Announce Lottery	M+21.
3.4 Million Data Base	M+29.
Complete Induction Program Runs.	M+31.
First SSS Mailgram Induction Orders Issued.	M+32.
First Health Care Registrants Report to MEPS.	M+42.

i. *Shift from Emergency to Steady-State Conscription Procedures*

As soon as possible after any emergency "one-step" (combined examination and induction) HCPDS operations, SSS would shift to a steady-state system for conscripting health care registrants. The shift would be to a two-step examination and induction method by which health care registrants would be (1) ordered for examination and, if found qualified, (2) subsequently ordered for induction. During the initial days of a mobilization the Nation could not afford the time required to examine registrants before forwarding them for induction. The emergency procedures necessary to provide general registrant inductees as quickly as possible, with little or no advance leadtime to SSS, call for DOD to examine and immediately induct qualified registrants. This one-step (combined examination and induction) method would create uncertainty in the minds of registrants and less than optimum SSS flexibility to schedule registrants to report to MEPS. Under the one-step, emergency method, registrants would not know when they reported for induction whether they would be found qualified and immediately inducted or disqualified and sent home. SSS capability to estimate the number of registrants reporting to MEPS would be adversely impacted because of uncertainty as to the number who would file claims for deferment or exemption. Although the one-step method is suitable for use during the early stages of an emergency, it is not intended for long term, steady-state operation. The two-step method provides for more orderly scheduling and flow of registrants to the Military Entrance Processing Stations (MEPS). It eliminates many of the show-rate uncertainties inherent in the emergency procedures and provides greater registrant convenience and less uncertainty. Inductions could begin under the two-step method if sufficient advance warning, authority, and funds were given to SSS.

j. Future Enhancements

Additional HCPDS follow-on enhancements are being established using as many existing SSS general registrant procedures as practicable. Although these additional enhancements will not permit SSS to make deliveries to DOD sooner than M+42, they will make the overall conscription system for health care registrants more equitable. They include:

—A two-step examination and induction capability.
—An alternative service work assignment capability to assign appropriate jobs for health care registrants found to be conscientious objectors opposed to all military service.
—A health care registration compliance system to identify, for further Government action, those persons who may have been required to register but who appear to have not done so.
—Procedures for the examination and induction of overseas health care registrants.

2. Coordination

a. General

In 1989, before publication in the Federal Register, SSS coordinated a broad HCPDS concept with various officials, both in and out of Government. After receipt of public comments in response to subsequent publication in the Federal Register, SSS built an

essential Federal Government personnel that should be deferred; All data will be provided to the National Security Council, which will make recommendations to the Director, SSS. The Director will weigh these recommendations along with other considerations such as the manpower requirements of the armed forces and decide which occupations will be considered for deferment.

Part 325, "Emergency Health and Medical Occupations," 44 CFR Ch. 1.

Part 334, "Graduated Mobilization Response," 44 CFR Ch. 1.

Federal Personnel Manual Part M-303, "Deferment from Military Service," maintained by the Office of Personnel Management as a standby issuance for implementation in certain national security emergencies.

automated system to support emergency, one-step combined examination and induction conscription operations.

b. Coordination with DOD

SSS coordination with DOD is continuous, and is now focused on DOD's planning guidance to the military services on the examination, credentialing, and induction of health care registrants ordered to Military Entrance Processing Stations (MEPS) by SSS.

c. Coordination with Other Government Agencies

Coordination with other government agencies has been accomplished in accordance with their related mobilization authorities, responsibilities, and plans. Interagency factors have been and will continue to be identified and addressed as required to make HCPDS an integral part of overall national emergency policies, plans, and standby systems. Agencies with roles which relate to HCPDS in some way include:

(1) *Policy Planning Agencies.* Office of Management and Budget (OMB)[7], Department of Health and Human Services (HHS), Federal Emergency Management Agency (FEMA), Department of Labor (DOL), Office of Personnel Management (OPM), Veterans Administration (VA).

(2) *Support Agencies.* U.S. Postal Service (USPS), Department of State (DOS), Internal Revenue Service (IRS), Social Security Administration (SSA), Government Printing Office (GPO), Department of Justice (DOJ), other agencies as required.

d. Review Outside Government

Following the coordination of this revised and expanded concept within the Government, the concept was discussed with interested health care associations. After their input, SSS is publishing this concept in the Federal Register to ensure widespread notice and opportunity for public comment.

3. Organizational Structure

The following advisory committees will augment the SSS organizational structure to provide advice to the Director and the local and appeal boards.

[7] *Future OMB Coordination.* At the appropriate time, OMB would be involved in the coordination of the proposed health care personnel legislative package with other interested agencies throughout the Federal Government.

a. National Health Care Personnel Advisory Committee

(1) *General.* An SSS uncompensated National Health Care Personnel Advisory Committee would be established by SSS regulation, immediately upon mobilization, to advise the Director of Selective Service on the administration of existing or proposed MSSA provisions concerning the registration, classification, and selection for induction of health care personnel. This National Advisory Committee will meet the standards prescribed by the Federal Advisory Committee Act (FACA), Pub. L. 92–463, which require that an advisory committee have: clearly defined functions; balanced membership; safeguards to ensure that it will not be inappropriately influenced by the appointing authority or special interest groups; provisions for the submission of reports; and, staffing, equipment, and funding adequate to accomplish its mission.

(2) *Functions and Membership.* The committee's functions and membership are envisioned as set forth in the proposed charter at annex F. The committee membership will be proportionally representative of the race, sex and national origin of health care registrants. Committee members shall not be members of the uniformed services (active, reserve, or retired). No age limit would apply. Tenure would be limited to ten years. At least one physician (M.D. or D.O.), one dentist, one registered nurse, one allied health specialist, two health care technicians/specialists and one member representing the general public shall be appointed to the committee.

(3) *Chairperson.* The Director of Selective Service would designate one member to serve as Chairperson. It is anticipated that a senior physician with demonstrated experience in public health matters would be the person so designated.

(4) *Independence.* Although national health care associations have established the health care and educational standards in common usage throughout the country and in the DoD, and members of the National Advisory Committee would be familiar with the positions taken by these associations, the members would be expected to provide independent advice to SSS on matters affecting all health care personnel.

(5) *Appointment.* All appointment procedures described below for State Health Care Advisory committee members would also apply to members of the National Advisory Committee, except that nomination procedures would be as established by the SSS Director and appointment authority remains with the SSS Director.

(6) *Administrative Support.* A SSS staff member designated by the SSS Director would serve as non-voting secretary to the National Advisory Committee. This secretary would arrange travel and meeting schedules, prepare written records of meetings, handle day-to-day coordination of the Committee's business, and provide other administrative support. A written summary record of the activities of each meeting approved by the chairperson would be forwarded by this secretary to the Director, SSS, or his designee, following each meeting.

(7) *Meetings.* After members were selected, oriented to the SSS and the general principles incorporated in the FACA, the National Advisory Committee would be expected to meet in Washington, D.C., on an as-needed basis, at the call of the Chairperson. This arrangement would not preclude the Committee from conducting telephonic conferences.

(8) *Possible Peacetime Establishment.* Although extensive preparations exist as a part of SSS current readiness to conscript general registrants,[8] no SSS national health care advisory committee has operated for almost two decades. In 1988 an Executive Order directed that agency plans for operations during national emergencies be coordinated with the private sector.[9] Although HCPDS will continue to be reviewed with interested health care organizations, future consideration may be given to the peacetime establishment of a National Health Care Personnel Advisory Committee in order to bring HCPDS mobilization readiness closer to that which exists for conscripting general registrants, if authorized by new legislation.

b. State Health Care Advisory Committees

(1) *General.* Use of uncompensated State health care advisory committees to advise local and appeal boards on the civilian community's health care needs and available resources, in connection

[8] *Current SSS Uncompensated Personnel.* For example, nationwide the SSS currently is authorized to appoint just over 11,000 uncompensated members of local boards, appeal boards, and civilian review boards. Approximately 10,300 uncompensated members have been appointed and trained so that they would be ready to classify persons for possible military service, etc., when necessary.

[9] *Citation to Executive Order.* Executive Order 12656, "Assignment of Emergency Preparedness Responsibilities," November 18, 1988, section 201(8), at page 4.

with registrant claims for Class 2–AM deferments, constitutes an important HCPDS feature. The State advisory committees would help attain the best utilization of critically-skilled, and likely scarce, human resources. Their establishment, before or immediately upon mobilization, would be a key factor in ensuring an effective HCPDS program. Statutory exception is being developed to provide relief from all aspects of the FACA which would apply to SSS one-step emergency conscription operations.

(2) *Authority for Establishment.* Section 10(b)(3) of the MSSA authorizes the creation of such committees.

(3) *Functions.* The principal function of State Health Care Advisory Committees would be to provide periodic guidance and expert advice to local boards, under existing guidelines and community circumstances, on the availability of certain specialties and subspecialties in particular geographic areas. In addition, the advisory committee would provide advice on individual cases when such advice is requested by the local board. In performing these functions, the members could consult with a variety of health care organizations and personnel. However, State health care advisory committees would be expected to exercise independent judgment in making recommendations to local and appeal boards. State advisory committees would have to ensure that any periodically-published recommendations to the local boards were kept up-to-date. The committee recommendations would be solely advisory.

(4) *Membership.* State Advisory Committees would consist of at least seven persons, but not more than eleven, excluding non-voting support personnel. Members would be appointed from among State residents who were outstanding in medicine, nursing, dentistry, and the other health care sciences and specialties identified as needed by DoD, except for a member of the public selected to represent the general interests of the community. Members, as a minimum, would include a physician (M.D. or D.O.), a dentist, a nurse, two other technicians/specialists (one of which would be familiar with State educational and licensing requirements for health care specialists), and a member representing the general public.[10] The committee membership will be proportionally representative of the race, sex and national origin of health care registrants in the State. Members will not be members of the uniformed services (active, reserve, or retired). There would be no age limit and tenure would be limited to ten years. Where warranted by workload, a State advisory committee could ask the State Director to establish State advisory committee panels for particular subordinate geographical areas. Where satellite panels were established, a panel chairperson would be designated by the State Director and the chairperson of the originally-constituted State advisory committee would continue to be recognized as the chairperson of the overall State advisory committee. The membership of panels would be constituted on the same basis as above.

(5) *Appointment.* The Advisory Committee members would be recommended by the State Director of Selective Service to the SSS Director through the Region Director. However, in an emergency the Director could authorize appointments to be made solely by State Directors. The State Director would designate one of the members to serve as chairperson of the committee.[11] Before acting in an official capacity members would be required to execute the standard SSS oath of office and waiver of pay used in appointing uncompensated local board members. Members may be reimbursed for actual expenses incurred in attending official meetings of committees to which they have been appointed. They could not accept remuneration from any other source for services rendered in connection with SSS matters.

(6) *Administrative Support.* The necessary committee administrative support would be provided by SSS through the concerned State Director.

(7) *Meetings.* Meetings of State Advisory Committees would be on an ad hoc basis, as authorized by the State Director. Records of meetings would be maintained by the office of the State Director.

4. Registration

a. Who

Civilian health care personnel will be required to register as directed in a Presidential Proclamation authorized by new legislation. Active duty military personnel and lawfully admitted nonimmigrant aliens are exempt from registration as provided by the MSSA. Initially, only individuals who are professionally qualified, or who later become so qualified, and who are age 20 through 44 inclusive, would be required to register. The proposed revision to the MSSA calls for liability for registration and service to age 55 to provide a margin of additional registrants, if needed. However, the proposed standby Presidential Proclamation calls for registration initially of only those ages 20 through 44, because DOD's potential worst-case mobilization requirements for the vast majority of specialties would be met by those within this age group.

(1) *Dual Registrants.* Males ages 20 through 25 inclusive, although already registered as general registrants, would be required to register again as health care personnel and would become dual registrants with both a general registrant record and a health care registrant record. The number of dual registrants would be extremely small; SSS estimates that the total number of age 20 male general registrants required to register under HCPDS would be less than 14,000.[12] (Age 20 is the prime year of vulnerability for the general registrant.) During automated registration record processing, HCPDS registration records will be compared to the records in the general registrant data base. Whenever a "match" results, both records will be flagged to indicate inclusion of the registrant on both data bases. Additional processing of the general registrant record would not stop. This is a change from the 1989 concept and explained further in section 5h

[10] *Federal Advisory Committee Act (FACA) Requirements.* According to Comptroller General decision B–202455, April 20, 1981, (60 Comp. Gen. 386) on compliance with the FACA "All interests need not be represented or represented equally to meet FACA and Federal Energy Administration Act balance of membership requirements. Required standard must be judged on case-by-case determination depending on statute or charter creating committee."

[11] *Typical Procedure Formerly Used to Designate Chairpersons.* During the 1950–73 "Doctors Draft," the chairpersons of State medical advisory committees were physicians who were State health commissioners, or equivalent, or the heads of the American Medical Association organizations in the States. If neither of these individuals was able to serve as chairperson, they generally were asked to nominate a suitable senior physician to serve as the chairperson.

[12] *Extremely Few Health Care Registrants Would Be Dual Registrants.* SSS estimates that few health care registrants would be in the general registrant first priority selection group and also vulnerable to selection for induction as general registrants (those reaching age 20 in the year in which RIMS inductions started). The actual number of health care registrants initially subject to induction early on as general registrants likely would be less than 13,300 shown here as the overwhelming majority (over 99%) of health care registrants would not be dual registrants because they would be either (1) male health care registrants not subject to induction as general registrants because of their age, or, (2) female health care registrants not required to register as general registrants. The estimated number of dual registrants was calculated by SSS as follows:*

under the induction selection procedures.

(2) *Specialty in Which Required to Register.* A registrant will be registered in no more than one health care specialty at a time, the specialty needed by DOD with the highest education and/or experience requirements (see the prototype instructions at Annex G).

(3) *Physician Graduate Medical Education (GME).* Under current DOD requirements and HCPDS plans, physicians enrolled in GME in order to complete specialty training would not be required to register, unless already qualified in another specialty required to register.[13] If already qualified in another specialty required to register, the registrant attending GME/training would register in the specialty in which already qualified.

(4) *Other Specialty Qualifying Education and Training.* Similarly for the non-physician specialties, only those individuals who had fully completed the required specialty-qualifying education/training would be required to register.

Occupation	Total male employment	Percent age 20–24	Dual registrant No.
Registered nurses	81,000	4.4	3,564
Dietitians	5,000	7.4	2,095
Inhalation techs	26,000	10.5	2,940
Occupational therapists	3,000	16.7	501
Physical therapists	15,000	13.3	1,995
Physicians assistants	30,000	10.8	3,240
Clinical lab techs	65,000	12.3	7,995
Health record techs	4,000	11.2	448
Radiologic techs	37,000	11.5	4,255
Licensed practical nurses	10,000	8.7	870
Health techs. n.e.c	60,000	17.5	10,500
Dental assistants	2,000	5.2	104
Nursing aides, orderlies, & attendants	126,000	24.4	30,744
Podiatrists	8,000	.....	128
Veterinarians	30,000	.....	180
SSS Estimate**	.....	.....	10,441
Total	.....	.....	80,000

Only about 80,000 (per above SSS extrapolation from BLS data) of the 3,400,000 individuals to be registered under HCPDS would be dual registrants. Thus only about 2.3% of the health care registrants could be dual registrants. 80,000 divided by 6 (the 6 ages: 20, 21, 22, 23, 24, 25) equals approximately 13,300 per age group if they were spread evenly by age. However, qualified health care personnel would tend to be concentrated more towards age 25 than age 20. Those originally concentrated in the higher ages would, over time, age out of the range of vulnerability as general registrants. Thus, many of the original 80,000 dual registrants would only be dual registrants for the period before they aged out of liability as a general registrants. The general registrant first priority selection group would include 19-year-olds not eligible to register under HCPDS.

*Basic estimate data was obtained from the BLS statistics—1986 figures—using only Age 20–24 data as estimates for age 25 were unavailable in the specialties concerned. BLS figures on "Health-diagnosing" were excluded.

**SSS estimate of numbers to age 26.

[13] *Fully-Qualified Personnel Required by DOD in Emergency.* Unless DOD mobilization requirements were revised to include general duty medical officers, only individuals who had completed GME specialty training in a DOD-needed specialty would be required to register. If a draft of health care personnel ever were to be required in a major conflict, the emergency situation would require that DOD's initial requirements be met only with fully-qualified personnel and not by individuals with only partially-completed specialty training. Existing DOD health care personnel assets, military and civilian, would be fully committed to treating casualties and could not be devoted to the further training of only partially-trained, newly-assigned personnel.

b. Where

The same registration sites at which young men now register as general registrants will be used to register health care personnel. These sites are U.S. Postal Service (USPS) classified sites within the United States, possessions, and territories, and Department of State (DOS) posts overseas. To provide maximum service, health care personnel also could register at any SSS office. Additional registration sites might be used if a need is established in a given mobilization scenario. For example, special registrars might visit facilities with large concentrations of needed health care personnel to facilitate mass registration.

c. How

In an emergency, registration of health care personnel would be conducted in two major phases, an initial mass registration, followed by an indefinite period of continuous registration. HCPDS registration procedures parallel those currently used for general registrants except that a health care specialty code is also entered on the registration form by the health care registrant.

(1) *Initial Mass Registration.* Persons qualified as health care specialists, on or after the base date established, would be required to register in a mass registration if of registration age. The base date would be a date about six months before the first day of the mass registration. Both the base date and dates for mass registration would be established in the registration proclamation. Mass registration would last no more than seven days, including weekends, in order to accomplish the anticipated 3.4 million registrations in the worst case.

(2) Continuous Registration. During continuous registration, which would commence two weeks after the end of the initial mass registration, persons would be required to register within 15 days of the dates on which they become liable to register. In the case of immigrant aliens entering the country, this would be not later than 15 days after such entry if otherwise required to register. Those ages 20–44 who become newly qualified in a listed health care specialty would be required to register within 15 days of such qualification. Those already qualified in a listed specialty when reaching age 20 would be required to register within 15 days after reaching age 20. Those required to register at any time previously, but who failed to do so, would be under continuing obligation to register during continuous registration as long as they remained of registration age.

(3) *Special Supplemental Mass Registration(s).* Special supplemental mass registration(s) of additional health care personnel would be conducted only if required by the developing situation to cover additional needed health care specialties and/or age groups. Another proclamation or appropriate legal document would be published directing them.

d. Registration Site Material Production and Distribution

Upon implementation of HCPDS, the following materials would be printed and delivered to each registration site in the United States: registration posters and forms; instruction sheets for persons completing registration forms; Information for Health Care Registrants booklets; claim forms; registration site personnel instructions and control forms for mailing completed registration forms. Camera ready prototypes of each item will be prepared in enough copies for printing at designated locations. Standby contingency arrangements will be made in advance for rapid action on M-Day, or earlier, should the authority to print be received prior to M-Day. These arrangements will direct that specific quantities of the items be delivered directly to registration sites.[14]

e. Collection of Completed Registration Forms

(1) *U.S. Postal Service (USPS) Sites.* During mass registration, each USPS registration site would forward completed health care personnel registration forms on a daily basis to a

[14] *Distribution of Registration Site Materials.* An SSS automated mailing label system has been designed by SSS to facilitate rapid forms and materials distribution by printing contractors, first directly to USPS and DOS registration sites in predetermined size packs. The mailing labels reflect each item and the quantity of each item to be sent by the vendor to each registration site. Where appropriate, label sequences will be arranged so that, where daily mailings are required, the initial shipments will be to those registration sites having the greatest estimated in-transit mailing time from the contractor's plant. The mailing label system is flexible and, if required, can accommodate multiple vendors producing and distributing multiple items. Vendors unable to produce labels upon receipt of electronically-transmitted data or magnetic tape will be provided pre-printed labels by SSS. Materials for each DOS post will be sent via air mail to ensure the most reasonable delivery time. After vendors have shipped materials directly to the using sites, bulk replacement supply stocks will be shipped. Where necessary, replacement USPS stocks will be shipped to USPS Management Sectional Centers until adequate stocks are shipped to the two USPS Supply Centers. DOS replacement stocks will be positioned at SSS National Headquarters.

predesignated Internal Revenue Service (IRS) or Social Security Administration (SSA) facility for data entry. During continuous registration, USPS registration sites would send completed health care registration forms to SSS together with registration forms completed by general registrants on the regular cycle.

(2) *Department of State (DOS) Sites.* DOS posts would return completed health care personnel registration forms to the single designated SSS facility on a weekly basis using Air Mail or Air Pouch.

(3) *Control of Completed Registration Forms.* Each time a registration site forwards completed registration forms a completed control-report form also will be sent, enclosed with completed forms.

f. Processing of Registration Information

SSS requires outside support for the rapid processing of mass registration data to expedite the emergency conscription of health care personnel. A memorandum of understanding (MOU) with SSS has been signed by the IRS and the SSA providing for these agencies to support SSS in processing mass registration data in a national emergency.[15]

[15] *IRS and SSA MOU's.* IRS and SSA each have agreed to provide, on the basis of reimbursement for actual expenses, HCPDS administrative, data entry, and microfilm support for one-half of the total mass registration workload, or 1,750,000 registration forms, processed at the rate of 150,000 per day by each agency. The registration forms would be extracted, batched, serially numbered, microfilmed, keyed, and key verified by IRS and SSA, and keyed data transferred daily to SSS. Key entry of the data and transfer to SSS would total approximately 300,000 registrations per day starting 3 days after mass registration began. Microfilm services would include daily processing, quality checking, duplication, and shipping of microfilm to SSS.

g. Registration Notices to Registrants

Registration record error correction and/or data base editing would be accomplished as rapidly as possible by SSS, primarily using computer-generated letters to registrants. Computer-generated registration acknowledgments, a prototype of which is at Annex H, would be mailed as quickly as possible to new health care registrants in the same manner as for general registrants.

5. Selection and Induction

The following emergency HCPDS selection and induction procedures parallel, where practicable, the current emergency one-step combined examination and induction procedures covering general registrants.

a. PSG–M Assignment

The first step in the HCPDS induction process is the assignment of a Random Sequence Number (RSN) and Priority Selection Group—Medical (PSG–M) to each registrant record. Health care personnel registering in the initial mass registration will have their registration records established in the HCPDS data base as a group on the same date and will be assigned RSN's from a SSS lottery held upon mobilization. All registrants from the initial mass registration will be assigned to the First Priority Selection Group—Medical (PSG–M) for 365 consecutive days, which period constitutes their year of prime vulnerability. The clock will start on the same day for all initial mass registrants. The first priority group will also include other health care personnel, either late mass registrations or continuous registrants who register later, using their accession date as a start date. Each of these registrants will remain in the first priority for a 365 day period, starting with the establishment of a valid registration record in the data base. An RSN from a lottery table will be assigned to each new record.

Figure 1 shows three registrants: the first registered at the completion of the initial mass registration in month 1 (e.g. April); the second and third registered later when they became qualified as health care personnel, one in month 4 (August), and the other during month 8 (December). From months 8 through 12 (December through March) all are in the First PSG–M together. If none of the three are reached for induction, Registrant No. 1 moves to the second priority group in month 13 (i.e. the next April), Registrant No. 2 moves to second priority the next August, and registrant No. 3 the next December.

BILLING CODE 8015–01–P

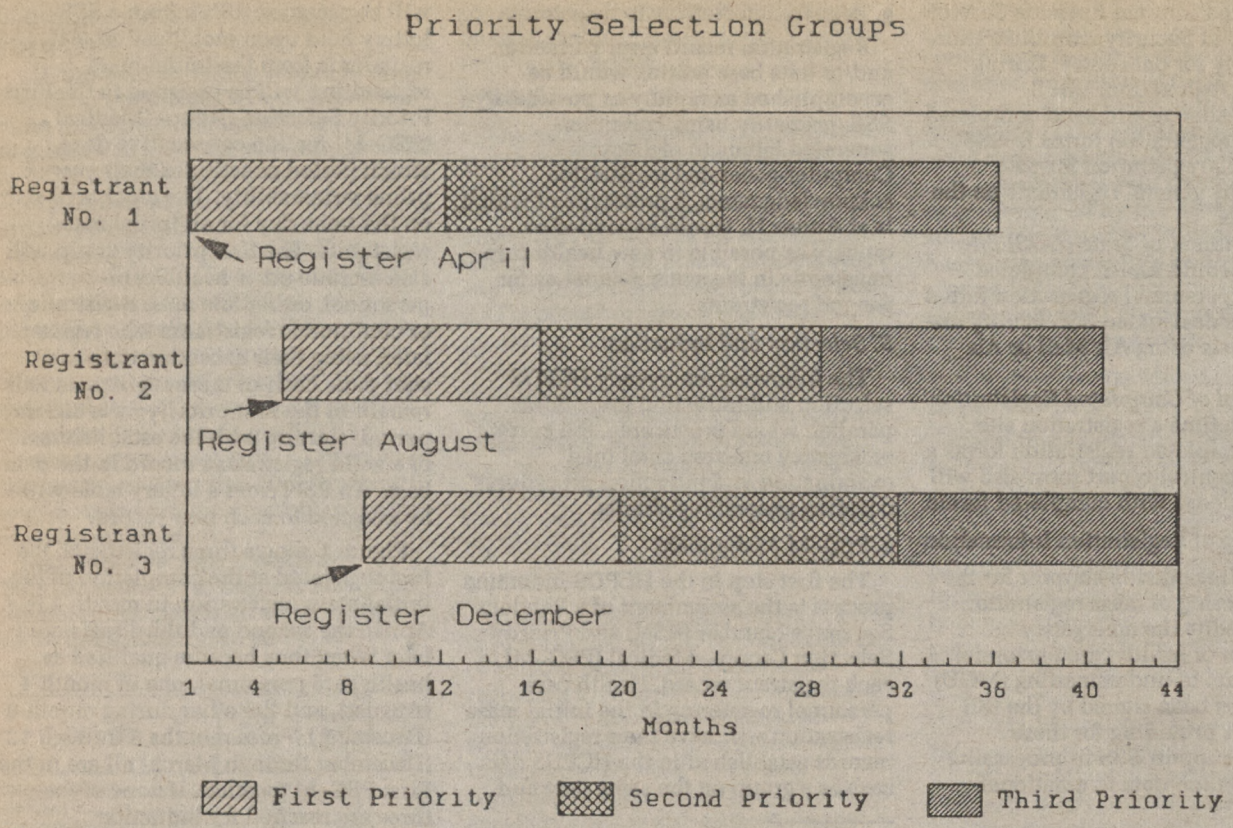


Figure 1

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b. Selection

Selection of health care registrants for induction within their specialty is based upon: (1) Priority Selection Group—Medical; (2) Year of Birth (YOB), within the PSG–M,[16] from youngest to oldest; (3) Random Sequence Number within each individual YOB group. If registrants are depleted in the First Priority Selection Group, selection continues from the second and then progressively lower priority selection groups.

c. Overcall

In order to ensure that DOD requirements are met, enough registrants must be ordered for induction to cover losses anticipated due to postponement, deferment and exemption requests, failures to report, and disqualifications by DOD.

(1) *DOD Rejection Rates.* Under the former "doctors' draft," registrants practicing their professions in the private sector were considered able to do the same in a military health care environment notwithstanding physical conditions which would cause rejection as a general registrant. If similar standards are applied under an HCPDS scenario, the DOD rejection rate for health care personnel for physical reasons should be significantly lower than that estimated for general registrants.

(2) *Other Fall-Out Rates.* It is likely that the overcall rate will vary depending upon the specialty called and the demographics of the population being ordered. Registrants in the technician level specialties will have different postponement, deferment, and exemption rates than will physicians. Populations which are principally female, such as nurses or dental technicians, may include many mothers who could request hardship deferments. Estimates of the expected fall-out rate will be made using the best historical and demographic data available. These losses will then be converted to an overcall factor and this factor applied to each specialty required by DOD in order to determine the PSG, YOB, and RSN cut-off number used to select the registrants to be called for induction.

d. Sequence of Processing

The sequence of SSS actions for selection and induction follows:

(1) Receive specific requisition from DOD.

(2) Calculate the number of registrants to be ordered for induction by specialty to meet the DOD requirement and set PSG–M/YOB/RSN cut-off for each specialty.

(3) Select and order registrants for induction by specialty according to the order of call shown below.

(4) Process registrant claims for postponement, deferment, and/or exemption.

e. Order of Call

Registrants will be selected for induction in the following sequence:

(1) Registrants whose claims have been denied, registrants whose "reexamination believed justified" dates have expired, and registrants who have been classified 1–A-OM (Conscientious Objector available for noncombatant military service).

(2) Registrants whose postponements have expired in the order of the date of expiration of the postponement. If necessary, the RSN shall be used as a tie breaker for registrants in a postponement expired status.

(3) Registrants whose deferments have expired or who no longer qualify for exemption in RSN sequence. Selection will begin with registrants from the youngest YOB group, then by RSN.

(4) Registrants in the First Priority Selection Group—Medical. Selection will begin with registrants from the youngest YOB group, then by RSN.

(5) Registrants in the Second and progressively lower Priority Selection Groups—Medical in the same manner as above.

f. Induction

(1) Assignment to Local Board and Area Office. Assignment to a local board and area office will be made at the time the registrant is initially selected for induction based on the registrant's permanent address. The ZIP Code Assignment File will be used to determine the local board/area office covering the registrant's permanent address ZIP Code.

(2) Scheduling to MEPS and Issuance of Induction Order. Registrants will be scheduled to a MEPS on the basis of their permanent address ZIP Code in accord with the ZIP Code Assignment File. An alternate MEPS, as specified in the file, will be used to adjust for overfill/underfill at the individual MEPS. The first induction notice will be mailed to the current mailing address. Registrants will be ordered by mailgram to report to the MEPS on a date not earlier than 10 days from the date of mailing of the order. The orders will specify the documentation required to determine professional qualifications and thus each will be tailored to the specialty called. Registrants initially ordered for induction will be issued an "Order to Report for Induction." Previously ordered registrants will be issued either an "Order to Report for Induction" or a "Notice of Rescheduled Induction Reporting Date" depending on their current status. Registrants residing overseas will be issued orders by mail and will be scheduled to report to an overseas military location.

(3) MEPS Processing. When an ordered registrant appears at the MEPS, the registrant is examined to determine physical, moral, and professional/technical qualifications. The results of this processing are entered into the MEPS reporting system and transmitted to SSS via MEPCOM.

g. Information for Health Care Registrants

A publication similar to the current Information for Registrants booklet for general registrants would be made available to the public at post offices and all SSS offices providing additional information on induction and claims processing for health care registrants.

h. Dual Registrants

(1) General. A dual registrant would be concurrently liable for selection for induction under the health care registrant system and under the general registrant system, but if selected for induction under one system would have his processing for selection under the other system suspended pending the outcome of the first selection.[17] That is, while a dual registrant would be liable under both systems at the same time, he could be selected and processed for induction only under one system at a time. Liability to conscription under the general registrant and health care

[16] *Year of Birth (YOB) as Selection Factor.* YOB was included as the second factor on which health care registrant records would be sorted in the selection procedure in order to ensure that a youngest first order of induction is maintained. A youngest YOB first selection order, which has been established in SSS regulations for general registrants, has several benefits. Younger registrants generally will be less critical to the continued maintenance of an adequate level of health care services in their communities. They also will have had less time to establish practices, resulting in fewer claims for essentiality deferments and fewer requests for postponements to settle business affairs. Reduced claim rates would speed deliveries to DOD. With certain exceptions, by and large there should be only minimal increase in financial hardship claims compared to general registrants because health care registrants would enter military service as commissioned officers, as warrant officers, or in advanced enlisted grades, as determined by DOD. This expected lower claims rate might be offset, however, by an increased claim rate if health care registrants on average tended to have more young children than general registrants and more frequently requested deferment based on hardship to dependents.

[17] Inactivation of Both Health Care and General Registrant Record. Except where examination by MEPS revealed a condition disqualifying for induction as both a health care registrant and as a general registrant both SSS registration records would be deactivated and annotated accordingly.

registrant conscription systems does not overlap; no rights or vulnerability within one system would extend to a dual registrant in the other system.

(2) Selection as a Health Care Registrant. If a dual registrant selected for induction as a health care registrant were to be found not professionally qualified in any health care specialty required to register, his health care registrant record would be inactivated and his general registrant record processing reactivated. A dual registrant ordered to MEPS for induction as a health care registrant cannot be inducted by MEPS as a general registrant while under SSS induction orders as a health care registrant. If found not qualified in the specialty for which ordered, but qualified in another specialty the registrant may volunteer for any specialty in which qualified, if DOD has a need for that specialty.

(3) Selection as a General Registrant. If selected and reporting for induction as a general registrant, the dual registrant could only be inducted under any acceptability standards applicable to general registrants. If found not qualified as a general registrant the dual registrant will be classified 4–F as a general registrant, and his health care registrant record reactivated. Any different acceptability standards applicable to health care registrants could be applied only if a dual registrant volunteered to enter the military service in a health care role at the time he reported for induction as a general registrant.

6. Classification, Claims, and Appeals

a. General

Classification is the exercise of the authority to determine claims or questions on inclusion or exemption of registrants from training and service under the MSSA. The classification, claims, and appeals process is crucial to ensuring the protection of all registrants' rights. The basic classification structure established in RIMS for general registrants would also be used for health care registrant processing and the associated procedures for processing general registrant claims and appeals as contained in the RIMS Manual generally also apply to health care registrants' claims and appeals.

b. Classification Structure

The various classification bodies and the authority of each are as follows:

(1) Upon activation of HCPDS, the Director of Selective Service assigns classification 1–HM (not currently subject to induction processing) to all health care registrants. Upon receipt of a requisition for health care personnel from the Secretary of Defense, all health care registrants selected for induction are assigned to Class 1–AM (available for unrestricted military service). Further, the Director will classify a health care registrant into an appropriate class when the Secretary of Defense has certified the registrant to be a member of the armed forces, active or reserve, or the registrant has been found disqualified for service.

(2) The Director will authorize area offices to classify health care registrants who have been ordered to report for induction into any administrative classification for which they have filed a claim and documented their eligibility. Area office personnel will initially decide all administrative claims submitted by registrants. Claims denied by area office personnel are subject to local board review, when requested by the registrant.

(3) A local board may classify a health care registrant into any judgmental class that the registrant has requested and for which the registrant is eligible. Claims denied by a local board are subject to appeal when requested by the registrant.[18]

(4) A District Appeal Board may classify a health care registrant into any class that the registrant requested and for which the registrant is eligible when a local board denial of a claim is appealed.

(5) The National Appeal Board may classify a health care registrant into any class that the registrant requested and for which the registrant is eligible when a District Appeal Board denial of a claim is appealed to the President (National Appeal Board). Appeals to the National Appeal Board cannot be made when the District Appeal Board denial decision was unanimous.

c. Classifications, Deferments and Exemptions

(1) Classification Categories. To expedite the classification process and reduce the volume of claims to be decided by the local board, the classification categories have been divided into two groups: administrative and judgmental. Administrative classification claims are established on the basis of specific official documents required for each classification. Judgmental claims for reclassification are those requiring a local board to determine whether the evidence submitted meets the criteria established for the requested classification. Administrative and judgmental classifications are identified in annex E. Health care registrant classifications will contain an "M" suffix for prompt identification and for statistical purposes.

(2) Registrant's Responsibility When Making a Claim. Upon issuance of an Order to Report for Induction, a registrant may file a written claim for postponement of induction and/or reclassification with any SSS area office. The registrant's induction date is automatically delayed by the submission of a claim, pending resolution of the claim. Within the time period designated on the induction order, a registrant must file all classification claims concurrently. Registrants filing claims must document their eligibility to the satisfaction of the area office or the local board. Where appropriate for the type of claim filed, a registrant may submit a statement, and statements of other persons, to prove the factual basis of the claim, in addition to any specific form(s) or other type of documentation required for the classification requested. It is the responsibility of the registrant to request, in writing, a personal appearance before the local and appeal board to discuss a judgmental claim if such personal appearance is desired. Claimants considered for Class 1–OM or 1–A–OM are required to appear before the local board. Travel expenses incurred by the registrant to appear before a board are not paid or reimbursed by the Government, except for the SSS-required personal appearance by a claimant for conscientious objector deferment who is required to travel 200 miles or more. Registrants who do not file claims or whose claims are denied are required to report for induction as ordered.

d. Postponement of Induction

(1) General. Postponement does not cancel an induction order, but results in a rescheduled induction reporting date. Health care registrants will be eligible for all of the same postponements as general registrants and for the same reasons as prescribed for general registrants, plus provisions for three additional postponements for health care registrants only. Postponements shall be granted to a specific date but will be terminated at any time prior to the established expiration date if the reason for which granted ceases to exist. At the expiration or termination of a

[18] *Others Authorized to Appeal to District Appeal Board.* As noted in the SSS RIMS Manual, "The Director of Selective Service, or the State Director for Local Boards within his State, may appeal to a District Appeal Board any classification action of a Local Board whenever he deems it necessary to assure fair and equitable administration of Selective Service law." (Paragraph 3a, Section D, Chapter 4.)

postponement, the registrant will be rescheduled for induction.

(2) Available to All Registrants. Postponements available to both regular and health care registrants who qualify are:

—A family emergency beyond the registrant's control.
—A registrant's illness or injury.
—The registrant is scheduled to take a state or national examination to be eligible to practice his profession or occupation.
—The registrant has been accepted at a military service academy or for one of the specified Reserve Officer Training Corps programs.
—The registrant is scheduled to be inducted on a religious holiday observed historically by a church, religious sect, or organization of which the registrant is a member.
—The registrant is, at the time ordered for induction, enrolled as a student, attending and making satisfactory progress in a full-time course of instruction at a high school,[19] college, university or similar institute of learning.

(3) Available Only to Health Care Registrants. In addition to those postponements available to general registrants, the following postponements also are available to health care registrants who qualify:[20]

(a) *To Enhance Medical Specialty.* When the registrant, at the time ordered to report for induction, is satisfactorily completing a full-time course of academic instruction at a technical training institution, college, university, or similar institution of learning to obtain a higher level of accreditation or proficiency in a health care specialty, and is in the final academic/residency year toward completion of that course of instruction.

(b) *To Find a Replacement.* When the health care services currently being rendered by the registrant are both critical to the health of the citizens in the community and temporarily irreplaceable, a postponement for a period not to exceed 90 days may be granted to give the community's local government officials time to find a replacement. In such case, the area office must be notified immediately when a replacement is found. Health care registrants rendering critical services they believe to be indefinitely irreplaceable should request an essentiality occupational deferment, which could be granted for a longer period than possible for a postponement of induction.

(c) *To Close Practice.* To the extent permitted by the severity of an emergency, or whenever the two-step examination and induction procedures were in use, a health care registrant's request for postponement of induction to close a civilian practice, for a period not to exceed 90 days, would be considered by Selective Service. In a worse-case scenario, however, the granting of time to close one's civilian practice would be handled by DOD, after the registrant's entrance into the service, in the form of a short period of emergency leave. DOD has agreed to provide health care personnel with as much time as practical for this endeavor, but the individual's parent service must base emergency leave decisions on the priority of its needs for personnel to treat casualties. In a worst-case mobilization, military needs might not always provide adequate time for the closing of one's practice in the most businesslike manner. The Soldiers and Sailors Civil Relief Act, as amended, provides certain protection in this regard.

(4) *Postponing Authorities.* All claims for postponement of induction are initially considered by an authorized area office employee. If the area office denies a claim for the statutory student postponement described in subparagraph (2) above, or one of the postponements listed in subparagraph (3)(a), (3)(b), or (3)(c) above, the registrant may request local board review of the claim. No other postponement claims are subject to local board consideration. Registrants who believe they qualify for postponement at the time they are ordered for induction should file a claim, and the required documentation, with their area office. The postponing authority will base the decision to grant or deny the claim based on the documents provided for the file. The MEPS Liaison Officer (MLO) who represents SSS at the MEPS is authorized to grant a postponement of not more than ten days to a registrant when an emergency occurs while the registrant is enroute to, or during processing at the MEPS.

e. Claims

(1) *General.* A claim is a request by a registrant for postponement or reclassification. Health care registrants will be eligible to file claims for all postponements, deferments, and exemptions available to general registrants.[21] However, a dual registrant may request an essentiality deferment only when ordered as a health care registrant. Claims must be filed by the registrant after receiving an induction order and before the scheduled induction date. The filing of a claim will delay the registrant's reporting date until the claim is decided. Claims for postponements and administrative classifications, to include documented separations from military service because of hardship or conscientious objection, will be initially decided by area office personnel, with denials of student postponements and administrative classifications subject to local board review when requested by the registrant. Claims for judgmental classifications, i.e., essentiality, hardship, conscientious objection, ministerial and ministerial student status, must be decided by the registrant's local board.

(2) *Persons Authorized to Appear Before Local Boards.* Conscientious objector claimants are required to appear personally before the local board unless previously separated from military service for reasons of conscientious objection. Other judgmental claimants and registrants requesting local board review of area office denials may ask in writing to appear personally before the local board to discuss the claim. Registrants appearing before a local board are permitted to present up to three witnesses, use an interpreter if one is required, be accompanied by an advisor, and submit additional written or oral information to support their claim. Registrants may not be represented at their personal appearance by anyone acting as an attorney or legal counsel. Tape recorders are not permitted.

(3) *Termination of Eligibility.* Registrants are eligible for deferment or exemption only so long as the reason for the deferment or exemption exists.

[19] *High School Postponments for General Registrants.* A general registant's induction may be postponed so long as he is doing satisfactory work as a full-time student in a high school, or other secondary school, and he has not reached age 20. If he is 20 years old at the time the order to report for induction is issued, he must be in the last academic year to obtain a postponement.

[20] *No Postponement Category for Pregnancy.* No special postponement, deferment, or exemption category is provided for pregnancy because under DOD physical examination guidelines, pregnant health care registrants would be found to be temporarily unacceptable and categorized as "reexamination believed justified" at some future time. A pregnant health care registrant receiving an induction order may submit a doctor's certificate to the local board attesting to the pregnancy and specifying the estimated date of child birth. The doctor's certificate would be forwarded to the MEPS, which would review it and establish a rescheduled induction reporting date sometime after the estimated date of child birth. The local board must be notified immediately upon any change of the condition on which any induction delay was approved.

[21] *Hardship Deferment is Available to All Registrants.* For example, after health care registrants with children or other dependents received induction orders they may submit claims for the same hardship deferment as general registrants.

Upon expiration of a registrant's deferment or termination of a deferment or exemption, the registrant will be returned to the appropriate order of call sequence (see paragraph 5e above) and ordered for induction with the next call for the specialty involved before those not previously ordered are selected.

f. Appeals.

(1) *General.* The HCPDS appeals process corresponds to the appeals system established by RIMS for general registrants.[22] Health care registrants will be afforded the opportunity to request the local board to review and decide any claim for student postponement or administrative classification denied by the area office. A local board decision to deny an administrative classification may be appealed to the District Appeal Board when the denial decision is not unanimous. Any local board decision to deny a claim for judgmental reclassification may be appealed to the District Appeal Board. A District Appeal Board claim denial may be appealed to the President (National Appeal Board) if the vote to deny is not unanimous. The decision of the National Appeal Board is final and is not subject to further review or appeal within SSS. The National Health Care Personnel Advisory Committee does not participate in the appeals process in any way.

(2) *Persons Authorized to Appear Before Appeal Boards.* A health care registrant may appear personally before a District Appeal Board or the National Appeal Board, as applicable, to discuss the claim(s). A person appearing before an appeal board may use an interpreter if one is required, be accompanied by an advisor, and submit additional written or oral information to support the claim(s). Registrants may not present witnesses or be represented at their personal appearance by anyone acting as an attorney or legal counsel.

(3) *State Health Care Advisory Committee Actions.* If no State health care advisory committee recommendation had been reviewed by the local board, such recommendation could be requested by the District Appeal Board. An appeal board may request the recommendation of a State health care advisory committee only when a local board has not already obtained such recommendation. Where an advisory committee has already rendered a recommendation, that recommendation will be a part of the written record sent to the appeal board. An appeal board may, however, gather additional facts as a part of exercising its classification authority.

g. Essentiality Deferment.

(1) *General.* In addition to all deferments and exemptions available to general registrants under RIMS, a new class 2–AM (essentiality occupational deferment) is provided under HCPDS for health care registrants, as a judgmental classification category. Health care occupations will be eligible for deferment consideration under Class 2–AM when announced in SSS regulations by the Director of Selective Service as necessary in the national health, safety, or interest. Provision for an essentiality deferment acknowledges the fact that during a major military conflict it would be in the best interests of the nation to defer certain civilian health care personnel so they may continue to serve in their current roles rather than enter military service. However, without advance advice from the NSC, only deferment based on essentiality to a community's health care delivery system will be designated at this time in proposed standby SSS regulations.[23] Subject to change pending future NSC advice to SSS, no other health care personnel occupations can be said at this time to warrant such advance designation.[24]

(2) *Criteria for Essentiality Deferments.*

(a) *General.* The broad criterion for all essentiality deferments is that the individual health care registrant's civilian occupation be determined to be necessary in the national health, safety, or interest. A health care registrant shall be considered necessary to the maintenance of the national or community health, safety, or interest when all of the following conditions exist:

—The registrant is, or but for a seasonal or temporary interruption would be, engaged in medicine and health care research, teaching health care professionals, or engaged in other health care services critical to an identified community.

—The registrant cannot be replaced because of a shortage of persons with similar qualifications or skill in such activity.

—The removal of the registrant would cause a critical loss of effectiveness in such national or community activity in which the registrant serves.

Revised or additional criteria for 2–AM deferments could be established by the Congress by statute or by the NSC/SSS.[25]

(b) *Essentiality to Community Health Care System.* To qualify for a Class 2–

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[22] *Appeals Provisions for General Registrants.* RIMS Manual procedures on appeals by general registrants are based on provisions in Part 1651, "Classification by District Appeal Board," of SSS regulations, 32 CFR Chapter XVI.

[23] *Other Potential Essentiality Occupations.* In any extreme future conflict, for example, the following might be considered for designation as eligible for deferment under Class 2–AM:

—Essential staff members at certain health care facilities, such as uniformed service or Department of Veterans Affairs (VA) hospitals, which would care for military casualties before the activation of the National Disaster Medical System (NDMS).*

—Personnel performing critical health care services in a civilian capacity related to defense activities, such as a volunteer member of the NDMS, or a staff member of a hospital with beds used by, or committed to and expected to be used by, NDMS.

—Certain teachers in medical schools.

—Specialists engaged in research and development relating to long term public health, such as that at regional or national medical institutions, such as the Mayo Clinic and similar organizations.

*–The NDMS was created in 1984, following the 1983 recommendation of the Interagency Health Working Group of the Emergency Mobilization Preparedness Board. NDMS is designed to handle mass casualties, whether from a natural disaster or major military conflict. NDMS is a cooperative effort among HHS, DOD, VA, FEMA, and the private sector. In the case of a major oversees military conflict, the NDMS could use voluntarily pre-committed beds from private hospitals to backup the DOD–VA hospital system in caring for military casualties. The NDMS Director is an HHS official.

[24] *Informal Endorsement by Representatives of Concerned Agencies.* Both the Department of Health and Human Services (HHS), responsible under E.O. 12656 for the allocation of health care personnel between the civil and military sectors in a national security emergency, and FEMA, responsible for broad contingency planning monitoring, and for resolving resource disputes between claimant agencies as well as reporting to the NSC on Government-wide emergency readiness, have informally agreed with such advance designation. The VA's representative has also agreed. Thus, both SSS and representatives of directly concerned responsible agencies have informally agreed that allowing for essentiality deferments based on essentiality to the community's health care delivery system would be certain under any emergency HCPDS scenario.

[25] *Further Interagency National Security Emergency Contingency Planning.* Additional pre-emergency interagency planning as to potential Class 2–AM deferments may occur pursuant to E.O. 12656, which indicates that the head of each Federal agency shall:

—"Make policy recommendations to the NSC regarding national security emergency preparedness activities and functions of the Federal Government." [Section 201(7)]

—"Coordinate with State and local government agencies and other organizations, including private sector organizations, when appropriate. Federal plans should include appropriate involvement of and reliance upon private sector organizations in the response to national security emergencies." [Section 201(8)]

—"Assist State, local, and private sector entities in developing plans for mitigating the effects of national security emergencies and for providing services that are essential to a national response." [Section 201(9)]

—"Develop plans to set priorities and allocate resources among civilian and military claimants." [Section 202(4)]

—"Identify occupations and skills for which there may be a critical need in the event of a national security emergency." [Section 202(5)]

AM essentiality deferment on the basis of essentiality to a community's health care system, a health care registrant would have to be engaged in direct patient care to the public, or engaged in services which support this direct patient care, such as X-ray technicians.[26] Class 2–AM would not apply to those engaged in patient care which was not available generally to all members of the public residing within the community. In determining if the health care registrant's continued services were essential to the community served, the local board would consider whether (all items listed would be considered in each case):

—The specific health care services provided were essential to the maintenance of the health, safety, or welfare of the community.
—The removal of the registrant would result in an extreme shortage or elimination of a critical community service.
—The service could be performed by other qualified persons available to the community, or if the registrant could be replaced by another qualified person within the time allotted by a postponement of induction into the uniformed services.
—The registrant was currently practicing in the community concerned. A registrant would be found not essential to a community where the registrant had never practiced, except where the registrant had signed, at least six months before the date of the induction order, a contractual commitment to serve in that community and the failure to do so would result in an extreme shortage or elimination of a critical community service.
—The nation would be best served, considering that the needs of the community must be balanced against the needs of the military services, by granting or denying the deferment claim.
—Any additional criteria as might be prescribed by the SSS Director by regulation were met.

(3) *Subspecialty as Basis for Claiming 2–AM Deferment.* Subspecialists qualified in basic specialties identified as needed by DOD would be required to register in their basic specialties. For example, if orthopedic surgeons were required to register, those qualified as hand surgeons (an orthopedic surgeon subspecialty) would be required to register as orthopedic surgeons (basic specialty). If a hand surgeon were to be ordered to report for induction as an orthopedic surgeon, the surgeon could submit a community essentiality deferment claim based on continued practice as a hand surgeon being essential to the community served, even though the particular community might have a more than adequate number of other orthopedic surgeons. Supporting statements provided with a claim should cover, besides the general statements described for all Class 2–AM deferments, statements from persons familiar with the need and availability of the specialty concerned within the community concerned.

(4) *Claim Documentation.* SSS claim forms would be made available at all U.S. Postal Service and Department of State registration sites and at all SSS offices. If the one-step combined examination and induction process were being used, no claim would be accepted from a health care registrant who had not been issued an order to report for induction.[27] Health care registrants seeking essentiality deferments should submit statements and documents from their employers substantiating their claims. Self-employed health care registrants should submit supporting statements from other health care providers or administrators familiar with the services provided by the claimant. Local boards and appeal boards may gather pertinent facts from any source necessary.

(5) *Claim Processing Procedures.* The processing of claims for Class 2–AM deferment would follow the pattern in RIMS for general registrants, except for the adjudication of claims and State advisory committees recommendations to local and appeal boards.

(6) *Recommendation of State Health Care Advisory Committee.* The granting or denial of the Class 2–AM deferment claim would rest with the local board. However, if a State health care advisory committee supporting the registrant's local board had been established by the time the claim was received, the local board would have an opportunity to seek and review that committee's recommendation before granting or denying the claim. A claim and supporting materials would be forwarded to that committee whenever the local board determined that it required the committee's specific recommendation. The National Advisory Committee would not be empowered to participate in any way in the State health care advisory committee's recommendations on registrants.

(7) *Action In Absence of State Health Care Advisory Committee.* If such advisory committee had not been established for the local board by the time it received a Class 2–AM claim, the local board would not delay taking final action on the claim pending the establishment and recommendation of such committee.

(8) *Form of State Health Care Advisory Committee Recommendations.* The advisory committee's recommendation would be in the form of either:

(a) A specific written statement issued by the advisory committee as to the essentiality of basic specialties and subspecialties in the community concerned. Such statements would be periodically updated by the State advisory committee when required by changing circumstances.

(b) The advisory committee's recommendation concerning any individual case referred to it by a local or appeal board.

(9) *Documentation of Local Board Decision.* The local board would include a statement of the reason(s) for claim denial in the registrant's file. No such documentation would be required when a claim was granted.

Annex Description

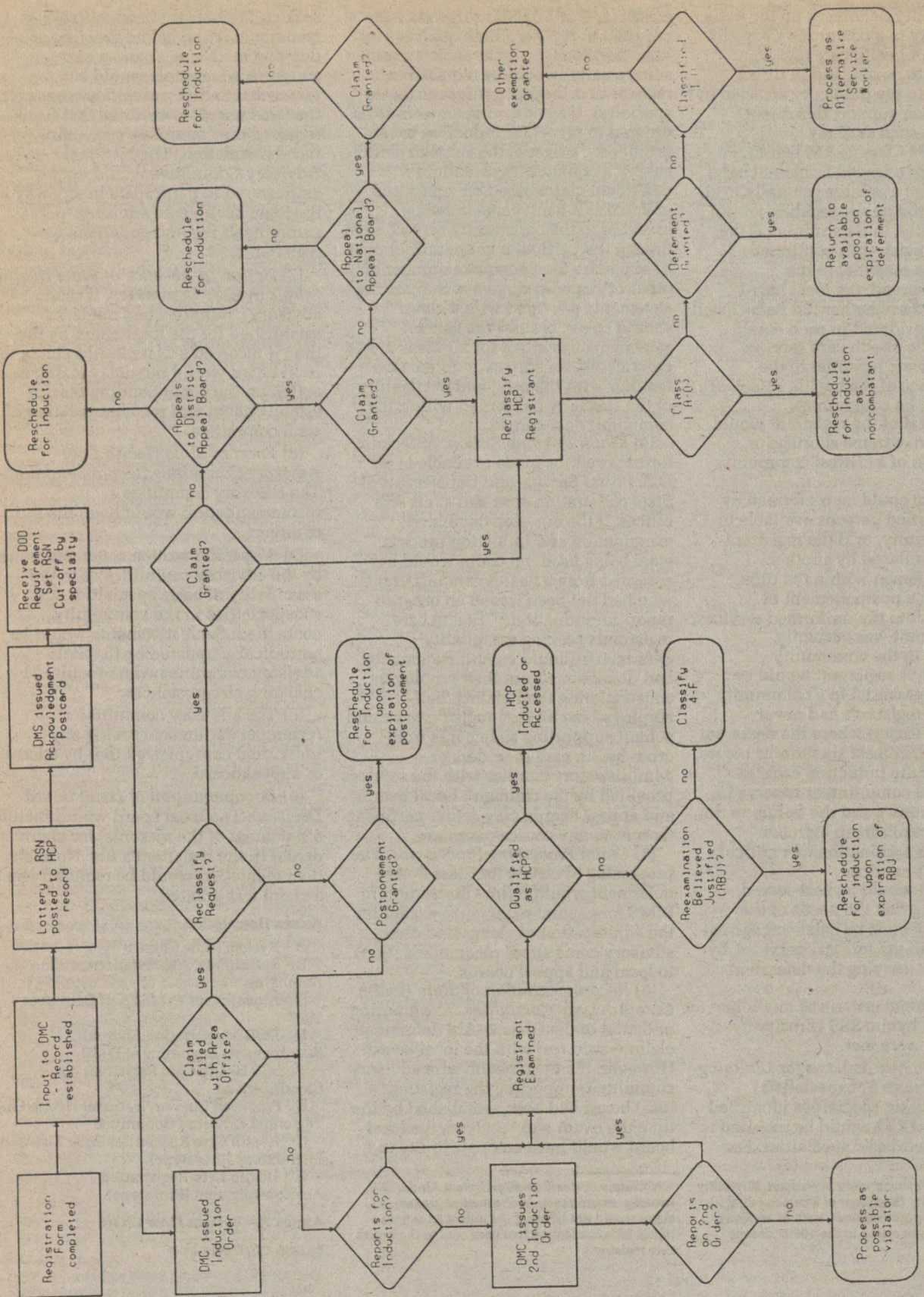
A System Flow Chart
B Definitions, Abbreviations, and Acronyms
C Amendment to MSSA of December 4, 1987
D DOD Mobilization Shortfall Requirements Beginning at D+10
F SSS Health Care Registrant Classifications
E Proposed Charter, National Health Care Personnel Advisory Committee
G Health Care Specialties Code List With Instructions (Prototype)
H Health Care Registration Acknowledgment (Prototype)

Annex A—System Flow Chart

BILLING CODE 8015–01–P

[26] *Eligibility for Essentiality Deferment.* Eligibility for the essentiality deferment of a person engaged in health care support services, such as an X-ray technician, was not stated in the 1989 concept paper.

[27] *Claims Under Two-Step System.* Under the two-step examination and induction system, a claim would not be accepted unless an order to report for examination had been sent to the health care registrant.



BILLING CODE 8015-01-C

Annex B—Definitions, Abbreviations, and Acronyms

Class. A category designated by Selective Service for grouping and processing registrants according to established criteria (also called "classification").

Classification. (1) The initial exercise of the authority to determine a registrant's claims or questions with respect to a registrant's inclusion into a specific class for, or exemption from, training and service under the Military Selective Service Act (MSSA), by the official act of designating a registrant's class; and/or,

(2) The subsequent exercise of aforementioned authority by designating a new class for a registrant (i.e., reclassification).

(3) A category designated by Selective Service for grouping and processing registrants according to established criteria (also called "class").

Continuous Registration. Ongoing registration of persons liable for registration as prescribed by a Presidential Proclamation and implementing Selective Service Regulations.

Credentialing. The verification process of reviewing licenses, diplomas, training certificates and related materials for professional qualification of health care personnel. Credentialing will be accomplished by the uniformed services in support of the United States Military Entrance and Processing Command (USMEPCOM).

D-Day. The day hostilities commence.

General Registrants. Registrants registered under RIMS (called "regular registrants" in the 1989 concept paper).

Essentiality Deferment. A Class 2–AM (Registrant Deferred Because of Essentiality of Occupation) available to health care registrants determined to be providing health care services which must be continued (1) due to their criticality to the maintenance of the national health, safety, and interest, and (2) because the services cannot reasonably be provided by others. Such services may be at a national, regional, or community level.

Health Care Personnel. Persons who are qualified for practice or employment in an occupation to provide health care, to humans or animals, which has been deemed essential by the President to meet the needs of the Armed Forces, without regard to whether such persons meet standards prescribed by the Secretary of Defense.

Health Care Registrant. A person registered under authority of (proposed) Section 3(a)(2) of the Military Selective Service Act, (i.e., a person qualified for practice or employment in an occupation to provide health care to humans or animals).

State Health Care Advisory Committee. A group of civilian uncompensated SSS employees appointed by the Director of Selective Service to review health care needs and resources and make assessments and recommendations to local and appeal boards in connection with the essentiality of specific health care personnel submitting claims for Class 2–AM deferments based upon essentiality of occupation.

Mass Registration. Registration of specific categories of persons over a specified, limited period of time as required by a Presidential Proclamation or other authorized issuance.

M-Day. The day SSS commences mobilization.

MEPS. A Military Entrance Processing Station, which is a military installation to which registrants are ordered to report for determination of their acceptability for military service or alternative service and for induction processing into the armed forces of the United States.

MSSA. The Military Selective Service Act, as amended, (50 U.S.C. App. 451 et. seq.).

National Health Care Personnel Advisory Committee. A committee, to be authorized by Selective Service Regulations and appointed as SSS uncompensated personnel by the Director of Selective Service, to provide advice to the Director of Selective Service on selection, classification, induction, and related policies pertaining to health care personnel.

RIMS. The Selective Service System's Registrant Information and Management System, which encompasses the policies, procedures, and automated data systems for processing general registrants for induction or alternative service.

Annex C—Amendment to MSSA of December 4, 1987

Public Law 100–180, Section 715, National Defense Authorization Act for Fiscal Year 1988/1989, December 4, 1987, amended section 10(h) of the MSSA. Section 10(h) now states that:

"The Selective Service System shall be maintained as an active standby organization with (1) a complete registration and classification structure capable of immediate operation in the event of a national emergency (*including a structure for registration and classification of persons qualified for practice or employment in a health care occupation essential to the maintenance of the Armed Forces)* and (2) personnel adequate to reinstitute immediately the full operation of the System, including military reservists who are trained to operate such System and who can be ordered to active duty for such purpose in the event of a national emergency."

[Italic portion shows language added by amendment.]

Following are excerpts from the House and Senate Committee Reports on this legislation.

Section 715—Standby Capability for Selective Service Registration of Health Care Personnel

Although the committee has proposed a number of provisions to increase the number of health professionals with critical combat skills in the active and reserve forces during peacetime, the committee believes that a back-up system for the rapid registration of health care professionals after the declaration of a national emergency should be implemented. The committee, therefore, recommends authorizing the Selective Service System to implement a system for the post-mobilization registration of health care professionals.

Specifically, the committee envisions that the Selective Service System would perform the following tasks under this authority: (1) design a computer program to facilitate registration in the event of a national emergency—no names or lists would be included; (2) develop adjudication procedures for claims and appeals in the event of registration; and (3) produce sample forms for registration but not distribute them unless registration is authorized in the future.

The committee emphasizes that this authority neither encompasses a peacetime draft nor a peacetime registration system; rather, it would only permit the Selective Service System to develop a structure for the possible registration and classification of health care professionals to be implemented after the President declares a national emergency and after Congress passes legislation providing specific registration and conscription authority.

The committee believes that a system for the post mobilization registration of health care professionals would help address medical readiness personnel shortfalls as well as provide a safeguard against disaster in the event that major hostilities erupt before voluntary initiatives produce adequate numbers and kinds of military health professionals. The committee emphasizes, however, that the Department of Defense must actively pursue other medical readiness initiatives and work closely with professional health associations to attract and retain health professionals committed to military service because effective voluntary programs are the first line of defense. (Committee on Armed Services, U.S. House of Representatives, House Report 100–58, p. 213)

Title VII—Health Care Provisions—Post-Mobilization Registration of Health Care Professionals

The Selective Service has requested authority to spend funds to design and develop a standby system to prepare for the post-mobilization registration and classification of persons with essential health care delivery skills. This standby system will reduce the time it would require Selective Service to call up health care personnel in the event of war or national emergency.

The provision recommended by the committee (sec. 703) provides authority for Selective Service to expend funds to develop such a standby system. This provision does not grant authority to Selective Service to register or to induct medical personnel. (Committee on Armed Services, U.S. Senate, Senate Report 100–57, p. 149)

Annex D—Potential DoD Mobilization Shortfalls (Requirements) (September 1988—for Planning Purposes Only)

Physicians 8,706: Allergy & Immunology 11; Anesthesiology 1,723; Aviation/Aerospace Medicine 792; Colon-Rectal Surgery 5; Dermatology 64; Emergency Medicine 49; Internal Medicine-General 377; Neurological Surgery 157; Neurology 83; Ophthalmology—includes all subspecialties 75; Orthopedic Surgery 2,367; Otolaryngology 109; Pathology—includes all subspecialties 65; Preventive Medicine 159; Psychiatry—includes all subspecialties 310; Radiology 119; Surgery General 1,819; Thoracic Surgery 279; Urology 143.

Registered Nurses 26,130: Medical/Surgical Nursing (General/Other Nurses) 21,056; Mental Health Nurses 510; Certified Registered Nurse Anesthetist 1,764; Operating Room Nurses 2,800.

Dentists 1,015: Endodontics 69; General Dentistry (includes persons qualified in "comprehensive/operative dentistry") 13; Oral Pathology/Diagnosis 3; Oral Maxillofacial Surgery 504; Periodontics 75; Prosthodontics 351.

Allied Health Specialists (Requires Degree) 2,102: Audiology & Speech 38; Biomedical Laboratory Services (all subspecialties) 282; Diet Therapy 514; Entomology 82; Environmental Health Services 206; Occupational Therapy 113; Physical Therapy 496; Physicians Assistant 102; Physiology 5; Podiatry 127; Psychology (Clinical) 137.

Veterinarians (includes all subspecialties) 311.

Health Care Specialists/Technicians 34,672: Animal Health Specialist/Technician 305; Biomedical Equipment Maintenance & Repair Specialist/Technician 992; Biomedical Laboratory Specialist/Technician (and all subgroups) 3,208; Dental Care, General, Specialist/Technician 1,550; Dental Laboratory Specialist/Technician 287; Diet Therapy/Hospital Food Service Specialist/Technician 1,815; Environmental Health Specialist/Technician 820; Medical Administration Specialist/Technician (includes Medical Record Technician or Librarian) 2,314; Medical Care and Treatment Specialist/Technician (includes 8,652 medical specialists and 923 respiratory specialists on DOD list) 9,575 (individuals qualified in Licensed Practical/Vocational Nursing would be required to register in this specialty); Medical Supply/Logistics Specialist/Technician 1,777; Mental Health/Psychiatric Specialist/Technician 986; Occupational Therapy Specialist/Technician 256; Ophthalmology/Optometry Specialist/Technician (and all subgroups—includes 189 ophthalmology specialists, 216 optical lab technicians, and 149 optometry specialists on DOD list) 554; Orthopedic Specialist/Technician 637; Pharmacy Specialist/Technician 2,454; Physical Therapy Specialist/Technician 838; Radiology Specialist/Technician 1,471; Surgery Specialist/Technician (and subgroups) 4,833.

Annex E—SSS Classifications

This Annex sets forth Selective Service Classifications which would be assigned to health care registrants under HCPDS, using the suffix "M" to designate them as a separate group from general registrants. These classes would be assigned at such time as became authorized and necessary in connection with HCPDS processing.

ADMINISTRATIVE CLASSIFICATIONS

Classification	Description
1–AM:	Registrant Available for Unrestricted Military Service.
1–CM:	Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service.

ADMINISTRATIVE CLASSIFICATIONS—Continued

Classification	Description
1–D–DM:	Deferment for Certain Members of a Reserve Component or Student Taking Military Training.
1–D–EM:	Exemption of Certain Members of a Reserve Component or Student Taking Military Training.
1–HM:	Registrant Not Currently Subject to Processing for Induction or Alternative Service.
1–O–SM:	Conscientious Objector to All Military Service (Separated).
1–WM:	Conscientious Objector Ordered to Perform Alternative Service in Lieu of Induction.
3–A–SM:	Registrant Deferred Because of Hardship to Dependents (Separated).
4–AM:	Registrant Who Has Completed Military Service.
4–A–AM:	Registrant Who Has Performed Military Service for a Foreign Nation.
4–BM:	Official Deferred by Law.
4–CM:	Alien or Dual National.
4–FM:	Registrant Not Acceptable for Military Service.
4–GM:	Registrant Exempted from Service Because of Death of a Parent or Sibling While Serving in the Armed Forces or Whose Parent or Sibling is in a Captured or Missing in Action Status.
4–TM:	Treaty Alien.
4–WM:	Registrant Who Has Completed Alternative Service.

JUDGMENTAL CLASSIFICATIONS

Classification	Description
1–A–OM:	Conscientious Objector Available for Noncombatant Military Service Only.
1–OM:	Conscientious Objector to all Military Service.
2–AM:	Registrant Deferred Because of Essentiality of Occupation.
2–DM:	Registrant Deferred Because of Study Preparing for the Ministry.
3–AM:	Registrant Deferred Because of Hardship to Dependents.
4–DM:	Minister of Religion.

Annex G—Health Care Specialties Code List With Instructions

Registration Requirement. If you were qualified or working in any of the health care specialties listed below at any time after MM/DD/YY, you are required to register with the Selective Service System. The only exclusion is if you currently are officially disqualified from engaging in such work. Subspecialists who are qualified in a basic specialty shown on this list are to register in that basic specialty; for example, those qualified as hand surgeons (a subspecialty) are to register as orthopedic surgeons (basic specialty). Register in only one health care specialty—the specialty in which you have the highest education and/or greater experience.

Job Categories (Specialty Titles). Your actual specialty, or job category, may be different from those titles listed. Some other frequently used titles are included in the column on the right to assist you in identifying the specialty that best fits your category. Enter in the applicable space the code number which most closely identifies your health care specialty title. The code number you designate will be entered into your registration record. When you receive your registration acknowledgment that code number will be shown along with the name of the corresponding specialty.

Multiple Qualifications. If you are qualified in more than one specialty enter the code for the one appearing on this list which required the highest education and/or greater experience.

Change/Correction of Specialty—Proof Required. Once registered with Selective Service in a health care specialty you are required to submit written proof to change your specialty as recorded at Selective Service. The proof should be a copy of one of the following, as appropriate: professional license, specialty certification, certificate of board eligibility/certification, or statement from your employer.

Loss of Authorization to Perform in Specialty in Which Registered. If, after registering in a specialty, you lose your official license, certification, or other form of authorization to perform in that specialty, you must provide Selective Service with a copy of the official document cancelling your license, certification or other form of authorization. If you are still permitted to engage in another health care specialty, you must change your specialty code to reflect the specialty in which you are still authorized to perform health care services if it is on this list (and submit proof of qualification in that specialty following the above instructions for change/correction of specialty).

Some other frequently used titles which are included in this specialty (To Be Determined)

Code	Specialty
Health care specialists/technicians:	
32110	Animal Health Specialist/Technician.
32600	Biomedical Equipment Maintenance & Repair Specialist/Technician.
31100	Biomedical Laboratory Specialist/Technician (to include all subgroups).
33000	Dental Care, General, Specialist/Technician.
33100	Dental Laboratory Specialist/Technician.
32500	Diet Therapy/Hospital Food Service Specialist/Technician.
32200	Environmental Health Specialist/Technician.

Code	Specialty
34010	Medical Admin Specialist/Technician (includes Medical Record Technician or Librarian).
30000	Medical Care and Treatment Specialist/Technician.
34020	Medical Supply/Logistics Specialist/Technician.
30200	Mental Health/Psychiatric Specialist/Technician.
30320	Occupational Therapy Specialist/Technician.
32300	Ophthalmology/Optometry Specialist/Technician (and all subgroups).
30410	Orthopedic Specialist/Technician.
31200	Pharmacy Specialist/Technician.
30310	Physical Therapy Specialist/Technician.
31300	Radiology Specialist/Technician.
30100	Surgery Specialist/Technician (and subgroups).
Physicians:	
61020	Allergy and Immunology.
61040	Anesthesiology.
61010	Aviation/Aerospace Medicine.
61240	Colon and Rectal Surgery.
61070	Dermatology.
61030	Emergency Medicine.
61120	Internal Medicine General.
61310	Neurological Surgery.
61130	Neurology.
61170	Ophthalmology To Include Subspecialties.
61320	Orthopedic Surgery To Include all Sub-specialties.
61190	Otolaryngology.
61200	Pathology Includes all Sub-specialties.
61230	Preventive Medicine.
61250	Psychiatry To Include All Subspecialties.
61270	Radiology.
61301	Surgery General.
61341	Thoracic Surgery.
61360	Urology.
Dentists:	
63020	Endodontics.
63110	General Dentistry.
63030	Oral Pathology/Diagnosis.
63040	Oral Maxillofacial Surgery.
63070	Periodontics.
63080	Prosthodontics.
Registered Nurses:	
65090	General and Other Nurses.
65070	Mental Health Nursing.
65020	Nurse Anesthetist.
65030	Operating Room Nurse.
Veterinarians:	
67000	Veterinarians Includes All Subspecialties.
Allied Health Specialties (requires degree):	
68010	Audiology and Speech.
68020	Biomedical Laboratory Services Includes All Sub-Specialties.
68100	Diet Therapy.
68031	Entomology.
68030	Environmental Health Services.
68062	Occupational Therapy.
68061	Physical Therapy.
68110	Physician Assistant.
68080	Physiology.
68090	Podiatry.
68071	Psychology (Clinical).

Annex H—Health Care Registration Acknowledgment (Prototype)

Selective Service System, P.O. BOX 4739, NORTH SUBURBAN, IL 60197–4636.

Selective Service System—Health Care Registration Acknowledgment Letter

March 21, 199X

5–00000211–8 10 60128–000001
John Calvin Lindsay,
Rt 5 Medical Center Rd, Medicalville, KY 42701.

Dear Health Care Registrant: This is your Health Care Registration Acknowledgment Letter; keep it as proof of your registration with the Selective Service System. This letter and enclosed Correction/Change Form (SSS Form 3B-HC) both reflect the information currently in your record. You have been assigned the Health Care Registrant Selective Service Number shown below. If you write to Selective Service be sure to include this number for identification purposes. The specialty title shown below is based on the specialty code selected and may not exactly match your actual title.

If there are errors or omissions in the information shown, immediately submit corrections on the enclosed form. IF YOUR HEALTH CARE SPECIALTY IS INCORRECTLY SHOWN, PROOF OF YOUR CORRECT SPECIALTY IS REQUIRED IN ORDER TO CHANGE IT (see enclosure for specialties, codes and further instructions). Proof is also required in connection with changes to your name or date of birth. Send SSS Form 3B-HC showing corrections (and any required proof) to the address shown above. Within about three weeks you should receive a new Registration Acknowledgment Letter showing the corrections made to your record. Call Selective Service at 708–688–6888 if you have not received a new letter after five weeks.

If the information shown is correct, save the enclosed SSS Form 3B–HC for reporting any future changes. Federal law requires that, until you reach age 45, you maintain correct information in your record. You are required to notify Selective Service of changes in any of the information in your record within 10 days after the change.

Failure to maintain a correct registration record violates the Military Selective Service Act. The maximum penalty for a violation of that Act is a $250,000 fine or five years in prison or both.

If corrections are necessary, complete the attached form and mail it to: Selective Service System, P.O. Box 4639, North Suburban, IL 60197–4639.

REGISTRATION RECORD INFORMATION

Selective Service No.	Date of birth	Social Security Account No.	Phone	Sex	Specialty code	Last action date
5–00000211–8	05–16–60	431–35–6054	501–423–2684	M	34010	07–08–90

Specialty Title: Medical Admin Specialist/ Technician (Includes Medical Record Tech/Libr)

Current Address
Rt 5 Medical Center Road, Medicalville , KY 42701

Permanent Address
Rt 5 Medical Center Road, Medicalville, KY 42701

Other Information:

Classification	Priority selection group—(PSG)	PSG end date*	Random sequence #
1–HM 1	1	07–07–91	366

*For further information on Priority Selection Group see the "Information for Health Care Registrants" booklet available at Post Offices. If you need information not in that booklet, contact the nearest Selective Service office or call 708–688–6888.

Robert W. Gambino
Director
SSS Form 3A-HC (Date) (Proposed Prototype)
OMB

Selective Service System—Health Care Registration Correction/Change Form

If corrections/changes are necessary, complete this form and mail to: Selective Service System, P.O. Box 4639, North Suburban, IL 60197–4639.

1. *General:* Use this form to update information in your Selective Service Health Care Registration Record. Correct any incorrect information shown below. Enter any missing information. If you have more than one of these correction/change forms, use the one with the most recent "Last Action Date."

2. *If information below is complete and correct:* Retain this form for possible future use.

3. *If update is needed:* Write in the correct information below the incorrect information, sign and mail this form to Selective Service in the enclosed envelope. NOTE: A CHANGE IN SPECIALTY REQUIRES PROOF. SEE THE ENCLOSURE FOR A LIST OF SPECIALTY CODES AND INSTRUCTIONS. Proof is also required in connection with a change in name or date of birth.

4. *Specialty title:* Your specialty title, shown below, was automatically printed using the specialty code you previously selected. This title was printed here only to assist you in ensuring that you entered your correct specialty code. Because of differences in titles used by different health care organizations, this specialty title may not exactly match your actual title. You may change your specialty title only by writing in a different specialty code and submitting it with the necessary proof.

5. *Not for other personal information:* DO NOT use this form to submit additional information about yourself or your situation. If such information is needed, we will contact you.

6. *For information/questions:* For further information, see the "Information for Health Care Registrants" booklet available at Post Offices (if overseas, at U.S. embassies and consular offices). If you need information not in that booklet, contact the nearest Selective Service office or write or call the Registration Information Office, P.O. Box 4638, North Suburban, IL 60197–4638 (708–688–6888).

7. *For active duty uniformed service personnel only:* While on active duty, a uniformed service member must keep registration record information correct as to name, date of birth, and Social Security Account Number. If you submit a change, please also update your current mailing address, if necessary, so that we may mail you a new Acknowledgment Letter and Correction/Change Form.

Selective Service No.	Date of birth	Social Security account No.	Phone	Sex	Specialty code	Last action date
5–00000211–8	05–16–60	431–35–6054	501–423–2684	M	34010	07–08–90

Name: John Calvin Lindsay.
Specialty Title: Medical Admin Specialist/ Technician (Includes Medical Record Tech/ Libr).
Current Address: Rt 5 Medical Center Road Medicalville, KY 42701.
Permanent Address: Rt 5 Medical Center Road, Medicalville, KY 42701.

(Signature of Health Care Registrant) (Date)
Enclosures (Preaddressed Envelope & Health Care Specialties Code List With Instructions)
SSS Form 3B–HC (Date) (Proposed Prototype)
OMB–####–####

Background—Health Care Occupational Deferments and Advisory Committees

Note: Review of this background is not required to understand the HCPDS concept, but it is provided for those interested in brief historical information.

1. National Policy Declarations by Congress. In the first section of the Military Selective Service Act (MSSA) the Congress declared that the obligations of serving in the armed forces "should be shared generally, in accordance with a system of selection that is fair and just, and which is consistent with the maintenance of an effective national economy." The Congress further declared that, "adequate provision for national security requires maximum effort in the fields of scientific research and development, and the fullest possible utilization of the Nation's technological, scientific, and other critical manpower resources."

2. Presidential Deferment Authority. In providing for the implementation of national policy, the Congress gave the President discretionary authority under subsection 6(h) of the Act to defer the military service obligations of "persons whose employment in industry * * * or other occupations or employment * * * is found to be necessary to the maintenance of the national health, safety, or interest." That subsection also directs that the criteria for deferments be administered uniformly throughout the United States whenever practicable, forbids blanket deferments for entire occupational groups, and requires that a registrant be considered for deferment only on the basis of the registrant's individual status.

3. National Security Council (NSC).

a. *General.* Implementing occupational deferment policy is established by the President through the National Security Council in accordance with Section 4(g) of the MSSA, as amended [50 U.S.C. App. 454(g)], which states: "The National Security Council shall periodically advise the Director of the Selective Service System (SSS) and coordinate with him the work of such State and local volunteer advisory committees which the Director of Selective Service may establish, with respect to the identification, selection, and deferment of needed professional and scientific personnel and those engaged in, and preparing for, critical skills and other essential occupations. In the performance of its duties under this subsection the National Security Council shall consider the needs of both the Armed Forces and the civilian segment of the population."

b. *Recommendation in 1967 on Greater NSC Role.* In 1967, the Civilian Advisory Panel on Military Manpower Procurement recommended to the Congress that legislation be enacted calling for the NSC to play a greater role in the identification of essential activities and critical occupations.[1]

[1] *Civilian Advisory Panel on Military Manpower Procurement Report to the Committee on Armed Services, House of Representatives,* February 28, 1967, at pages 12–13, states the following concerning occupational deferment policy:

"1. On November 30, 1966, there were 236,590 occupational deferments. These included a variety of skills, a number of unskilled, and about 20,000 apprentices. The deferred individuals were involved in industry, science, engineering, and health resources:

c. *Most Recent NSC Advice.* Dr. Henry A. Kissinger's memorandum of April 23, 1971, copy at Enclosure 1, contains the most recent NSC advice to SSS on health care personnel to be considered for deferment. However, as shown by the first two "considerations" in Enclosure 1, as well as by the materials at Enclosure 2, such advice was generally based on recommendations from several Federal agencies and supplemented by counsel from a Presidentially-appointed national advisory committee.

4. Department of Health and Human Services (HHS) Role.

Section 801(3), E.O. 12656, "Assignment of Emergency Preparedness Responsibilities," designates HHS as the Federal agency responsible for planning for the allocation of health care personnel between the military and civil sector in a national mobilization emergency. During interagency coordination, HHS representatives informally concurred [2] with the provisions in the broad concept for HCPDS published in 1989, including:

—Health care personnel essentiality deferments.

—The use of health care advisory committees to accomplish peer review of any claims for health care occupational deferment to ensure that local boards exercising judgmental deferment authority were equipped with professional advice as to the necessity of the claimant's continued service in a civilian health care role.

5. Federal Emergency Management Agency (FEMA) Role.

Section 1701(6), E.O. 12656, indicates that FEMA has the broad role of coordinating "the implementation of policies and programs for efficient mobilization of Federal, State, local, and private sector resources in response to national security emergencies."

6. SSS Role.

SSS traditionally has been a mechanism by which the needs of the armed forces have been balanced with those of the civil sector. This balancing was accomplished by SSS Local Boards either granting or denying deferment claims stating that a person's continued service in a civilian capacity was essential to the community's health care delivery system, or otherwise essential to the national interest. Under the HCPDS, the Director of Selective Service generally would implement occupational deferment policies established by the Congress and the President, or recommended by the NSC, rather than independently establish such policies.[3]

7. Historical Perspective on National and State Advisory Committees.

a. *Initial Statutory Authority and Responsibilities.* Authority for the National Advisory Committee to the Selective Service System on the Selection of Physicians, Dentists, and Allied Specialists and for State Volunteer Medical Advisory Committees was added to the Selective Service Act of 1948,[4] as amended, and later became section 4(j) of the MSSA.

b. *First National Advisory Committee.* On October 4, 1950, by Executive Order (EO) 10166, President Truman established the first National Advisory Committee to the Selective Service System on the Selection of Physicians, Dentists, and Allied Specialists and appointed the membership of his Health Resources Advisory Committee to that Committee. The members of the Committee were nationally-recognized leaders in the various health fields.[5] EO 10166 excerpts are at Enclosure 3.

c. *Reconstitution in 1968 of National Advisory Committee.* The National Advisory Committee continued as an advisory committee to the Selective Service System until June 24, 1968, when EO 11415 was promulgated. EO 11415, excerpts at Enclosure 4, established one advisory committee to advise both the SSS and the Office of Emergency Planning of the White House.

d. *Major Responsibilities.* The major responsibilities of the National Advisory Committee under that authority were:[6] advising the Selective Service System with respect to the selection of medical, dental, and allied specialists; coordinating the work of State and local volunteer advisory committees in considering the relative needs of the Armed Forces and of the civilian population for the services of medical, dental, and allied specialists; making determinations with respect to medical, dental, and allied specialists who are recommended for deferment on the basis of community essentiality.

e. *State Advisory Committees.* In October 1950, the National Advisory Committee established a State Volunteer Medical Advisory Committee in each of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, New York City, and Southern California. Historically the State Volunteer Medical Advisory Committees were composed of five members: Chairman (M.D.); Dentist; State Health Officer (M.D.); Veterinarian; and, Nurse.[7] Typically, the Chairman of the State advisory committee was the head of the American Medical Association (AMA) organization in the State/political subdivision concerned.[8] Thus,

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"2. The United States Department of Commerce maintains the official list of Currently Essential Activities. The Department of Labor maintains the official list of Currently Critical Occupations.

"3. The list of Currently Essential Activities relates to.–.–. educational services, . . . health and welfare. . . .

"4. The list of Currently Critical Occupations includes occupational titles which range from physicians . . . and . . . teachers to . . . and veterinarians, among others.

"5. The criterion generally followed in the identification of the Critical Occupation is that persons employed therein are not readily available and are in short supply * * *

"7. The administration of the present system of granting occupational deferments appears to be satisfactory and no evidence of abuse was presented. However, there is evidence of lack of uniformity among local boards in the identification and determination of critical skills, occupations and professions. The Panel believes that the determination of those to whom occupational deferments are granted is a matter of highest importance in the proper utilization of our most skilled human resources, especially those in shortest supply.

"8. Both our national security and the armed forces require the wise and effective use of our national supply of highly specialized and highly skilled manpower. Decisions concerning the best use of our most skilled manpower should be made where the issues of total national security are the primary consideration—not just the need and demands of the military forces *per se*.

"9. Therefore, the Panel recommended that the Congress amend the legislation establishing the National Security Council to provide for establishing a national manpower resources board, reporting to the National Security Council, to determine and promulgate lists of highly essential and critically-needed categories of occupations and professions, and to issue appropriate recommendations to the Director of Selective Service to enable local boards to make necessary judgments regarding deferral of each individual employed in or preparing . . . for these critical and essential activities. In this connection, the Panel recommended that final determination and approval of the list of Currently Essential Activities and list of Currently Critical Occupations be vested in the National Security Council . . ."

[2] HHS letter of March 23, 1989, to SSS from J. Jarrett Clinton, M.D. Assistant Surgeon General.

[3] In the past, however, SSS has been more directly involved in the process of making policy on the allocation of manpower between the military and civil sectors. For example, the following was set forth on page 7, Report to the President by the Director, SSS, on the experience of SSS in administering the Selective Service Act of 1948, as extended, for the period July 9, 1950—June 19, 1951: "On January 3, 1951, the President appointed Charles E. Wilson to head a newly created Office of Defense Mobilization (ODM). Among other things, the ODM was given over-all responsibility for manpower policies and their coordination. An Interagency Committee on Manpower Policy was set up by the Director of ODM, to advise him on various problems relating to manpower, *including its allocation to meet both civil and military requirements. The Director of Selective Service was included therein.* This group was also to review Federal policies, plans, and programs relating to manpower as well as proposed legislation and executive orders." (Emphasis added)

[4] Public Law 779, approved September 9, 1950, and commonly known at the time as the "Physicians and Dentists Draft Act," and which provided for the registration, classification, and induction of "certain medical, dental, and allied specialist categories," added this section 4(j).

[5] November 1964 paper, "Summary of World War II and Korea Experience in the Allocation of Professional Personnel to the Military and Non-military Segments of the Population," Frederick J. Haase, Office of the Health Adviser, Office of Emergency Planning, Executive Office of the President, at page 4. This 81-page paper contains substantial historical information, such as the fact that the Procurement and Assignment Service, established on October 30, 1941, to help balance civilian and military needs for certain professionals, was hit with pressing, "Herculean tasks" before it could get properly organized and its staff trained—at page 7. It also reports that certain problems were never fully resolved during WW II.

[6] *Semi-annual Report to the Congress by the Director of Selective Service for the period July 1 1972—December 31, 1972,* at page 50.

[7] Ibid.

[8] From SSS interview of June 15, 1988, with Ms. Jacqueline Gleason (former support staff member to the SSS National Advisory Committee on the Selection of Physicians, Dentists, and Allied Specialists, former support staff member to the National Health Resources Advisory Board, Office of Emergency Planning, the White House, former Manager, Health Manpower Statistics Branch, HEW, and former Emergency Coordinator, HEW).

significantly, each State advisory committee characteristically had at least two members (Chairman and State Medical Officer) with State-wide knowledge and experience in, and focus on, the particular State's health care needs, resources and delivery system.

f. *Local Advisory "Subcommittees."*

(1) *Appointment.* Subcommittees were established by the chairmen of the State committees and as many members of the subcommittees were appointed as the State Chairman deemed necessary to carry out the work of his State committee. Generally, particularly in the more populous States, localized subcommittees were formed using county boundaries because the State-level advisory committee lacked sufficient in-depth knowledge about all the State's local health care delivery systems' and their day-to-day situations, which prevented the former from evaluating community essentiality claims with relative confidence.

(2) *Membership.* Typically, each local advisory committee was comprised of membership similar to the State committees, except generally both a county medical officer and the head of the AMA organization in the county were involved—which provided the local subcommittee with the necessary detailed knowledge and experience in, and focus on, the local area's health care needs and delivery system, which enabled it to provide informed advice to local boards on essentiality claims.

(3) *Role.* Like the scientific advisory committees, these local advisory subcommittees were advisory only and "asking or receiving help from them is not an abandonment of the responsibility placed by the Congress upon local boards to classify registrants."[9] The work of these committees consisted of considering and advising as to the availability for service of individual registrants practicing medicine, dentistry, veterinary medicine, or allied specialties. "In other words, a local committee recommends whether a physician, dentist, or veterinarian is available for military service or is temporarily filling, until he can be replaced, a position which is essential to the national health, safety, or interest, either in his community practice, his hospital position, or because of his teaching obligations."[10]

g. *Age and Tenure Limits.* Originally there were no age or tenure limits for members of the State advisory committees. However, as a result of Public Law (PL) 92–129, September 28, 1971, which amended the MSSA to prescribe age and tenure limits for local and appeal board members,[11] a maximum age limit of 65 years of age and a tenure limit of ten years were self imposed on SSS medical advisory committee members in July 1972.[12]

h. *Future Plans as Outlined in 1972.* The SSS Director indicated the following "future plans" in a 1972 report to the Congress.[13] "In keeping with the continuing authority under the MSSA, as amended,[14] and current SSS policy, the National Advisory Committee will: monitor the supply and availability of health manpower in order to maintain readiness to provide advice to the SSS for mobilization purposes; provide guidance and training to the State committee chairmen on a periodic basis to maintain the competency of the committees to respond rapidly to future mobilization situations; review the membership of the State Volunteer Medical Advisory Committees annually in terms of age and tenure limits and appoint replacements to maintain each State committee membership as follows: Chairman (M.D.); Dentist; and, State Health Officer (M.D.); maintain and distribute up-to-date State committee membership rosters."

i. *Termination of Statutory Basis for Committees and Subcommittees.* The statutory basis for the National Advisory Committee on the Selection of Physicians, Dentists, and Allied Specialists, expired on July 1, 1973. This resulted in the termination of that Committee, as well as termination of the several State medical advisory committees.[15]

j. *1973 Plans for State Medical Specialty Advisors to State Directors.* In December 1973, to fill the void left by the termination of State medical advisory committees, the SSS Director planned "to provide for the establishment of State medical specialty advisors to the several State Directors." The Director indicated[16] that such advisors would: be selected from among outstanding practitioners in the necessary medical specialties; be appointed based upon recommendation of the State Director of Selective Service; have duties which included making recommendations regarding the community essentiality of medical specialists seeking deferments due to professional occupation during any period of active inductions.

k. *National Advisory Committee Reconstituted in 1974.* The SSS Director reconstituted that Committee, effective January 1, 1974, as an agency committee.[17] The charter of that reconstituted committee appears at Enclosure 5. Earlier the SSS Director had reported to the Congress: "* * * I have commenced action to reconstitute the National Advisory Committee on the Selection of Physicians, Dentists, and Allied Specialists as an agency committee under the Federal Advisory Committee Act. It is my opinion that if actions to procure health professionals by other than voluntary means become necessary, the experience of this committee will be invaluable. Further, since the procedures by which health professionals are inducted differ from the general induction procedures, I think this committee can render valuable service in the planning for standby beyond fiscal year 1974."[18]

8. Other Potential Essentiality Deferment Occupations.

Except for essentiality to a community's health care delivery system, SSS stopped short of designating other health care occupations as qualifying for a Class 2–AM deferment under any scenario as (a) none were identified by concerned agencies in the coordination leading up to the 1989 concept paper, and (b) such independent designation by SSS would tend to usurp the jurisdiction of concerned agencies and the NSC. Although the Director of Selective Service is empowered to establish other occupational deferments by regulation absent the direction of the NSC, it is unlikely that this would be done for several reasons, such as:

a. Although E.O. 12656 designates the NSC as the President's instrument for developing and administering national security emergency preparedness policy and as the principal forum for consideration of such policy, it also emphasizes the need for interagency coordination of such policy. Ample historical precedent exists to show that the NSC is strongly guided by the occupational deferment policy recommendations of agencies such as HHS. The 1968 recommendation to the NSC,

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[9] *Annual Report to the Congress by the Director of Selective Service for Fiscal Year 1955,* at page 23, with reference to scientific advisory committees.

[10] *Annual Report to the Congress by the Director of Selective Service for Fiscal Year 1952,* at page 59.

[11] *Semi-annual Report to the Congress by the Director of Selective Service for the period July 1, 1971–December 31, 1971,* at page 20, which states that prior to the 1971 amendments to the Military Selective Service Act and regulations changes, "Citizens could not be appointed to local or appeal boards unless they were at least 30 years of age. They could not serve beyond their 75th birthday, or for more than 25 years." And that, "The (new) regulations implement the 1971 amendments which limit service on local and appeal boards to 20 years and set a maximum age limit for service at age 65. A minimum age limit of age 18 has been set for appointment to local boards." A revised tenure limit of 20 years for local and appeal board members, effective January 1, 1972, was added to section 10(b)(3) of the MSSA on September 28, 1971, by section 101(26) of Public Law 92–129. However, employment age limits in general, including those established by SSS for local and appeal board members, were considered unconstitutional and set aside pursuant to The Age Discrimination Act of 1975 (PL 94–135) of November 28, 1975. Such age limits were not actually stricken until enactment of the provisions in section 208 of The Uniformed Services Pay Act (PL 97–60) on October 14, 1981.

[12] *Semi-annual Report to the Congress by the Director of Selective Service for the period July 1, 1972–December 31, 1972,* at pages 50–51, which further stated that Public Law 92–129 also provided for the SSS to move to a standby status upon the expected achievement of an all volunteer Armed Forces by July 1, 1973. Effects of the intent of PL 92–129 upon the State Volunteer Medical Advisory Committees were discussed by the National Advisory Committee and (SSS Director) in February 1972. It was decided that the committees should be revised before July 1, 1973, and continue to be maintained on a standby basis after that date, but that age and tenure limits should be instituted and the elimination of the veterinarian and nurse from the State committees, since relatively few nurses and veterinarians had been called in special calls. Chairmen of the State committees could still establish subcommittees with nurses and veterinarians, as well as osteopaths, optometrists, or other health professions as necessary. The new policies, effective July 1, 1972, resulted in 266 separations—184 State committee chairmen or members and 82 subcommittee members.

[13] Ibid, at page 52.

[14] The last extension of section 4(j) of the MSSA, as amended, was to July 1, 1973, pursuant to section 103 of Public Law 92–129.

[15] *Semi-annual Report to the Congress by the Director of Selective Service for the period July 1, 1973–December 31, 1973,* at page 4.

[16] Ibid.

[17] Ibid.

[18] *Semi-annual Report to the Congress by the Director of Selective Service for the period January 1–June 30, 1973,* at page 16.

herein, illustrates the combined signatures of the heads of several concerned agencies and the interagency nature of sensitive and critical manpower issues.

b. Subsequent to the 1967 addition of provisions on NSC advice to the Director of Selective Service in section 4(g) of the Military Selective Service Act (MSSA), as amended, except for the essentiality to a community's health care system deferment currently designated for health care registrants, the Director has not proposed specific occupations for occupational deferment in the absence of NSC advice. Based on April 1971 advice from the NSC, however, the Director instructed Selective Service local boards that medical specialists under induction orders or likely to be selected, whose induction would create a community hardship that the Nation should not accept, should be considered for deferment on the basis of community essentiality.[19] The Director informed the Congress that on May 3, 1971, *"Acting on advice of the National Security Council* the Selective Service System announced that physicians and allied medical specialists subject to the up-coming draft may be considered for deferments based on community essentiality. One of the factors which will determine whether deferments are granted will be evaluations by local medical advisory committees for the areas in which registrants are currently employed. Final determination on whether to reopen and consider individuals for deferments will be made by the local board." (Emphasis added)

c. The NSC's February 1968 advice to the Director of Selective Service on occupational deferments concluded that, among other things: (a) The Secretaries of Defense, Labor, and Commerce should maintain a continuing surveillance over the Nation's manpower needs and identify any particular occupation or skill that may warrant deferment on a uniform national basis; and, (b) the NSC itself was to be notified in such event so that it could consider the need and advise the Director of Selective Service accordingly.

d. The President's April 23, 1970 message to Congress on the nation's system of conscription stated, "It is my judgment, and that of the National Security Council, that future occupational, agricultural and student deferments are no longer dictated by the national interest. I am issuing today an Executive Order to direct that no future deferments shall be granted on the basis of employment. Very few young men at age 19 are in such critical positions that they cannot be replaced." On that same day, April 23, 1970, (a) the President signed Executive Order 11527 amending the Selective Service regulations; and (b) the Director of Selective Service issued Local Board Memorandum 105, which provided in part: "Executive Order No. 11527 requires that as of April 23, 1970 no future deferments will be granted for the following classifications: (a) Occupational deferments based on employment; * * * Until further notice from the Director of Selective Service local boards will not issue any new deferments on the basis of occupation, except as indicated in subparagraphs (a) and (b) below. The Director of Selective Service and the National Security Council have decided that no occupations are now critical or essential to the nation, as defined by Section 1622.22 of the regulations." (The exceptions listed were limited to cases where, before April 23, 1970, a II–A deferment had been granted or a request for occupational deferment had been received or postmarked."

e. FEMA's Major Emergency Action HS–HR–03, "Defer Workers with Critical Skills from Conscription," currently states, "The decision on which occupations would be deferred would rest with the Director, SSS, with the advice of the NSC."

f. Occupational deferments have been a source of debate. This was particularly so during the Vietnam Era. The elimination of occupational deferments, as well as student and paternity deferments, was a significant consideration in major outside studies of the draft and among the more profound resultant reforms of the draft implemented in the early 1970's.

9. Deferment of Government Employees.

a. *Selective Training and Service Act of 1940.* There was some criticism of SSS concerning occupational deferments in general for Federal employees under the Selective Training and Service Act of 1940, as amended, despite the very specific provisions of the statute setting up the same standards for them as for other men.

"The Government was accused of being a haven for 'draft dodgers' and it was contended that Selective Service local boards were unduly impressed by the 'high-sounding names' of Federal agencies and the jobs therein. It was said that occupational deferment was being given to Federal employees even though they were not actually 'necessary, irreplaceable men engaged in essential occupations.' It was also said they were being deferred even when no requests had been made by their 'agency heads.'

"In an effort to standardize the deferment procedure for Government employees in the executive branch of the Government, the President issued Executive Order No. 9309 on March 6, 1943. It provided for committees within individual agencies as well as a central review committee to certify as to the deferment merits of the individual's qualifications for the job as well as the essential nature of the job itself. To establish similar uniformity throughout the other two branches of the Federal Government, Congress enacted Public Law No. 23, approved April 8, 1943, to establish committees in both the judicial and legislative branches. This law further specifically prohibited the System from giving any consideration to deferment for a Federal employee unless a request was presented by authority of the committee in his branch of Government."[20]

b. *Federal Personnel Manual (FPM) Provisions.* FPM provisions call for Federal agencies to "establish and make appointments to standby agency committees on selective service deferment,"[21] and indicates that, ". . . the Department of Labor has overall responsibility for all emergency civilian manpower programs except for health manpower, which is the responsibility of the Department of Health, Education, and Welfare."[22]

5 Enclosures

1. "Memorandum of Advice Respecting Occupational Deferments for Medical and Allied Specialists," April 23, 1971, from Dr. Henry A. Kissinger
2. SSS Local Board Memorandum No. 95, as amended April 23, 1970, "Advice of National Security Council with Respect to Occupational and Graduate Student Deferments" (with attachments)
3. Excerpts from Executive Order 10166, October 4, 1950
4. Excerpts from Executive Order 11415, June 24, 1968
5. Charter (January 1974) National Advisory Committee to the Selective Service System on the Selection of Physicians, Dentists, and Allied Specialists

Enclosure 1 to Background—NSC's 1973 Advice—April 23, 1971—Memorandum of Advice Respecting Occupational Deferments for Medical and Allied Specialists

In accordance with Section 4(g) of the Military Selective Service Act of 1967, and Section 1622.22(a) of Title 32 of the Code of Federal Regulations, the National Security Council advises

It is in the national interest that procedures be instituted for granting deferments for medical and allied specialists subject to special induction calls under the standards enunciated in Section 1622.23(a) of Title 32 of the Code of Federal Regulations.

These recommendations are based on the following considerations:

The National Health Resources Advisory Committee—National Advisory Committee to the Selective Service System on the selection of physicians, dentists, and allied specialists under its authority granted in Section 4(j) of the Military Selective (Service) Act, 1967, has concluded that a civilian need exists to defer certain doctors who are essential to and irreplaceable in their communities.

The Secretaries of Defense, Labor, Commerce and Health, Education, and Welfare concur in this finding.

The National Security Council has reviewed this conclusion in light of its memorandum of advice of February 15, 1968

[19] Provided they were engaged in that critical work on February 25, 1971, or that a contract for their services had been made by that time. The Director reported to the Congress that, "We instructed local boards, in their review of these requests for deferment, to seek the advice of the medical advisory committee in the State where the man was working. I have required that a deferment be granted only when the registrant is involved directly in patient care and when the removal of the man would cause an extreme shortage of an especially critical community service for which no replacement can be recruited."

[20] *The Selective Service Act, Special Monograph No. 2, Volume II, Chapters X–XXIV,* Selective Service System, 1954, at page 769–770.

[21] *FPM Chapter 910, "Mobilization Readiness,* paragraph 1–3b(12), at page 910–4 (December 1982).

[22] *FPM Supplement 910–1, Book 1, "Emergency Preparedness Planning,"* Chapter 1, paragraph C, at page I–6 (undated [1971]).

and is in agreement with it. It stresses, however, that the critical needs of the Armed Forces in this time of strife are equally compelling and cannot be allowed to suffer with the implementation of this advice.

The National Security Council limits this advice regarding deferments solely to medical and allied specialists whose occupation has been found by the applicable state medical advisory board to represent an especially critical community service and to cases where a replacement cannot be found by the community involved in the time allotted by a postponement of induction.

Henry A. Kissinger

Enclosure 2 to Background—SSS Local Board Memorandum No. 95 (April 23, 1970)

National Headquarters, Selective Service System, Washington DC 20435.

Law: Sec. 4(g), Sec. 6(h)(2)—SSS Reg. 1622.20, 1622.21, 1622.22, 1622.23, 1622.23a, 1622.24, 1622.26.

Local Board Memorandum No. 95, Issued: April 19, 1968, As Amended: April 23, 1970.

Subject: Advice of National Security Council with Respect to Occupational and Graduate Student Deferments

1. Under advice received February 16, 1968, from the National Security Council with respect to occupational deferments, the lists of essential activities and critical occupations are suspended.

2. With respect to graduate school deferments, the National Security Council advises that it is not essential for the maintenance of the National health, safety, or interest to provide student deferments for graduate study in fields other than medicine, dentistry, and allied medical specialties; except that this recommendation does not affect existing regulations governing deferment for graduate students who entered their second or subsequent year of graduate study in the fall of 1967. It does affect students graduating from college this year, as well as those who entered the first year of graduate school last fall. I concur in the recommendation made by the Council.

3. For the information and guidance of all Selective Service personnel, the full text of the memorandum of advice from the National Security Council is attached to this Local Board Memorandum and is made a part of it.

(S) Curtis W. Tarr

Attachments Retained in Transmittal Memorandum No. 132 (TM 139).

National Headquarters, Selective Service System, Washington D.C. 20435. Law: Sec. 4(g), Sec. 6(h)(2)—SSS Reg. 1622.20, 1622.21, 1622.22, 1622.23, 1622.23a, 1622.24, 1622.26

Local Board Memorandum No. 95, Issued: April 19, 1968.

Subject: Advice of National Security Council with Respect to Occupational and Graduate Student Deferments

1. Under advice received February 16, 1968, from the National Security Council with respect to occupational deferments, the lists of essential activities and critical occupations are suspended, *leaving each local board with discretion to grant, in individual cases, occupational deferments based on a showing of essential community need.* (Emphasis added)

2. With respect to graduate school deferments, the National Security Council advises that it is not essential for the maintenance of the National health, safety, or interest to provide student deferments for graduate study in fields other than medicine, dentistry, and allied medical specialties; except that this recommendation does not affect existing regulations governing deferment for graduate students who entered their second or subsequent year of graduate study in the fall of 1967. It does affect students graduating from college this year, as well as those who entered the first year of graduate school last fall. I concur in the recommendation made by the Council.

3. For the information and guidance of all Selective Service personnel, the full text of the memorandum of advice from the National Security Council is attached to this Local Board Memorandum and is made a part of it.

(S) Lewis B. Hershey, *Director*

Attachment (TM 132)

National Security Council, Washington, D.C. 20506, February 15, 1968. Memorandum for the Director of Selective Service.

In accordance with the Military Selective Service Act of 1967, attached is the advice of the National Security Council with respect to occupational and graduate student deferments.

(S) Bromley Smith, *Executive Secretary*

Attachment (TM 132).

National Security Council, Washington, D.C. 20506. Memorandum of Advice Respecting Occupational and Graduate School Deferments

I. *Background*—In accordance with Section 4(g) of the Military Selective Service Act of 1967, the National Security Council has for some time been considering the advice it should render to the Director of the Selective Service System with respect to occupational and graduate student deferments, after giving specific consideration to the needs of both the Armed Forces and the civilian segment of the population. For this purpose, the Council also sought the judgments of the Secretary of Health, Education and Welfare, the Secretary of Labor, and the Secretary of Commerce.

II. *The Issues Considered*

—Will the manpower needs of the Armed Forces and the civilian population best be served by retaining, modifying, or suspending the "List of Currently Essential Activities" and "I. List of Currently Critical Occupations"?

—Is it essential to the national health, safety and interest to provide student deferments in fields of graduate study other than the medical, dental and allied medical specialties?

III. *Conclusions*—A. *Occupational Deferments*—The National Security Council advises that:

—Deferments based on the lists of essential activities and critical occupations should be suspended.

—The Secretaries of Defense, Labor, and Commerce should maintain a continuing surveillance over the Nation's manpower needs and identify any particular occupation or skill that may warrant qualifying for deferment on a uniform national basis. When any such occupation or skill is so identified, the Council will be notified so that it may consider the need and advise the Director of the Selective Service System accordingly.

This recommendation is based on these considerations:

—The needs of the Armed Forces do not now require such occupational deferments.

—The needs of the civilian economy do not now require such occupational deferments.

—The inherent inequity, at a time when men are called upon to risk their lives for the nation, in any such occupational deferments from military service which may in practice turn into permanent exemptions.

—The lack of justification for such deferments lists as evidenced by the fact that more than half the occupational deferments actually granted are to men in occupations not on the "List of Currently Essential Activities" and "List of Currently Critical Occupations".

B. *Graduate Students*—The National Security Council advises that:

—It is not essential for the maintenance of the national health, safety and interest to extend student deferments for graduate study to fields other than medicine, dentistry and the allied medical specialties, where deferment is now required by Selective Service regulations.

—The Secretaries of Defense, Labor, Commerce, and Health, Education, and Welfare will maintain a continuing surveillance over the Nation's manpower and educational needs to identify any area of graduate study that may warrant qualifying for deferment in the national interest. When any such field is so identified, the Council will be notified so that it may consider the need and advise the Director of the Selective Service System accordingly.

This recommendation does not affect existing regulations governing deferments for graduate students who entered their second or subsequent year of graduate study in the Fall of 1967. It does affect those students graduating from college this year, and also those who entered the first year of graduate school last Fall, since the regulations provide that the latter group were to be deferred for one academic year only.

This recommendation is based on the following considerations:

—Such graduate deferments are not now required in the national interest.

—The unfairness that would result from exempting men in some fields of graduate study and not in others, as well as the accompanying distortions that would result from the tendency to select draft deferred fields of study.

—The inequities that result from graduate deferments because many of those deferments can be pyramided into exemption from military service. This is unfair—particularly in time of armed conflict—to all the young men who do not have the opportunity or the finances to attend graduate school.

—The absence of a significant military manpower need served by graduate school

deferments, in contrast both to (1) undergraduate deferments, which produce a substantial supply of military officers, and (2) graduate school deferments for doctors, dentists and allied medical specialists, many of whom later serve as medical officers in the Armed Forces under the Doctor Draft Law.

IV. *Transmission of Advice*—The National Security Council directs its Executive Secretary to transmit this memorandum of advice to the Director of the Selective Service System, with the concurrence of each of the undersigned. February 15, 1968. (S) Dean Rusk, Secretary of State. (S) Robert S. McNamara, Secretary of Defense. (S) Price Daniel, Director, Office of Emergency Planning. (S) Henry H. Fowler, Secretary of the Treasury. (S) Leonard H. Marks, Director, United States Information Agency. (TM 132)

Department of Labor, Department of Commerce, Department of Health, Education, and Welfare, Washington, D.C. February 14, 1968.

Memorandum for The National Security Council

We have been considering the question whether there is any current justification for maintaining, for deferment purposes, the "List of Currently Essential Activities" and the "List of Currently Critical Occupations".

We find that the needs of the civilian economy do not require deferments based on these lists.

The lack of need of such deferments is further evidenced by the fact that more than half the occupational deferments Actually granted are to men in occupations not on the lists.

Such uniform national deferments are also inherently inequitable—at a time when men are called upon to risk their lives for the Nation, and such deferments from military service may in practice turn into permanent exemptions.

We, therefore, recommend that draft deferments based on the lists of essential activities and critical occupations be suspended.

We also recommend that a continued surveillance be maintained over the Nation's manpower needs, to identify any particular occupation or skill that may later warrant qualifying for deferment on a uniform national basis.

We have also been considering the question whether student deferments now required by law for undergrade work, should be extended to graduate study in fields, other than medicine and dentistry.

We conclude that any such extension of the privilege of deferment from the obligations of military service is not essential for the maintenance of the national health, safety and interest.

As the Marshall Commission found, and as the Congressional Hearings on the draft law evidenced, graduate school deferments may often be pyramided into exemption from military service. This is unfair to the thousands of other young men, who lack the social and economic advantages to pursue graduate study. In a time of armed conflict, it is patently unjust. The injustice would be compounded by allowing some areas of graduate study and not others to qualify for a preferred status of deferments.

Doctors and dentists present a unique situation. There is no inequity involved here because a significantly large percentage of physicians and dentists serve in the Armed Forces after graduation under the Doctor's Draft Law than of any other group subject to the draft.

To keep watch over the situation should critical manpower needs develop, we recommend that a continuing surveillance be maintained to identify any area of graduate study that may later warrant deferment in the national interest.

(S) John W. Gardner, *Secretary of Health, Education, and Welfare.* (S) Willard Wirtz, *Secretary of Labor.* (S) A. B. Trowbridge, *Secretary of Commerce.* (TM 132)

Enclosure 3 to Background—Excerpts From Executive Order 10166—Establishing the National Advisory Committee on the Selection of Doctors, Dentists, and Allied Specialists

Under the authority of section 4(j) of the Selective Service Act of 1948, as amended September 9, 1950, by Public Law 81–779, President Truman ordered, on October 4, 1950, as follows:

"1. There is hereby established the National Advisory Committee on the Selection of Doctors, Dentists, and Allied Specialists (hereinafter referred to as the Committee), which shall be composed of such members as may be appointed by the President, and the chairman of which shall be designated by the President."

"2. In performing its functions, as prescribed by the said section 4(j) of the Selective Service Act of 1948 as amended, the Committee shall consult with the Director of Selective Service and with such other officials and agencies as may be necessary, including the Secretary of Defense and appropriate officials of the Departments of the Army, Navy, and Air Force, the Department of Labor, the National Security Resources Board, and the Federal Security Agency."

"3. All executive departments and agencies of the Federal Government are requested to cooperate with the Committee and to furnish it such available information as it may require for the performance of its duties.

* * *"

Section 4(j) had called for the President to establish this National Advisory Committee in order to advise Selective Service, and coordinate the work of subsequent State and local volunteer advisory committees, concerning the selection of needed medical and dental and allied specialists. The National Advisory Committee and the State and local volunteer advisory committees, composed from among individuals who were outstanding in medicine, dentistry, and the sciences allied thereto, were to consider the needs of both the Armed Forces and the civilian population for the services of medical, dental, and allied specialist personnel.

Enclosure 4 to Background—Excerpts From Executive Order 11415—Reconstituting the National Advisory Committee on the Selection of Doctors, Dentists, and Allied Specialists and the Health Resources Advisory Committee

Under the authority of section 303 of the National Security Act of 1947, as amended, and section 4(j) of the Military Service Act of 1967, President Johnson ordered, on June 24, 1968, as follows:

"Section 1.(a) There is hereby established the National Advisory Committee on the Selection of Physicians, Dentists, and Allied Specialists, which shall be composed of such members as may be appointed by the President pursuant to section 3 of this order."

"(b) The Committee shall perform the functions prescribed by section 4(j) of the Military Selective Service Act of 1967, as amended."

"Sec. 2.(a) There is hereby established the National Health Resources Advisory Committee, which shall be composed of such members as may be appointed by the President pursuant to section 3 of this order."

"(b) The Committee shall advise the Director of the Office of Emergency Planning concerning the allocation, utilization, and administration of health resources, including manpower, material, and facilities under various mobilization situations and on problems of the non-governmental health community relating to emergency preparedness. In carrying out these advisory functions, the Committee shall provide advice to the Director concerning, among other things, improved utilization and conservation of health manpower, health manpower data collection and interchange systems, the impact of warlike emergencies on the health industry and health services, the national medical emergency stockpile programs, and the vulnerability of the health industry."

"Sec. 3. The Committees established by this order shall have a common membership consisting of twelve members to be appointed by the President from private life. The President shall designate one of those members to serve as chairman of both Committees. Such members shall, in conformity with section 4(j) of the Military Selective Service Act of 1967, as amended, be selected from among individuals who are outstanding in medicine, dentistry, and the sciences allied thereto."

"Sec. 4.(a) In carrying out their functions, the Committees shall, as appropriate, consult with the Director of Selective Service and such other officials and agencies as may be appropriate, including the Secretary of Defense and officials of the Departments of the Army, Navy, and Air Force, the Department of Labor, the Department of Health, Education, and Welfare, and the Office of Emergency Planning. The Director of Selective Service and the Director of the Office of Emergency Planning shall designate representatives from the Selective Service System and the Office of Emergency Planning, respectively, who shall attend all meetings of these Committees."

"(b) All executive departments and agencies shall cooperate with the Committees established by this order, and furnish them

such available information as the Committees may need for the accomplishment of their functions."

"Sec. 5. The Selective Service System and the Office of Emergency Planning shall, under such arrangements as may be mutually agreed upon, provide administrative and staff support and defray the necessary expenses of the Committees established by this order, including the compensation of members thereof within the limits of applicable law. The Selective Service System shall, within the limits of applicable law, defray the necessary expenses of those State and local Committees which may, in conformity with section 4(j) of the Military Selective Service Act of 1967, as amended, be designated by the National Advisory Committee on the Selection of Physicians, Dentists, and Allied Specialists."

"Sec. 6. In order to permit the establishment of a single membership for the two Committees, the appointment of present members of the two Committees shall expire as of the date of this order. Executive Order No. 10166 and Executive Order No. 10185 are hereby revoked."

In this order, President Johnson noted that: the Health Resources Advisory Committee had been established on August 5, 1950 and been in operation continuously since then; the National Advisory Committee on the Selection of Physicians, Dentists, and Allied Specialists had been established on October 4, 1950; there was similarity in the health manpower advisory functions of the two committees; the members of the Health Resources Advisory Committee had also been designated as members of the National Advisory Committee on the Selection of Physicians, Dentists, and Allied Specialists; the common membership had been designed to avoid any duplication of functions and to minimize the opportunity for conflicting Federal policies or competing requirements on the use of health manpower; the common membership arrangement had been discontinued in 1961 and the two committees had had separate memberships since that time; and, on the basis of experience under both arrangements, it had been determined that the purposes of the two committees would be better accomplished and the public interest better served if they shared a common membership.

Enclosure 3 to Background—National Advisory Committee to the Selective Service System on the Selection of Physicians, Dentists, and Allied Specialists—Charter (January 1974)

Pursuant to the provisions of section 9(c) of the Federal Advisory Committee Act, Public Law 92–463 (1972), the following charter is prescribed for the Selective Service System Advisory Committee on the Selection of Physicians, Dentists and Allied Specialists.

A. The Committee's official designation is the Selective Service System Advisory Committee on the Selection of Physicians, Dentists and Allied Specialists. It is hereinafter referred to as the Committee. The Committee established by this charter shall consist of seven members to be appointed by the Director of Selective Service from private life. The Director shall designate one of those members to serve as Chairman of the Committee. Such members shall be selected from among individuals who are outstanding in medicine, dentistry, and the sciences allied thereto.

B. The objective of the Committee is to provide professional advice to the Director of Selective Service with respect to the selection of needed medical, dental and allied specialist categories of persons when such selection is required by the provisions of the Military Selective Service Act. The Committee's activity is national in scope.

C. The Committee shall terminate at the expiration of the two year period following the effective date hereof unless the Committee is renewed by appropriate action prior to that time.

D. The Committee will submit its reports to the Director of Selective Service.

E. The necessary support for the Committee will be provided by the Selective Service System.

F. The duty of the Committee is to furnish advice to the Director of Selective Service as requested regarding the selection of registrants in medical specialties. In the performance of its functions, the Committee shall give appropriate consideration to the respective needs of the Armed Forces and of the civilian population for the services of medical, dental, and allied specialist personnel; and, in determining the medical, dental, and allied specialist personnel available to serve the needs of any community, shall give appropriate consideration to the availability in such community of medical, dental, and allied special personnel who have attained the 35th anniversary of their birth. It shall also be the duty of the Committee to make determinations with respect to persons in residency training programs who shall be recommended for deferment for the purpose of completing such residency programs, if and when such deferments are authorized by law, and in making such determinations shall give appropriate consideration to the respective needs of the Armed Forces and the civilian population. The determinations and recommendations of the Committee arising from the performance of the above described duties will be solely advisory in nature.

G. The estimated annual operating costs for the Committee in dollars is $13,600 and the estimated annual man-years is 1 year.

H. The estimated number of meetings of the Committee is four and the estimated frequency of meetings is two every 6 months.

I. The Charter file date is January 1, 1974.

Byron V. Pepitone

(A copy of this Charter was published in the *Semi-annual Report to the Congress by the Director of Selective Service for the period July 1, 1973–December 31, 1973*, at page 14. Notice of the establishment of this committee appeared at 38 FR 35549, December 28, 1973.)

[FR Doc. 93–7144 Filed 4–1–93; 8:45 am]

BILLING CODE 8015–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–32052; File No. SR–BSE–92–10]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Boston Stock Exchange, Inc. Revising its Floor Member Examination

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 18, 1992, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange has filed the Examination Specifications for its Floor Member Examination.[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

a. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Floor Member Examination was created as an Exchange regulatory initiative designed to codify, clarify and give specificity to compliance obligations of Exchange members and member organizations. The BSE's Floor Member Examination is a qualifications examination intended to ensure that the individual floor members have the

[1] See Securities Exchange Act Release No. 31736 (January 15, 1993), 58 FR 6026 (January 25, 1993), whereby the Commission granted temporary accelerated approval of the BSE's Floor Member Examination until April 15, 1993.

knowledge, skills and abilities necessary to carry out their job responsibilities. The Examination Specifications detail the areas covered by the exam and break down the proportion of examination questions culled from each area.

Independent floor brokers and specialists who are employed by member firms on the trading floor must take and pass the examination before the commencement of employment on the trading floor in order to be in compliance with the requirements of the Constitution and Rules of the Board of Governors.[2] Floor clerks, with the consent of the Exchange, however have three months from commencement of employment to pass the exam.[3]

2. Statutory Basis

The statutory basis for the Floor Member Examination lies in Section 6(c)(3)(B) of the Act in that it is the responsibility of the Exchange to prescribe standards of training, experience and competence for persons associated with Exchange members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the Floor Member Examination will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received comments on Floor Member Examination.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR–BSE–92–10 and should be submitted by April 23, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–7693 Filed 4–1–93; 8:45 am]

BILLING CODE 8010–01–M

[2] The BSE requires that independent floor brokers, specialists and floor clerks pass the Exchange's Floor Member Examination. Independent floor brokers and specialists must first pass the Floor Broker Examination before acting in their respective capacity. See BSE Constitution Art. IX, Sec. 3(d) and Rules of Board of Governors, Chapter XIV, Section 2152(b)(2), Independent Floor Brokers; Chapter XV, section 2155.01 Dealer-Specialists.

[3] The BSE's rules permit a floor clerk to perform limited clerical duties, with the consent of the Exchange, for three months without having passed the Floor Member Examination. See Chapter XIV, section 2153 (iii).02, Floor Clerks.

[Release No. 35–25770]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

March 26, 1993.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 19, 1993 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Mississippi Power and Light Company (70–7760)

Mississippi Power and Light Company ("MP&L"), P.O. Box 1640, Jackson, Mississippi 39215–1640, an electric-utility subsidiary company of Entergy Corporation, has filed a post-effective amendment to its application under sections 9(a) and 10 of the Act and Rule 40 thereunder.

By order dated August 30, 1990 (HCAR No. 25140) ("Order"), MP&L was authorized, among other things, to acquire notes from residential, commercial and industrial customers of three programs ("Programs") that it created to meet additional electric utility needs in its service territory. The Programs included the: (1) Space Conditioning Program, which involves the marketing, selling, leasing, financing, acquisition and installation of, and selling service plans and manufacturer's warranties or other maintenance agreements for, space conditioning equipment; (2) Premium Power Program, involving audits of customers' facilities to detect power quality and reliability problems and marketing, selling, leasing and financing the acquisition and installation of surge suppressors, power conditioning products and standby power supplies; and (3) Electrotechnologies Program, involving the marketing, selling, leasing of, financing of and selling service plans in connection with, industrial and commercial equipment utilizing electric power. In connection with these Program, MP&L was authorized to provide customer financing in an amount not exceeding $23 million in the aggregate. Financing under the individual Programs was limited to: (1) $1 million for the Space Conditioning Program; (2) $2 million for the Premium Power Program; and (3) $20 million for the Electrotechnologies Program.

In the two and one-half years in which the Programs have been in effect,

the only significant activity has been in the Space Conditioning Programs. Therefore, MP&L requests, that the $23 million of customer financing previously authorized by the Commission be reallocated among the Programs as follows: (1) $6 million for the Space Conditioning Program; (2) $5 million for the Premium Power Program; and (3) $12 million for the Electrotechnologies Program. The overall limitation on customer financing authorized in the Order would remain unchanged. All other terms and conditions of the Programs, as authorized by the Order, would also remain unchanged.

American Electric Power Company, Inc. (70–7776)

American Electric Power Company, Inc. ("AEP"), 1 Riverside Plaza, Columbus, Ohio 43215, a registered holding company, has filed a post-effective amendment under section 12(b) of the Act and Rule 45 thereunder sections 6(a), 6(b), 7 and 12(b) of the Act and Rules 45 and 50(a)(5) thereunder.

By Commission orders dated December 7, 1990 and April 3, 1992 (HCAR Nos. 25201 and 25509), the Commission authorized AEP, among other things, to make cash capital contributions ("Contributions") from time-to-time to Columbus Southern Power Company ("Columbus"), an electric public-utility subsidiary company of AEP, from January 1, 1991 through December 31, 1993, of up to $70 million. AEP now requests authorization to increase the total authorized Contributions to Columbus from $70 million to $75 million. In addition, AEP requests authorization to make Contributions from time-to-time to Appalachian Power Company ("Appalachian"), also an electric public-utility subsidiary company of AEP, of up to $25 million through December 31, 1993.

The proceeds of the Contributions will be added to the general funds of Columbus and Appalachian and will be used to pay their general obligations, including expenditures incurred in their various construction projects, and for other corporate purposes.

Consolidated Natural Gas Company (70–8167)

Consolidated Natural Gas Company ("CNG"), CNG Tower, 625 Liberty Avenue, Pittsburgh, Pennsylvania 15222, a registered holding company, has filed a declaration under sections 6 and 7 of the Act and Rule 50(a)(5) thereunder.

CNG proposes to issue and sell on or before June 30, 1995 up to $400 million principal amount of debentures ("Debentures"). The Debentures will be sold in one or more series at a price, exclusive of accrued interest, which will be not less than 98% nor more than 101% of the principal amount and at an interest rate which will be a multiple of ⅛, 1/10, or 1/20 of 1%. The Debentures will mature in not more than thirty years and will be issued in accordance with the indenture between CNG and Chemical Bank (successor by merger to Manufacturers Hanover Trust Company), as Trustee, dated May 1, 1971. CNG proposes to issue and sell the Debentures either by competitive bidding, including the alternative bidding procedures authorized by the Commission's State of Policy Concerning Application of Rule 50 under the Public Utility Holding Company Act of 1935 (HCAR No. 22623, Sept. 2, 1982), or by an exception to competitive bidding under Rule 50(a)(5) through negotiated public or private offerings. In the event Rule 50 is rescinded as proposed by the Commission in HCAR No. 25668 (Nov. 4, 1992), CNG requests authority to be permitted to issue and sell Debentures under competitive bidding including the aforesaid alternative procedures without prior Commission approval.

The proceeds from the sale of the Debentures will be added to CNG's treasury fund and subsequently used to (1) finance, in part, capital expenditures of CNG and CNG's subsidiaries, (2) finance the purchase of CNG's common stock in the open market, and/or (3) acquire, retire, or redeem securities of which CNG is an issuer without the need for prior Commission approval pursuant to Rule 42 under the Act. CNG states that the proceeds from the sale of the Debentures will not be used to acquire any interest in an exempt wholesale generator as define in section 32(a)(1) of the Act or any interest in a foreign utility company as defined in section 33(a)(3) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–7630 Filed 4–1–93; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 19363; 812–8266]

Thomson Fund Group, et al.; Application

March 29, 1993

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for amendment to prior orders for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Thomson Fund Group (the "Trust"), Thomson Investor Services Inc. (the "Distributor"), and all subsequently organized registered investment companies having the Distributor or an entity controlling, controlled by, or under common control with the Distributor as principal underwriter (the "Subsequent Funds").

RELEVANT ACT SECTIONS: Exemption requested pursuant to section 6(c) for an amendment to prior orders exempting applicants from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and rules 22c–1 and 22d–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order that would amend prior orders permitting the Trust and Subsequent Funds to impose or waive a contingent deferred sales charge ("CDSC") on certain redemptions. Applicants seek to amend the prior orders to permit the waiver of the CDSC (i) in connection with redemptions by certain tax qualified plans, and (ii) in connection with certain periodic redemptions under an automatic withdrawal plan.

FILING DATE: The application was filed on February 9, 1993 and amended on March 11, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 21, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, One Station Place, 7th Floor South, Stamford, Connecticut 06902.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Staff Attorney, at (202) 272–5287, or C. David Messman, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulations).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is an open-end management investment company organized as a Massachusetts business trust. The Trust also is a series company, as described in rule 18f–2 under the Act, which currently offers shares of eleven separate series (the "Funds") for sale to investors. The Distributor serves as the Trust's principal underwriter.

2. The Trust offers a class of shares ("Class B Shares") subject to a CDSC. The CDSC is imposed in reliance upon prior orders granted by the SEC (the "Prior Orders"), which exempt applicants from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and rules 22c–1 and 22d–1 thereunder.[1]

3. A CDSC is imposed on Class B shares if an investor redeems an amount that causes the current value of the investor's account for a Fund to fall below the total dollar amount of purchase payments subject to the CDSC. Whether a CDSC is imposed and the amount of the charge depends on the number of years since the investor made a purchase payment from which an amount is being redeemed. In determining whether a CDSC is payable, it is assumed that the purchase payment from which the redemption is made is the earliest purchase payment from which a redemption or exchange has not already been effected. In accordance with the Prior Orders, a CDSC of up to 5% may be imposed on purchase payments made before July 1, 1991. Pursuant to no-action relief granted to the Trust,[2] a CDSC of 1% is imposed on redemptions of purchases made on or after July 1, 1991.

4. As permitted by the Prior Orders, the CDSC is waived for (a) any partial or complete redemption in connection with a distribution (i) upon attaining age 59½ in the case of an individual retirement account ("IRA") or Keogh Plan, or (ii) following retirement under a tax qualified plan other than an IRA or Keogh Plan; (b) redemptions resulting from the tax-free return of an excess contribution to an IRA; (c) any partial or complete redemption following death or disability (as defined in the Internal Revenue Code of 1986, as amended (the "Code")) of a shareholder (including one who owns the shares as joint tenant with his or her spouse) from an account in which the deceased or disabled is named, provided the redemption is requested within one year of the death or initial determination of disability; or (d) redemptions by trustees, officers and employees of the Trust and by employees of the Distributor and the investment manager of the Trust.

5. Applicants request amendment of the Prior Orders to waive the CDSC in connection with redemptions involving a partial or complete redemption by a tax qualified plan in connection with a distribution without penalty under section 72 of the Code. These additional distributions are as follows: (a) Upon attaining age 59½ in the case of a qualified employer retirement plan; (b) as part of a series of substantially equal periodic payments in the case of a qualified employment retirement plan or an IRA; (c) upon separation from service and attaining age 55 in the case of a qualified employer retirement plan; (d) a complete redemption in connection with a distribution from a qualified employer retirement plan in connection with the termination of such plan or the termination of employment and the transfer of assets to another employer's qualified retirement plan or to an IRA; and (e) redemptions arising in connection with a qualifying loan from a qualified employer retirement plan.

6. Applicants also propose to waive the CDSC for certain periodic redemptions pursuant to an automatic withdrawal plan. An automatic withdrawal plan is a plan by which an investor may designate a sum of money to be paid automatically on a monthly or quarterly basis to the investor or another designated person. To be eligible for the CDSC waiver with respect to a redemption from an automatic withdrawal plan, an investor would be required to maintain a minimum balance in his or her account, and the amount of the periodic redemption would be subject to certain maximums established from time to time by the Distributor.

Applicants' Legal Analysis

The Prior Orders granted exemptions from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and rules 22c–1 and 22d–1 thereunder. For the reasons described in the Prior Orders, applicants believe it is appropriate to impose the CDSC on redemptions generally and to waive the CDSC on certain redemptions. Applicants now request an amendment of the Prior Orders to the extent necessary to permit the Trust and any Subsequent Fund to waive the CDSC with respect to the waiver categories described above.

Applicants' Condition

Each applicant agrees that as a condition of granting the requested relief, the applicants will comply with the provisions of proposed rule 6c–10 under the Act (Investment Company Act Release No. 16619 (Nov. 2, 1988)), as such rule is currently proposed and as it may be reproposed , adopted or amended.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–7694 Filed 4–1–93; 8:45 am]

BILLING CODE 8010–01–M

[1] Investment Company Act Release Nos. 13825 (Mar. 15, 1984) (notice) and 13877 (Apr. 10, 1984) (order); as amended by Investment Company Act Release Nos. 15138 (June 6, 1986) (notice) and 15187 (June 30, 1986) (order), and 16574 (Sept. 27, 1988) (notice) and 16609 (Oct. 25, 1988) (order).

[2] Thomson Fund Group, *et al.* (pub. avail. Apr. 29, 1991).

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits filed Under Subpart Q During the Week Ended March 26, 1993

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 45580.

Date filed: March 22, 1993.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 19, 1993.

Description: Application of Delta Air Lines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, applies for renewal of its certificate of public convenience and necessity to permit Delta to continue to provide scheduled air transportation of persons, property and mail between Los Angeles, California, the intermediate point Salt Lake City, Utah and the coterminal points Calgary and Edmonton, Alberta, Canada.

Docket Number: 48428.

Date filed: March 25, 1993.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 22, 1993.

Description: First Amendment to the Application of Charter Way Inc., pursuant to section 401(d)(3) of the Act and subpart Q of the Regulations and in response to the Department's Request for Additional Information, respectfully requests to amend this application to also request authority to conduct domestic scheduled passenger air transportation.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 93–7721 Filed 4–1–93; 8:45 am]

BILLING CODE 4910–62–M

Aviation Proceedings; Agreements Filed During the Week Ended March 26, 1993

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 48717.

Date filed: March 23, 1993.

Parties: Members of the International Air Transport Association.

Subject: TC23 Reso/P 0573 dated February 5, 1993. Europe-South East Asia R–1 to R–21.

Proposed Effective Date: April 1, 1993.

Docket Number: 48720.

Date filed: March 24, 1993.

Parties: Members of the International Air Transport Association.

Subject: Comp Telex TG/635—Reso 024f—Italy.

Proposed Effective Date: April 15, 1993.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 93–7722 Filed 4–1–93; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

Approval of Noise Compatibility Program; Pueblo Memorial Airport, Pueblo, CO

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Airport Director of the Pueblo Memorial Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and non-Federal responsibilities in Senate Report No. 96–52 (1980).

On September 10, 1992, the FAA determined that the noise exposure maps submitted by the Director of Aviation under part 150 were in compliance with applicable requirements. On March 9, 1993, the Assistant Administrator for Airports approved the Pueblo Memorial Airport noise compatibility program. All of the program elements were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Pueblo Memorial Airport noise compatibility program is March 9, 1993.

FOR FURTHER INFORMATION CONTACT: Dennis G. Ossenkop; Federal Aviation Administration; Northwest Mountain Region; Airports Division, ANM–611; 1601 Lind Avenue, SW., Renton, Washington, 98055–4056. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Pueblo Memorial Airport, effective March 9, 1993. Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such a program to be developed in consultation with interested and affected parties including the state, local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulation (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgement for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Denver, Colorado.

The City of Pueblo submitted to the FAA the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted at Pueblo Memorial Airport. The Pueblo Memorial Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on September 10, 1992. Notice of this determination was published in the **Federal Register** on September 22, 1992.

The Pueblo Memorial Airport noise compatibility program contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 1997. It was requested that the FAA evaluate and approve this material as a

noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on September 10, 1992, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained 12 proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR 150 have been satisfied. The overall program, therefore, was approved by the Assistant Administrator for Airports effective March 9, 1993. Outright approval was granted for program elements B–2, B–3, B–6, B–7, B–8, and B–9; program elements A–1 and A–2 were approved as voluntary measures; no action was taken by FAA on program elements A–3 and B–1, and program elements B–4 and B–5 received approval in part.

These determinations are set forth in detail in a Record of Approval endorsed by the Assistant Administrator for Airports on March 9, 1993. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Pueblo Memorial Airport.

Issued in Renton, Washington on March 19, 1993.

Edward G. Tatum,

Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 93–7739 Filed 4–1–93; 8:45 am]

BILLING CODE 4910–13–M

[Docket No. 27151]

Summary of Petition Received; Disposition of Petition Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received and of disposition of petition.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of a petition filed by United Airlines, Inc. seeking relief from specific requirements of the Federal Aviation Regulations (14 CFR chapter 1 and part 93), and the disposition of that petition. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities.

DATES: Effective upon publication.

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

FOR FURTHER INFORMATION CONTACT: Patricia R. Lane, Manager, Air Traffic and Airspace Law Branch, (AGC–230), Regulations Division, Office of the Chief Counsel, 800 Independence Ave., SW., Washington DC 20591; telephone (202) 267–3491.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on March 30, 1993.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Disposition of Petition

Docket No.: 27151

Petitioner: United Airlines, Inc.

Sections of the FAR affected: 14 CFR 93.217(a)(5) and (6), and 93.223(c)

Description of Relief Sought/ Disposition: To prevent withdrawal of takeoff and landing slots from United Airlines, Inc. at Chicago's O'Hare International Airport (O'Hare) for use by carriers engaged in international operations at O'Hare.

Denial, March 30, 1993, Exemption No. 5627

[FR Doc. 93–7848 Filed 3–31–93; 4:15 pm]

BILLING CODE 4910–13–M

Intent to Rule on Application to Impose and Use a Passenger Facility Charge (PFC) at Lubbock International Airport, Lubbock, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Lubbock International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before May 3, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. Ben Guttery, Planning and Programming Branch, ASW–610D, Airports Division, Southwest Region, Forth Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bern Case, Director of Aviation, city of Lubbock, Texas at the following address: City of Lubbock, Texas, Lubbock International Airport, Rt 3, Box 389, Lubbock, TX 79401

Comments from air carriers and foreign air carriers may be in the same form as provided to the city of Lubbock, Texas, Lubbock International Airport, Director of Aviation, under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Guttery, Federal Aviation Administration, Planning and Programming Branch, ASW–610D, Airports Division, Southwest Region, Fort Worth, Texas 76193–0610, (817) 624–5979.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Lubbock International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 18, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by the city of Lubbock is substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 16, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: July 1, 1993.

Proposed charge expiration date: June 1, 2003.

Total estimate PFC revenue: $17,578,382.00.

Brief description of proposed project(s):

Projects To Impose and Use PFC's

Airport Master Plan Update
Purchase Snow Removal Equipment
Security/Access Control and Fencing

Airport Land Acquisition
Airfield Guidance Signs and Emergency Generator, ARFF Clothing and Equipment, and Phase 1 Paved Runway and Taxiway Shoulders.
Passenger Facility Charge Application
Emergency Access Roads and Terminal Apron Access Road
Phase 2 Paved Runway and Taxiway Shoulders
Acquire Airfield Operations Equipment—Ramp Sweeper
Phase 3 Paved Runway and Taxiway Shoulders

Projects to Impose Only PFC's

Runway 17R Runway Protection Zone Land Acquisition
Aircraft Rescue and Fire Fighting (ARFF) Training Area—Burn Pit
Airoort Land Acquisition
Conduct Part 150 Noise Study
Commercial Apron and Taxiway
Acquire Airfield Operations Equipment—Backhoe and Dump Truck
Strengthen Taxiway H
Acquire Airfield Operations Equipment
Construct Taxiway W1
Aircraft Deicing Apron and Connecting Taxiway
Acquire Airfield Operations Equipment

Proposed class or classes of air carriers to be exempted from collecting PFC's: Part 135 Charter Operators who operate aircraft with a seating capacity of less than 10 passengers.

Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT**" and at the FAA regional Airports office located at: Federal Aviation Administration, Airports Division, Planning and Programming Branch ASW–610D, 4400 Blue Mound Road, Fort Worth, Texas 76193–0610.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Lubbock International Airport.

Issued in Fort Worth, Texas on March 19, 1993.

John M. Dempsey,

Manager, Airports Division.

[FR Doc. 93–7738 Filed 4–1–93; 8:45 am]

BILLING CODE 4910–13–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 62
Friday, April 2, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FARM CREDIT ADMINISTRATION

Special Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board) concerning Farm Credit System (FCS) Building Association matters.

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on April 2, 1993, from 9:00 a.m. until such time as the Board may conclude 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: This meeting of the Board will be closed to the public. The matters to be considered at the meeting are:

Closed Session*

A. New Business

1. FCS Building Association
a. Personnel Matters
b. Personnel Matters—Executive Session.

Date: March 30, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

*Session Closed—Exempt pursuant to 5 U.S.C. 552b(c) (2) and (6).

[FR Doc. 93–7814 Filed 3–31–93; 10:21 am]

BILLING CODE 6705–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 10:03 a.m. on Tuesday, March 30, 1993, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Reports of the Office of Inspector General.

Matters relating to the probable failure of certain insured banks.

Recommendation concerning an administrative enforcement proceeding.

Matters relating to a certain financial institution and a certain bridge bank.

Matters relating to the Corporation's supervisory activities.

Matters relating to the Corporation's corporate activities.

Personnel matter.

In calling the meeting, the Board determined, on motion of Director Stephen R. Steinbrink (Acting Comptroller of the Currency), seconded by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), concurred in by Acting Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: March 30, 1993.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 93–7801 Filed 3–31–93; 9:38 am]

BILLING CODE 6714–01–M

FEDERAL HOUSING FINANCE BOARD

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 58 FR 15400, March 22, 1993.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:

9 a.m., Thursday, April 1, 1993
9 a.m., Friday, April 2, 1993

CHANGES IN THE MEETING: The following topic was added to the agenda during the closed portion of the meeting.

- Federal Home Loan Bank Presidents' 1992 Incentive Compensation Awards

The above matter is exempt under Section 552b(c)(6) of title 5 of the United States Code.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Executive Secretary to the Board, (202) 408–2837.

Philip L. Conover,

Managing Director.

[FR Doc. 93–7820 Filed 3–31–93; 12:00 pm]

BILLING CODE 6725–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of April 5, 1993.

Open meetings will be held on Monday, April 5, 1993, at 9:30 a.m. and on Wednesday, April 7, 1993, at 10 a.m., in Room 1C30.

Closed meetings will be held on Monday, April 5, 1993, following the 9:30 a.m. open meeting and on Tuesday, April 6, 1993, at 2:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the open meeting scheduled for Monday, April 5, 1993, at 9:90 a.m., will be:

Oral argument on an appeal by Meyer Blinder, president of Blinder Robinson, Inc., formerly a registered broker-dealer from an administrative law judge's supplemental initial decision. Blinder has appealed from the sanction imposed based upon his violation of the antifraud provisions of the securities laws. For further information, please contact Jonathan E. Gottlieb at (202) 272–2092.

The subject matter of the closed meeting scheduled for Monday, April 5, 1993, following the 9:30 a.m. open meeting, will be:

Post oral argument discussion.

The subject matter of the closed meeting scheduled for Tuesday, April 6, 1993, at 2:30 p.m., will be:

Institution of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

Reject Settlement of administrative proceedings of an enforcement nature.

Settlement of injunctive action.

Litigation matter.

Opinion.

The subject matter of the open meeting scheduled for Wednesday, April 7, 1993, at 10 a.m., will be:

1. Consideration of whether to adopt, on a temporary basis, a new exception to Rule 10b–6 and new Rule 10b–6A(T) under the Securities Exchange Act of 1934, which would permit "passive market making" during distributions of certain NASDAQ securities. The new provisions would allow "passive market making" during the two business day "cooling-off" period of Rule 10b–6, that is, the period when Rule 10b–6 otherwise would prohibit such transactions. In general, a passive market maker's bids would be limited by the level of bids of market makers that are not participating in the distribution. Conforming amendments also would be adopted to Rules 502(d) and 508 of Regulations S–K and S–B under the Securities Act of 1933. For further information, please contact Liz Pucciarelli Hensley or Susan H. Schleisner at (202) 272–2848.

2. Consideration of whether to adopt rule 23c–3 under the Investment Company Act of 1940 ("Act"), rule 14e–6 under the Securities Exchange Act of 1934 (the "Exchange Act"), amendments to rule 10b–6 and 13e–4 under the Exchange Act, and whether to publish new staff guide 10 and revised staff guide 2 to Form N–2. Rule 23c–3 will permit closed-end management investment companies to make periodic repurchase offers to shareholders at net asset value, as well as discretionary repurchase offers not more frequently than once every two years. Amendments to rules 10b–6 and 13e–4 will exempt from those rules closed-end repurchase offers pursuant to rule 23c–3 under the Act, and rule 14e–6 will exempt such closed-end repurchase offers from rules 14e–1 and 14e–2.

Consideration also will be given to whether to propose for public comment an amendment to rule 415 under the Securities Act of 1933 (the "Securities Act"), new rule 485A under the Securities Act, and amendments to Form N–2. The amendment to rule 415 would permit continuous or delayed offerings by closed-end investment companies making periodic repurchase offers under rule 23c–3. New rule 485A would provide for automatic effectiveness of post-effective amendments and new registration statements filed by such closed-end investment companies, and amendments to Form N–2 would relate to the proposed new offering and registration procedures. For further information, please contact Robert G. Bagnall at (202) 272–2048.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Holly Smith (202) 272–2100.

Dated: March 29, 1993.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–7846 Filed 3–31–93; 12:34 pm]

BILLING CODE 8010–01–M

federal register

Friday
April 2, 1993

Part II

Department of Education

34 CFR Part 685
Federal Direct Student Loan Program; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 685

RIN 1840–AB91

Federal Direct Student Loan Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to add a new part 685 to title 34 of the Code of Federal Regulations containing regulations for the Federal Direct Loan Demonstration Program, hereafter referred to as the Federal Direct Student Loan Program (FDSLP). These regulations would implement a new loan demonstration program under the provisions of the Higher Education Act of 1965 (HEA) as reauthorized by Public Law 102–325, enacted on July 23, 1992.

Under this program student and parent loan capital would be provided directly by the Federal Government rather than through private lenders.

The proposed new FDSLP regulations would govern the Federal Direct Stafford Loan Program, the Federal Direct Supplemental Loans for Students Program, and the Federal Direct PLUS Program, collectively referred to as the Federal Direct Student Loan Program.

DATES: Comments must be received on or before May 17, 1993.

ADDRESSES: Comments should be addressed to Lloyd Robertson, U.S. Department of Education, 400 Maryland Avenue, SW., (2100 Corridor, L'Enfant Plaza), Washington, DC 20202–5162.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget (OMB) at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Lloyd Robertson, Telephone: (202) 732–1818. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: The reauthorization of the HEA established the FDSLP, a program designed to test the effectiveness of a direct student loan program in comparison to the Federal Family Education Loan programs (FFEL programs), formerly known as the Guaranteed Student Loan Programs. In the FFEL programs, the Secretary works with private lenders and guaranty agencies to provide loans to students and parents of students attending postsecondary schools. In the FDSLP, the Federal government provides loan capital and the Secretary performs those functions performed in the FFEL programs by private lenders and guaranty agencies. These functions will be performed primarily by contractors under the Secretary's direction. Loans will be made under the FDSLP for the period beginning July 1, 1994 and ending June 30, 1998.

The Department of Education (ED) and the General Accounting Office (GAO) will analyze and evaluate the FDSLP and compare this demonstration program to the FFEL programs. At the end of the demonstration period, GAO is required to recommend to Congress whether to modify, continue, expand, or terminate the loan demonstration program and whether to replace all or some of the FFEL programs. In addition, the Secretary is also evaluating the FDSLP and will be making recommendations as appropriate.

Direct student loans are provided under a mandatory part of the Federal budget in the same way that the FFEL programs are funded. This means that participating schools will have access to the loan capital needed for eligible students and parents the schools choose to fund. For the most part, direct student loans will be financed through U.S. Treasury borrowings from the sale of government securities. A small amount of capital, in the form of loan subsidies, will be provided through the appropriations process.

The Secretary's administrative costs for operating the FDSLP have already been appropriated through the end of the demonstration program. This means that there is no uncertainty about whether funding for administrative support is available. Within ED, the FDSLP has a staff dedicated solely to developing, implementing, and overseeing the program.

Direct student loans are a replacement (not an additional) program; that is, each direct loan replaces a loan that could have been made under the FFEL programs. Schools participating in the FDSLP are not eligible to participate in the FFEL programs. However, direct loans will be eligible for consolidation under the Federal Consolidation Program. Direct loans will be made for the period beginning July 1, 1994 and ending June 30, 1998.

The FDSLP consists of the same loan components as the FFEL programs. There is a direct loan counterpart to Federal Stafford loans, Federal Supplemental Loans to Students (SLS), and Federal PLUS loans. The terms and conditions of direct loans, including loan limits, are the same as the terms and conditions of the FFEL programs loans.

The Secretary will select a cross section of schools currently participating in the FFEL programs to participate in this demonstration program. The group of schools selected must have an aggregate FFEL programs loan volume of approximately $500 million in the most recent fiscal year for which data is available. A control group of schools of the same size and characteristics continuing to participate in the FFEL programs will be selected and monitored for comparative evaluation purposes. Schools may form a consortium to apply to participate in the FDSLP, and selected schools may form a consortium to administer the program. Because of the increased loan limits and the projected growth in loan volume, the Secretary estimates that the first-year FDSLP loan volume would be approximately $700 million.

The Secretary proposes that a participating school, acting as an agent on behalf of ED, determine student and parent loan amounts, prepare promissory notes, and disburse funds to borrowers following procedures similar to those used in the FFEL programs. Servicing and collecting direct loans is the responsibility of the Secretary.

In designing the FDSLP, the Secretary has three major goals: (1) To create simple processes and flexible systems for borrowers and schools; (2) to provide adequate administrative support and customer service to borrowers and schools; and (3) to minimize potential liabilities for schools and the taxpayers.

There has been considerable concern over potential liabilities facing schools participating in the FDSLP. In reality, with the exception of handling the promissory note, potential liabilities under the FDSLP are the same as under the Federal Pell Grant Program and the current FFEL programs. For instance, under the Federal Pell Grant and FFEL programs, if a school certifies an award in excess of the amount for which the borrower is eligible, the school is liable for the difference; this is true in the FDSLP as well. An additional area of potential liability to which a school will be exposed in the FDSLP relates to promissory notes. The Secretary proposes that a school be liable for FDSLP funds delivered by the school to a borrower if the school cannot furnish a corresponding completed signed promissory note from the borrower to the Secretary. The proposed regulations prohibit a school from delivering any loan proceeds without first obtaining a completed promissory note from the borrower. It should be noted that many schools currently participate in the Federal Perkins loan program, which also requires that institutions obtain

completed promissory notes from students. Section 685.407 of these proposed regulations sets forth the potential liability that an institution must assume as a condition for participating in the FDSLP.

The Secretary and the GAO will conduct a comprehensive evaluation of the FDSLP and compare this demonstration program to the FFEL programs. The evaluations would also contain recommendations for modifications, continuation, expansion, suspension, or termination of the FDSLP.

Background

The concept of direct lending for student loans is not a new one. Advocates of direct lending cite simplification and standardization among the benefits of a direct lending program. Schools and borrowers would interact with one entity under a direct loan program rather than with multiple guarantors, lenders, and secondary markets that comprise the FFEL programs. In addition, advocates point to the significant savings the Federal Government is likely to experience under a direct lending program. GAO studies indicate that a full-scale direct lending program could save the Federal Government nearly $1 billion per year over current FFEL program expenditures.

The Credit Reform Act of 1990 (CRA) (Pub. L. 101–508, 12 U.S.C. section 661 *et seq*), changed the budget and accounting procedures used by the Federal Government for Federal credit programs. Prior to the passage of the CRA, all loan capital was considered a direct cost in the year in which the capital was obligated. Under the CRA, however, only the subsidy cost over the life of the loans (*i.e.*, interest subsidy and default costs) is considered a program cost. This means that direct loans now are budgeted and accounted for in the same manner as guaranteed loans, thus facilitating cost comparisons between the two types of programs.

When Congress passed the 1992 amendments to the HEA, the FDSLP was authorized to demonstrate the feasibility and cost effectiveness of direct loans. The comparison and evaluation of the FDSLP and the FFEL programs will determine the costs and benefits of the two types of lending programs.

School Selection and Participation

The Secretary will select a group of schools for participation in the FDSLP that represents a cross section of schools participating in the FFEL programs. Schools will have an opportunity to apply to participate in the FDSLP. The Secretary is identifying the types and sources of data currently available within ED in an effort to minimize the information schools would be required to submit in applications.

Initial selection of schools for the demonstration project will be made from the applicant group. If a representative sample of schools cannot be obtained from among the schools that apply, the Secretary is required to select additional schools.

The Secretary is required to consider a number of factors in selecting a cross section of schools, including:

- Institutional control (public, private, proprietary),
- Length of the academic program,
- Highest degree offered,
- Size of the student enrollment,
- Percentage of FFEL programs borrowers,
- Geographic location,
- Annual loan volume,
- Default experience, and
- Demographic composition of the student body.

In addition, the FFEL programs loan volume at schools selected to participate in the FDSLP must not represent an amount more than 15 percent of the amount of loan guarantees of any guaranty agency in the most recent year for which data is available. The Secretary also is not allowed to select schools from a State where the Secretary cannot determine that the guaranty agency designated to serve that State would remain financially sound if those schools are selected.

The Secretary proposes to establish two additional requirements for school participation in the FDSLP:

(a) A school participating in the FDSLP must meet the minimal computer hardware configuration requirements of the Electronic Data Exchange (EDE). (Namely, the Secretary proposes that schools have an IBM-compatible personal computer (PC), 512K RAM, DOS version 3.3 or later, 4 MB space available on a hard disk, a floppy drive, and a 1200, 2400, or 9600 baud Hayes compatible asyncronous modem; or a mainframe computer supporting IBM 3780 RJE protocol and HASP using binary synchronous communications at 2400 and 4800 bits/second; and, a printer that prints on 8½ by 11 inch paper.) Currently, schools participating in the campus-based programs, which include the Federal Perkins Loan Program, the Federal Supplemental Educational Opportunity Grants Program, and the Federal Work-Study Program, must do so electronically, and the majority of schools participating in the Federal Pell Grant Program do so electronically as well. The Secretary proposes that the FDSLP use electronic technology to the maximum extent possible, and that all participating schools communicate electronically with ED from the beginning of the FDSLP. Necessary PC software would be developed by ED and provided to the schools without charge. (Specifications would be provided to schools that prefer to use a computer other than a personal computer.) ED would also provide technical assistance and training to participating schools.

(b) To apply to participate in the FDSLP, a school must have a cohort default rate that is less than 25 percent in at least one of the two most recent years for which default rates have been calculated. The FDSLP is not to serve as a haven for schools that would be subject to sanctions under the FFEL programs. Nevertheless, the Secretary wishes to have some schools with relatively high default rates participate in the FDSLP in order to test the ability of the FDSLP to fulfill the needs of all institutions.

The Secretary invites comment on these requirements for schools to participate in the FDSLP. Specifically, the Secretary would like to know if the computer hardware configuration requirement would mean a substantial number or type of schools might not be able to participate, either individually or through a consortium.

Implementation

ED is in the preliminary stages of developing the FDSLP systems and procedures. These designs are neither complete nor in final form, but the Secretary would like to share with the community a description of the implementation plans to date. Following is a discussion of these plans.

Loan Origination

The first FDSLP loans will be made for the period beginning July 1, 1994. Beginning with the 1994–95 academic year, all applications for Federal student aid will go through the Central Processor System (CPS) to determine title IV eligibility. The school would receive an official output from the CPS in the form of a Student Aid Report (SAR) from the student, or an Electronic Student Aid Report (ESAR), which may be on tapes, cartridges, or rosters. With this official output, the school would be able to assemble a financial aid award package.

A school participating in the FDSLP would package FDSLP loans in the same manner as it currently packages FFEL programs loans. In addition, the school

would create a loan-origination record using software provided by the Secretary to reformat the data received from the CPS. The school would be required to add additional data such as type of loan, loan amount, and disbursement dates.

The Secretary is designing the FDSLP system with the goal of providing schools flexibility in administering the program. As schools have different needs, various options would be available. The promissory notes used in the FDSLP will be developed by the Secretary and provided to schools. In the loan origination process, the ED-provided software would allow schools to computer-generate promissory notes and disclosure statements. In addition, the FDSLP servicer will have the capability to develop promissory notes and disclosure statements on behalf of schools and ship them in bulk to the schools.

A student or parent who accepts a FDSLP loan would complete the promissory note and return it to the school; the school may not disburse FDSLP funds to a borrower without a completed promissory note.

Funds Disbursement

A school participating in the FDSLP would draw down loan funds using a process similar to the process for drawing down funds for other ED programs. The FDSLP system would, however, differ from the other ED programs in two ways. First, a school would transmit a specific FDSLP funding request that is separate from its funding requests for other programs. Because FDSLP loan capital comes from both U.S. Treasury borrowings and appropriated subsidy, these funds must be tracked separately, and they cannot be used for purposes other than making FDSLP loans. The actual transmission request and subsequent electronic transfer of funds would be the same as funding for the Federal Pell Grant Program. The Secretary proposes to use the Automated Clearinghouse (ACH) process through the Federal Reserve Banking system to deposit funds in a school's designated bank account. Currently, this process takes an average of 24 to 48 hours from the school's request for funds until the school's actual receipt of funds.

The second difference reflects the entitlement nature of the FDSLP funds. Because the amount of loan capital is determined by the eligibility of student and parent borrowers at a school, there is no maximum funding level authorized for a participating FDSLP school. The FDSLP system would, however, incorporate internal fund controls to monitor school draw-down requests; this would flag any requests that appear excessive and flag schools that have failed to follow reconciliation requirements. These flags would initiate immediate inquiry and intervention.

A school would restrict funding requests to funds needed for disbursements to borrowers over a three-day period. The software provided by the Secretary would compute gross disbursements, origination fees and insurance premiums, and net disbursements on the basis of the loan amount entered by the school. A school's funding requests would reflect the net amount to be disbursed to borrowers.

To disburse funds to a borrower, a school must first ensure that it has on file a completed and signed promissory note. For each loan disbursed, a school would record the actual disbursed amount and the disbursement date in the loan-origination record and transmit all completed loan records and promissory notes to the Secretary. The FDSLP sends a confirmation/disclosure letter to borrowers after each disbursement.

A school would be required to reconcile loan disbursements and draw downs that occurred within a 30-day period by the end of the next 30-day period. To reconcile files, a school's disbursement records must match the FDSLP records. For example, loan records and promissory notes for all disbursements made in July 1994 must be transmitted to the Secretary by the end of August 1994. In addition, the disbursement records plus ending cash balance for that period must equal the amount of funds drawn down during July 1994. The software provided to participating schools will be designed assist schools in this reconciliation process.

Loan Servicing

The Secretary is responsible for servicing and collecting FDSLP loans. The Secretary is designing a system to track a borrower's status beginning with the date funds are disbursed. Accordingly, periodic statements will be sent informing the borrower of the status of his or her account and requesting the borrower to provide the Secretary with any updated information. In addition, a school participating in the FDSLP is required to complete, at least semi-annually, student status confirmation reports (SSCRs) to update the status of its students. This process would be similar to the SSCR process in the current FFEL programs. The software provided by the Secretary also would support and assist this process.

A participating school would be required to follow requirements similar to the FFEL programs requirements related to exit counseling, deferment request processing, recordkeeping, and administrative and fiscal controls.

Repayment terms for FDSLP borrowers are identical to repayment terms under the FFEL programs. At this time design work is not completed for the income-contingent repayment option. The Secretary will propose a mechanism to implement this option in the near future.

The Secretary will exercise special collection efforts for borrowers who become more than 90 days delinquent in repaying a FDSLP loan. Borrowers who default on a FDSLP loan would be subject to all of ED's default-collection activities. At the time of default, the borrower's loan would be transferred to ED's debt-collection system.

Evaluation

The Secretary and the GAO will evaluate the experiences of ED, the participating schools, students, and parents in the FDSLP. The GAO evaluation is required to include an assessment of the experiences of the control group of FFEL programs schools. GAO is required to submit an interim report to Congress not later than January 1, 1997 and a final report not later than May 1, 1998.

Among the factors that the Secretary and GAO may evaluate and compare are the:

- Costs incurred by the Federal Government and schools in each of the loan programs;
- Cost of loan capital in each of the loan programs;
- Administrative burden of each program for the Federal Government and for schools;
- General experience of both borrowers and schools within each of the programs;
- Administrative performance of ED;
- Timeliness and availability of loan capital;
- Delinquency and default rates, as well as the associated costs;
- Effectiveness of the loan origination, delivery, and servicing systems;
- Effectiveness of income contingent repayment; and
- Experiences of schools that participate as part of a consortium.

As a result of the evaluations, the Secretary and GAO would make recommendations concerning: (1) Modifications to the FDSLP; (2) the continuation, expansion, suspension, or termination of the FDSLP; and (3)

replacement of all or some of the FFEL programs.

Summary

As the FDSLP is in many ways very similar to the FFEL programs, the Secretary has, to the extent practical, elected to adopt regulations applicable to the FFEL programs. Accordingly, these regulations are modeled after the regulations governing the FFEL programs. Those provisions affecting only lenders and guaranty agencies are not necessary as those functions are assumed by the Secretary in the FDSLP.

Although the HEA currently does not authorize borrowers attending FDSLP schools to receive unsubsidized Stafford loans, the Secretary has been assured that this was a legislative oversight that is likely to be corrected by a technical amendment. Accordingly, although unsubsidized Stafford loans are not referenced in these proposed regulations, if the technical amendment is enacted unsubsidized loans will be included in the final regulations. The Secretary invites comments on the inclusion and treatment of unsubsidized Stafford loans in the final regulations.

Subpart A—Purpose and Scope

Subpart A is modeled after subpart A in the FFEL programs regulations (34 CFR part 682) and contains a description of what types of loans would be made, the entities involved, and the definitions used in the FDSLP.

Subpart B—School Selection and Participation

Subpart B includes the eligibility requirements for schools participating in the FDSLP and the procedures the Secretary would follow in selecting schools to participate in the FDSLP and in the control group that would be monitored for comparative and evaluation purposes. Schools participating in the FDSLP must have a cohort default rate of less than 25 percent in one of the two most recent years for which cohort default rates have been calculated and must be capable of participating in ED's Electronic Data Exchange. Subpart B also includes procedures whereby a school selected for the FDSLP or the control group may appeal its selection.

Subpart C—Borrower Provisions

Subpart C contains the conditions of borrower eligibility which are identical to the borrower eligibility provisions in the FFEL programs. Those provisions regarding the charges for which FDSLP borrowers would be responsible and the conditions of repayment, including forbearance, are also included in subpart C and are modeled after the FFEL programs provisions regarding repayment. As the provisions regarding deferment are very complex and the eligibility requirements for FDSLP borrowers are identical to those of FFEL programs borrowers, the deferment section (34 CFR 685.305) cross-references the deferment section of the FFEL programs regulations (34 CFR 682.210).

Subpart D—Requirements, Standards, and Payments for FDSLP Schools

Subpart D contains those provisions pertaining to a FDSLP school and is modeled after subpart F of the FFEL programs regulations. One significant difference between subpart D and subpart F of the FFEL programs regulations is that FDSLP schools, in the agreement signed with the Secretary, make a blanket certification that information provided to the Secretary with regard to a borrower's eligibility for a FDSLP loan is correct and consistent with the borrower eligibility requirements in subpart C. If a school participating in the FDSLP wishes to withdraw from the FDSLP it may do so under the procedures contained in subpart B. In order to discourage schools from withdrawing from the FDSLP and skewing the cross section and the evaluation results, the Secretary is proposing that after a school has begun participation in the FDSLP and withdraws it would be prohibited from participating in the FFEL programs for the duration of the demonstration program—the period ending June 30, 1998. Participation in the FDSLP is limited and the participants will be selected in order for a cross section of FFEL programs participants to be obtained. The fiscal control and fund accounting procedures are modeled after 34 CFR 690.81 which contains the fiscal control and fund accounting procedures for the Federal Pell Grant Program.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. The small entities affected would be small institutions of higher education.

Many provisions of the proposed regulations repeat statutory requirements. Certain reporting, recordkeeping, and compliance requirements are imposed by the regulations. However, these requirements are modeled on existing regulations for Federal Family Education Loan programs and the Federal Perkins Loan Program. Institutions of higher education are therefore familiar with these requirements, and the regulations would not have a significant additional impact on these institutions.

Paperwork Reduction Act of 1980

Sections 685.305, 685.307, 685.401, 685.402, 685.403, 685.404, and 685.408 contain information collection requirements. As required by the Paperwork Reduction Act of 1980 (PRA), the Department of Education will submit a copy of these proposed regulations to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h)) In addition, the application to participate in the FDSLP or the control group will be submitted for review and comment under the PRA.

This notice affects students who apply for Federal student financial assistance authorized by title IV of the Higher Education Act of 1965, as amended, and postsecondary institutions administering the FDSLP. Annual public reporting burden for this collection of information is estimated to average 28 minutes for each of the estimated 334,107 individuals providing information regarding eligibility for a loan or a deferment and 12 minutes for a postsecondary institution for each of the estimated 621,552 responses relating to postsecondary institutions' administration of a student loan program including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information Regulatory Affairs, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Dan Chenok.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in 490 L'Enfant Plaza East, SW., 2100 Corridor, Washington, DC between the hours of

8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

To expedite ED's review and response, comments should be identified by specific sections of the NPRM and presented sequentially.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 685

Administrative practice or procedure, Colleges and universities, Education, Loan programs-education, Student aid, Vocational education.

(Catalog of Federal Domestic Assistance Number has not been assigned.)

Dated: March 30, 1993.

Richard W. Riley,

Secretary of Education.

The Secretary proposes to amend title 34 of the Code of Federal Regulations by adding a new part 685 to read as follows:

PART 685—FEDERAL DIRECT STUDENT LOAN PROGRAM

Subpart A—Purpose and Scope

Sec.

685.100 The Federal Direct Student Loan Program.
685.101 Participation in the FDSLP.
685.102 Definitions.
685.103 Applicability of subparts.

Subpart B—School Eligibility and Selection

685.200 Application instructions for schools to participate in the FDSLP or the control group.
685.201 Requirements for schools to participate in the FDSLP.
685.202 Selection process for schools in the FDSLP.
685.203 Selection process for schools in the control group.
685.204 Appeal procedure for schools selected to participate in the FDSLP or the control group.

Subpart C—Borrower Provisions

685.300 Borrower eligibility.
685.301 Obtaining and repaying a loan.
685.302 Charges for which FDSLP borrowers are responsible.
685.303 Loan limits.
685.304 Repayment of a loan.
685.305 Deferment.
685.306 Forbearance.
685.307 Borrower responsibilities.

Subpart D—Requirements, Standards and Payments for FDSLP Schools

685.400 Agreement between an eligible school and the Secretary for participation in the FDSLP.
685.401 Rules for a school making loans in the FDSLP.
685.402 Correspondence school schedule requirements.
685.403 Disbursing borrowers' loan proceeds and counseling borrowers.
685.404 Determining the date of a student's withdrawal.
685.405 Payment of a refund to the Secretary.
685.406 Withdrawal procedure for schools participating in the FDSLP.
685.407 Remedial actions.
685.408 Administrative and fiscal control and fund accounting requirements for schools participating in the FDSLP.
Appendix A—Addendum to Program Participation Agreement for participation in the Federal Direct Student Loan Program.

Authority: 20 U.S.C. 1087a *et seq.*

Subpart A—Purpose and Scope

§ 685.100 The Federal Direct Student Loan Program.

(a) Under the Federal Direct Student Loan Program (FDSLP), the Secretary makes loans to enable a student or his or her parents to pay the costs of the student's attendance at postsecondary schools. The Secretary makes loans under the following program components:

(1) Federal Direct Stafford Loan Program, which provides loans to undergraduate, graduate, and professional students.

(2) Federal Direct Supplemental Loans for Students (SLS) Program, which provides loans to graduate, professional, independent undergraduate, and certain dependent undergraduate students.

(3) Federal Direct PLUS Program, which provides loans to parents of dependent students.

(b) The Secretary makes a FDSLP loan only to a student or a parent of a student enrolled in a school that has been selected by the Secretary to participate in the FDSLP.

(Authority: 20 U.S.C. 1087a *et seq.*)

§ 685.101 Participation in the FDSLP.

(a)(1) Colleges, universities, graduate and professional schools, vocational, and technical schools selected by the Secretary may participate in the FDSLP. Participation in the FDSLP enables an eligible student or his or her parents to obtain a loan to pay for the student's cost of education at his or her institution.

(2) A school that is participating in the FDSLP may not certify loans under the Federal Family Education Loan Program, as defined in 34 CFR part 600.

(b) Eligible students who are enrolled at a school participating in the FDSLP may borrow under the Federal Direct Stafford Loan and Federal Direct SLS programs. Parents of eligible dependent students may borrow under the Federal Direct PLUS program.

(Authority: 20 U.S.C. 1087a *et seq.*)

§ 685.102 Definitions.

(a)(1) The following definitions are set forth in the Student Assistance General Provisions, 34 CFR Part 668:

Academic year
Campus-based programs
Dependent student
Eligible program
Eligible student
Enrolled
Federal Work-Study Program
Federal Consolidation Loan Program
Federal Direct Student Loan Program (FDSLP)
Federal Pell Grant Program
Federal Perkins Loan Program
Federal PLUS Program
Federal State Student Incentive Grant Program
Federal Supplemental Educational Opportunity Grant Program
Federal Supplemental Loans for Students (SLS) Program
Independent student
Parent
State
U.S. citizen or National

(2) The following definitions are set forth in the regulations for Institutional Eligibility under the Higher Education Act of 1965, as amended, 34 CFR part 600:

Accredited
Clock hour
Educational program
Eligible institution
Federal Family Education Loan (FFEL) programs
Institution of higher education
Nationally recognized accrediting agency or association
Preaccredited
Program of study by correspondence
Secretary

(3) The following definitions are set forth in the regulations for the FFEL programs under the Higher Education Act of 1965, as amended, 34 CFR part 682:

Act

Endorser
Expected family contribution
Federal Insured Student Loan Program
Federal Stafford Loan Program
Foreign school
Full-time student
Graduate or professional student
Guaranty agency
Holder
Legal guardian
Lender
Post-deferment grace period

(b) The following definitions also apply to this part:

Actual interest rate: The annual interest rate charged on a loan, which may be equal to or less than the applicable interest rate on that loan.

Applicable interest rate: The maximum annual interest rate that may be charged under the Act on a loan.

Borrower: An individual to whom a FDSLP loan is made.

Co-maker: One of two individuals who are joint borrowers on a Federal Direct PLUS loan and who are jointly and severally liable for repayment of the loan.

Default: The failure of a borrower and endorser, if any, or joint borrowers on a Federal Direct PLUS loan, to make an installment payment when due, or to meet other terms of the promissory note, if the Secretary finds it reasonable to conclude that the borrower and endorser, if any, no longer intend to honor the obligation to repay, provided that this failure persists for—

(1) 180 days for a loan repayable in monthly installments; or

(2) 240 days for a loan repayable in less frequent installments.

Disbursement: The delivery of loan proceeds by a school to a borrower, either directly or through the crediting of the student's account with the school.

Estimated cost of attendance: The tuition and fees normally assessed a student carrying the same academic workload as the student to whom or on whose behalf a FDSLP loan is sought, as determined by the school, plus the school's estimate of other expenses reasonably related to attendance at that school, for the period of enrollment for which the loan is sought. These expenses may not include the purchase of a motor vehicle. They may include, but are not limited to—

(1) The costs for rental or purchase of any equipment, materials, or supplies required of all students in the student's course of study, except for the cost of rental or purchase of telecommunications equipment for a student receiving all or part of his or her instruction by means of that telecommunications technology;

(2) For a student attending the institution on at least a half-time basis, an allowance for books, supplies, transportation, and miscellaneous personal expenses;

(3) If applicable, the insurance premium for the loan;

(4) If applicable, the origination fee for the loan;

(5) An allowance, as determined by the school, for room and board costs incurred by the student that includes—

(i) For a student, without dependents, residing at home with parents, an allowance of at least $1,500;

(ii) For a student, without dependents, residing in institutionally owned or operated housing, a standard allowance based on the amount normally assessed most of the school's residents for room and board; and

(iii) For all other students, an allowance of not less than $2,500 for expenses reasonably incurred by those students for room and board;

(6) For a student enrolled in a program of study by correspondence, only the tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training;

(7) For a student enrolled in an educational program that normally includes a formal program of study abroad, reasonable costs associated with that study;

(8) For a student with one or more dependents, an allowance based on the expenses reasonably incurred for dependent care based on the number and age of the dependents; and

(9) For a student with a disability, an allowance for those expenses related to his or her disability, including special services, transportation, equipment, and supplies that reasonably are incurred and not provided by other assisting agencies.

Estimated financial assistance: (1) The estimated amount of assistance that a student has been or will be awarded, for a period of enrollment for which the loan is sought, from Federal, State, institutional, or other scholarship, grant, financial need-based employment, or loan programs, including but not limited to—

(i) Veterans' educational benefits paid under Chapters 30, 31, 32, and 35 of Title 38 of the United States Code;

(ii) Educational benefits paid under chapters 106 and 107 of title 10 of the United States Code (Selected Reserve Educational Assistance Program);

(iii) Reserve Officer Training Corps (ROTC) scholarships and subsistence allowances awarded under chapter 2 of title 10 and chapter 2 of title 37 of the United States Code;

(iv) Benefits paid under Public Law 97–376, section 156: Restored Entitlement Program for Survivors (or Quayle benefits);

(v) Benefits paid under Public Law 96–342, section 903: Educational Assistance Pilot Program;

(vi) Any educational benefits paid because of enrollment in a postsecondary education institution;

(vii) The estimated amount of other Federal student financial aid, including, but not limited to, a Federal Direct Stafford loan eligible for interest subsidies, Federal Pell Grants and campus-based aid, that the student would be expected to receive if the student applied, whether or not the student has applied for that aid; and

(viii) If the student is applying for a loan to cover expenses incurred within the same enrollment period as that for which a prior FFEL program or FDSLP loan was received, the amount of Federal Stafford, Federal SLS, and Federal PLUS loan proceeds withheld by the lender or the amount of Federal Direct Stafford, Federal Direct SLS, and Federal Direct PLUS loan proceeds withheld by the Secretary on the prior loan to cover the origination fee or insurance premium, if those costs were included in computing the borrower's estimated cost of attendance for the prior loan.

(2) The estimated amount of assistance does not include those amounts used to replace the expected family contribution, including—

(i) Federal Direct SLS and Federal Direct PLUS loan amounts;

(ii) Private and state-sponsored loan program loan amounts; and

(iv) Federal Perkins loan and Federal Work-Study funds that the school determines the student has declined for an acceptable reason.

Expected family contribution: The amount a student and his or her spouse and family are expected to pay toward the student's cost of attendance.

FDSLP school: A school that has an agreement with the Secretary under § 685.400 to participate in the FDSLP.

Federal Direct PLUS Program: A loan program authorized by Title IV-D of the Act which provides loans to parents of undergraduate students attending FDSLP schools with loans that have the same terms and conditions as Federal PLUS Program loans.

Federal Direct Stafford Loan Program: A loan program authorized by Title IV-D of the Act which provides loans to students attending FDSLP schools with loans that have the same terms and

conditions as Federal Stafford Loan Program loans.

Federal Direct Supplemental Loans for Students (SLS) Program: A loan program authorized by Title IV-D of the Act which provides loans to students attending FDSLP schools with loans that have the same terms and conditions as Federal SLS Program loans.

Grace period: The period that begins on the day after a Federal Direct Stafford loan borrower ceases to be enrolled as at least a half-time student at an eligible institution and ends on the day before the repayment period begins.

Half-time student: A student enrolled in a school that is participating in the FFEL programs or the FDSLP and is carrying an academic workload that amounts to at least one-half the workload of a full-time student, as determined by the school, and is not a full-time student. A student enrolled solely in an eligible program of study by correspondence as defined in 34 CFR 668.8 is considered a half-time student.

Origination fee: A fee, payable by the borrower, that is used to help defray the costs of the FDSLP.

Loan period: The period for which a Federal Direct Stafford, Federal Direct SLS, or Federal Direct PLUS loan is intended. The loan period must coincide with a bona fide academic term established by the school, for which institutional charges are normally assessed.

Repayment period: (1) For a Federal Direct Stafford loan, the period beginning on the date following the expiration of the grace period and ending no later than 10 years from that date, exclusive of any period of deferment or forbearance.

(2) For a Federal Direct SLS loan, the period that begins on the date the loan is disbursed, or if the loan is disbursed in more than one installment, the date the last disbursement is made and ends no later than 10 years from that date, exclusive of any period of deferment or forbearance.

(3) For a Federal Direct PLUS loan, the period that begins on the date the loan is disbursed and ends no later than 10 years from that date, exclusive of any period of deferment or forbearance.

School: (1) An "institution of higher education" as that term is defined in section 481 of the Act.

(2) The term includes only those individual units or programs within a school that satisfy the definition of "eligible program" in 34 CFR part 668.

(3) The term does not include any educational institution that employs or uses commissioned salespersons to promote the availability of Federal Direct Stafford, Federal Direct SLS, or Federal Direct PLUS loans for attendance at the institution. For this purpose—

(i) A *commissioned salesperson* is one who receives compensation in any form or amount that is related to, or calculated on the basis of, student applications for enrollment, student acceptances for enrollment, student enrollments, or student retention; and

(ii) *Promote the availability* means—

(A) Provide a prospective or enrolled student with loan application forms;

(B) Provide other information relating to the FDSLP to a prospective or enrolled student in order to encourage the student to finance his or her education with a FDSLP loan; or

(C) Otherwise use the availability of FDSLP loans as a recruiting or retention tool.

Temporarily totally disabled: The condition of an individual who, though not totally and permanently disabled, is unable to work and earn money or attend school, during a period of at least 60 days needed to recover from injury or illness. With regard to a disabled dependent of a borrower, this term means a spouse or other dependent who, during a period of injury or illness, requires continuous nursing or similar services for a period of at least 90 days.

Totally and permanently disabled: The condition of an individual who is unable to work and earn money or attend school because of an injury or illness that is expected to continue indefinitely or result in death.

Undergraduate student: A student who is enrolled at a school in a program of study, at or below the baccalaureate level, that usually does not exceed four academic years, or is up to five academic years in length, and is designed to lead to a degree or certificate at or below the baccalaureate level.

(Authority: 20 U.S.C. 1087a *et seq.*)

§ 685.103 Applicability of subparts.

(a) Subpart A of this part contains general information regarding the purpose and scope of the FDSLP.

(b) Subpart B of this part contains provisions regarding eligibility and selecting schools that will participate in the FDSLP.

(c) Subpart C of this part contains provisions that apply to borrowers in the FDSLP.

(d) Subpart D of this part contains certain requirements that apply to schools in the FDSLP.

(Authority: 20 U.S.C. 1087a *et seq.*)

Subpart B—School Eligibility and Selection

§ 685.200 Application instructions for schools to participate in the FDSLP or the control group.

A school that wishes to apply to participate in the FDSLP or the control group must apply in accordance with procedures established by the Secretary.

(Authority: 20 U.S.C. 1087a *et seq.*)

§ 685.201 Requirements for schools to participate in the FDSLP.

(a) A school participating in the FDSLP must be an eligible institution as defined in 34 CFR part 600.

(b) A school participating in the FDSLP must have—

(1) The minimum computer configuration required for participation in the Electronic Data Exchange, which is—

(i) An IBM-compatible personal computer with;

(A) 4 MB space available on a hard disk;

(B) MS-DOS or IBM PC-DOS version 3.3 or later;

(C) One floppy drive; and

(D) A 1200, 2400, or 9600 baud Hayes compatible asyncronous modem; or

(ii) A mainframe computer supporting IBM 3780 RJE protocol and HASP using binary synchronous communications at 2400 and 4800 bits/second; and

(2) A printer that prints on 8-1/2 by 11 inch paper.

(c) A school applying to participate in the FDSLP must have a cohort default rate as defined in section 435(m) of the Act that is less than 25 percent in at least one of the two most recent years for which cohort default rates have been published by the Secretary.

(d) A school applying to participate in the FDSLP must be located in a State.

(Authority: 20 U.S.C. 1087a *et seq.*)

§ 685.202 Selection process for schools in the FDSLP.

(a) *General.* The Secretary uses statistical methodology to ensure that a cross section of schools that participate in the FFEL programs is represented in the FDSLP.

(b)(1) The Secretary groups the universe of FFEL programs participants by various categories into "cells," taking into consideration institutional control, length of academic program, size of student enrollment, percentage of FFEL programs student borrowers, geographic location, annual loan volume, default experience, and demographic composition of the student body.

(2) If a school applies for participation in the FDSLP, it is selected unless there are too many applicant schools from the cell to which the school belongs.

(3) If there are too many applicants from a particular cell, the Secretary makes random selections from among the applicants to give each applicant the same probability of selection.

(4) If there are too few applicants from a particular cell, all applicants are selected, and the Secretary randomly selects additional schools from that cell from among the non-applicants to obtain the desired cross section of schools participating in the FDSLP.

(Authority: 20 U.S.C. 1087a *et seq.*)

§ 685.203 Selection process for schools in the control group.

(a) *General.* After determining which schools would participate in the FDSLP, the Secretary selects a control group using a statistical methodology to ensure a cross section of schools from the remaining universe of schools participating in the FFEL programs.

(b) The procedures set forth in § 685.202 to select schools for participation in the FDSLP are also used to select schools for the control group.

(c) The fact that a school applies for participation in the FDSLP but is not selected neither increases nor decreases the school's probability of being selected to be in the control group.

(Authority: 20 U.S.C. 1087a *et seq.*)

§ 685.204 Appeal procedure for schools selected to participate in the FDSLP or the control group.

(a) *General.* A school may appeal to the Secretary to decline its selection to participate in the FDSLP or the control group. Such an appeal must demonstrate good cause (for example, extreme administrative burden) for the Secretary to grant the school's appeal.

(b) A selected school that does not wish to participate must appeal to the Secretary within fifteen (15) days of the date the school is notified of its selection to participate. The Secretary does not grant an appeal that is made after fifteen (15) days of when the school was notified unless the school can demonstrate extenuating circumstances that prevented the appeal from being made on a timely basis.

(Authority: 20 U.S.C. 1087a *et seq.*)

Subpart C—Borrower Provisions

§ 685.300 Borrower eligibility.

(a)(1) *Student borrower.* A student is eligible to receive a Federal Direct Stafford loan, and an independent undergraduate student, a graduate or professional student, or, subject to paragraph (a)(1)(iii) of this section, a dependent undergraduate student, is eligible to receive a Federal Direct SLS loan, if the student is enrolled in an FDSLP school, meets the requirements for an eligible student under 34 CFR part 668, and—

(i) In the case of an undergraduate student who seeks a Federal Direct Stafford loan or Federal Direct SLS loan for the cost of attendance at a school that participates in the Federal Pell Grant Program, has received a final determination, or, in the case of a student who has filed an application with the school for a Federal Pell Grant, a preliminary determination, from the school of the student's eligibility or ineligibility for a Federal Pell Grant and, if eligible, has applied for the period of enrollment for which the loan is sought;

(ii) In the case of any student who seeks a Federal Direct SLS loan for the cost of attendance at a school that participates in the FDSLP, has—

(A) Received a determination of need for a Federal Direct Stafford loan, and if determined to have need in excess of $200, has requested a Federal Direct Stafford loan from the school; and

(B) Received a certification of graduation from a school providing secondary education or the recognized equivalent;

(iii) For purposes of a dependent undergraduate student's eligibility for a Federal Direct SLS loan, is a dependent undergraduate student for whom the financial aid administrator determines and documents in the school's file, after review of the family financial information provided by the student and consideration of the student's debt burden, that the student's parents likely will be precluded by exceptional circumstances (e.g., the student's parent receives only public assistance or disability benefits, is incarcerated, or his or her whereabouts are unknown) from borrowing under the Federal Direct PLUS Program and the student's family is otherwise unable to provide the student's expected family contribution. A parent's refusal to borrow a Federal Direct PLUS loan does not constitute an exceptional circumstance;

(iv)(A) Reaffirms any FFEL programs or FDSLP loan amount that previously was cancelled due to the borrower's total and permanent disability, or that was discharged in bankruptcy, or written off; and

(B) For purposes of this paragraph, reaffirmation means the acknowledgement of the loan by the borrower in a legally binding manner. The acknowledgement may include, but is not limited to, the borrower—

(*1*) Signing a new promissory note or repayment schedule; or

(*2*) Making a payment on the loan;

(v)(A) In the case of a borrower whose previous loan was cancelled due to total and permanent disability, obtains a certification from a physician that the borrower's condition has improved and that the borrower is able to engage in substantial gainful activity; and

(B) Signs a statement acknowledging that any FDSLP loan the borrower receives cannot be cancelled in the future on the basis of any present impairment, unless that condition substantially deteriorates;

(vi) In the case of any student who seeks a loan but does not have a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate, has passed an independently administered examination approved by the Secretary; and

(vii) Is not serving in a medical internship or residency program, except for an internship in dentistry.

(2) *Special conditions for subsidized Federal Direct Stafford Loan borrowers.* (i) To qualify for interest benefits on a Federal Direct Stafford loan, a borrower must demonstrate financial need in accordance with Title IV, Part F of the Act.

(ii) The Secretary considers a member of a religious order, group, community, society, agency, or other organization who is pursuing a course of study at an institution of higher education to have no financial need if that organization—

(A) Has as its primary objective the promotion of ideals and beliefs regarding a Supreme Being;

(B) Requires its members to forego monetary or other support substantially beyond the support it provides; and

(C)(*1*) Directs the member to pursue the course of study; or

(*2*) Provides subsistence support to its members.

(b) *Parent borrower.* A parent is eligible to receive a Federal Direct PLUS loan, if the parent—

(1) Is borrowing to pay for the educational costs of a dependent undergraduate student who meets the requirements for an eligible student set forth in 34 CFR part 668;

(2) Provides his or her and the student's social security number;

(3) Meets the requirements pertaining to citizenship and residency that apply to the student in 34 CFR 668.7;

(4) Meets the requirements concerning defaults and overpayments that apply to the student in 34 CFR 668.7;

(5) Except for the completion of a Statement of Selective Service Registration Status, complies with the requirements for submission of a Statement of Educational Purpose that apply to the student in 34 CFR part 668; and

(6) Meets the requirement of paragraphs (a)(1)(iv) and (a)(1)(v) of this section; and

(7)(i)(A) Does not have an adverse credit history; or

(B) Has an adverse credit history, but has obtained a co-signer who does not have an adverse credit history.

(ii) For purposes of this paragraph (b)(7)(i), an *adverse credit history* means that as of the date of the credit report, the individual is 90 or more days delinquent on any debt.

(c) *Use of loan proceeds to replace expected family contribution.* A borrower may use the amount of a Federal Direct SLS loan, Federal Direct PLUS loan, State-sponsored loan or other non-Federal loan obtained for a period of enrollment to replace the expected family contribution for that loan period.

(Authority: 20 U.S.C. 1087a *et seq.*)

§ 685.301 Obtaining and repaying a loan.

(a)(1) *Application for a Federal Direct Stafford loan.* To obtain a Federal Direct Stafford loan, a student shall complete and submit a Free Application for Federal Student Aid. If the student is eligible for a Federal Direct Stafford loan and the school is willing to make the loan, the school shall obtain a completed promissory note from the student and originate the loan on behalf of the Secretary.

(2) *Application for a Federal Direct SLS loan.* To obtain a Federal Direct SLS loan, a student shall complete and submit a Free Application for Federal Student Aid. If the student is eligible for a Federal Direct SLS loan, and the school is willing to make the loan, the school shall obtain a completed promissory note from the borrower and originate the loan on behalf of the Secretary.

(3) *Application for a Federal Direct PLUS loan.* To obtain a Federal Direct PLUS loan, both the student and the parent shall complete and submit a Free Application for Federal Student Aid. If the borrower is eligible for a Federal Direct PLUS loan and the school is willing to make the loan, the school shall obtain a completed promissory note from the parent and originate the loan on behalf of the Secretary.

(b) *Repaying a loan*—(1) *General.* The borrower is obligated to repay the full amount of the loan, late fees, collection costs, and any interest not subsidized by the Secretary.

(2) *Federal Direct Stafford loan repayment.* Generally, a borrower is not required to make any payments on the principal of a Federal Direct Stafford loan during the time the borrower is in school. If the borrower qualifies, the Secretary subsidizes the interest on the borrower's behalf during the time the borrower is in school. When the borrower ceases to be enrolled on at least a half-time basis, a grace period begins during which no principal payments are required, and the Secretary continues to pay the accruing interest on the borrower's behalf. At the end of the grace period, the repayment period begins. During the repayment period, the borrower pays both the principal and the interest accruing on the loan except during authorized periods of deferment.

(3) *Federal Direct SLS loan repayment.* The repayment period for a Federal Direct SLS loan begins immediately on disbursement of the loan. The first payment of principal and interest on an SLS loan is due from the borrower within 60 days after the loan is fully disbursed unless a borrower who is also a Stafford loan borrower requests that repayment on the Federal Direct SLS loan be deferred until the borrower's grace period on the Stafford loan expires. The borrower is responsible for the interest that accrues during the life of the loan.

(4) *Federal Direct PLUS loan repayment.* The repayment period for a Federal Direct PLUS loan begins immediately on disbursement of the loan. The first payment on the principal and interest on a PLUS loan is due from the borrower within 60 days after the loan is fully disbursed.

(5) *Deferment of repayment.* Repayment of principal on an FDSLP loan may be deferred under the circumstances described in 34 CFR 685.305.

(6) *Default.* If a borrower defaults on a loan, the Secretary adds collection costs to the amount owed by the borrower.

(c) *Cancellation*—(1) *Death.* If a borrower, or the student on whose behalf a parent borrowed, dies, the obligation of the borrower and any endorser to make any further payments is canceled.

(2)(i) *Total and permanent disability.* If a borrower becomes totally and permanently disabled, the obligation of the borrower and any endorser to make any further payments on the loan is canceled. A borrower is not considered totally and permanently disabled on the basis of a condition that existed at the time he or she applied for the loan, unless the borrower's condition has substantially deteriorated later, so as to render the borrower totally and permanently disabled.

(ii) A physician who is a doctor of medicine or osteopathy and legally authorized to practice in a State must certify the borrower's total and permanent disability in order for the loan obligation to be canceled.

(3) *Bankruptcy.* If a borrower has his or her loan obligation discharged in bankruptcy, the obligation of the borrower to make any further payments on the loan is canceled.

(4) *Co-makers.* If a Federal Direct PLUS loan was obtained by two parents as co-makers and only one of the borrowers dies, becomes totally and permanently disabled, or has his or her loan obligation discharged in bankruptcy, the other borrower remains obligated to repay the loan.

(Authority: 20 U.S.C. 1087a *et seq.*, 1091a)

§ 685.302 Charges for which FDSLP borrowers are responsible.

(a) *Interest.*—(1) *Applicable interest rates under the Federal Direct Stafford Loan Program.*

(i) If a borrower, on the date the promissory note evidencing a Federal Direct Stafford loan is signed, has an outstanding balance on a previous Federal Stafford or Federal Direct Stafford loan, the applicable interest rate is the applicable rate charged on that previous loan.

(ii) If a borrower, on the date the promissory note evidencing a Federal Direct Stafford loan is signed, has no outstanding balance on a Federal Stafford or Federal Direct Stafford loan but has an outstanding balance of principal or interest on a Federal PLUS or Federal SLS loan made for a period of enrollment beginning before July 1, 1988 or on a Federal Consolidation loan that repaid a loan made for a period of enrollment beginning before July 1, 1988 the applicable interest rate is 8 percent.

(iii) If a borrower, on the date the promissory note evidencing a Federal Direct Stafford loan is signed, has no outstanding balance on a Federal Stafford, Federal PLUS or Federal SLS loan made for a period of enrollment beginning before July 1, 1988, or on a Federal Consolidation loan that repaid a loan made for a period of enrollment beginning before July 1, 1988, the applicable interest rate is 8 percent until 48 months elapse after the repayment period begins, and 10 percent thereafter.

(iv) If a borrower, on the date the promissory note evidencing a Federal Direct Stafford loan is signed, has no outstanding balance on a Federal Stafford loan but has an outstanding balance of principal or interest on a Federal SLS or Federal PLUS loan that was disbursed on or after October 1, 1992 or a Federal Consolidation loan that repaid a Federal Stafford loan for which the first disbursement is on or

after October 1, 1992, the applicable interest rate is 8 percent.

(v) If a borrower, on the date the promissory note evidencing a Federal Direct Stafford loan is signed, has no outstanding balance of principal or interest on any FFEL programs or FDSLP loan, the applicable rate is a variable rate, applicable to each July 1—June 30 period, that equals the lesser of—

(A) The bond equivalent rate of the 91-day Treasury Bills auctioned at the final auction held prior to June 1, plus 3.10 percent; or

(B) 9 percent.

(vi) For a Federal Direct Stafford loan with an interest rate of 10 percent during repayment, if at the end of any calendar quarter, the sum of the average of the bond equivalent rates of the 91-day Treasury bills auctioned for that quarter, plus 3.25 percent, is less than 10 percent, the Secretary—

(A) Calculates an adjustment in an amount specified under paragraph (a)(1)(vii) of this section; and

(B) Credits the adjustment to reduce the outstanding principal balance of the loan if the borrower's account is not more than 30-days delinquent on December 31 of any year for which an adjustment is payable.

(vii) For the purpose of paragraph (a)(1)(vi), the amount of an adjustment for a calendar quarter is equal to—

(A) 10 percent minus the sum of the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the applicable quarter plus 3.25 percent;

(B) Multiplied by the outstanding principal balance of the loan (not including unearned interest added to principal); and

(C) Divided by 4.

(viii) For a fixed interest rate Federal Direct Stafford loan made to a borrower with an outstanding FFEL programs loan, if at the end of any calendar quarter, the sum of the average of the bond equivalent rates of the 91-day Treasury bills auctioned for that quarter, plus 3.10 percent, is less than the applicable interest rate, the Secretary—

(A) Calculates an adjustment in an amount specified under paragraph (a)(1)(ix) of this section; and

(B) Credits the adjustment to reduce the outstanding principal balance of the loan if the borrower's account is not more than 30 days delinquent on December 31 of any year for which an adjustment is payable.

(ix) For the purpose of paragraph (a)(1)(viii), the amount of an adjustment for a calendar quarter is equal to—

(A) The applicable interest rate minus the sum of the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the applicable quarter plus 3.10 percent;

(B) Multiplied by the outstanding principal balance of the loan;

(C) Divided by 4; and

(D) Prorated for the portion of the quarter during which the borrower is responsible for the payment of interest on the loan.

(2) *Applicable interest rates under the Federal Direct PLUS Program.* The applicable interest rate on a Federal Direct PLUS loan is a variable rate, applicable to each July 1–June 30 period, that equals the lesser of—

(i) The bond equivalent rate of the 52-week Treasury Bills auctioned at the final auction held prior to the June 1 immediately preceding that July 1–June 30 period, plus 3.1 percent; or

(ii) 10 percent.

(3) *Applicable interest rates under the Federal Direct SLS Program.* The applicable interest rate on a Federal Direct SLS Program loan is a variable rate, applicable to each July 1—June 30 period, that equals the lesser of—

(i) The bond equivalent rate of the 52-week Treasury Bills auctioned at the final auction held prior to the June 1 immediately preceding that July 1—June 30 period, plus 3.1 percent; or

(ii) 11 percent.

(b) *Capitalization.* (1) The Secretary may add accrued interest to the borrower's unpaid principal balance. This increase in the principal balance of a loan is called "capitalization."

(2) The Secretary may capitalize interest payable by the borrower that has accrued—

(i) During the period from the date the first disbursement was made to the beginning date of the in-school period;

(ii) During the in-school period or grace period;

(iii) During a period of authorized deferment;

(iv) During a period of authorized forbearance; or

(v) During the period from the date the first installment payment was due until it was made.

(3) Under the Federal Direct SLS and Federal Direct PLUS programs, the Secretary requires the borrower to pay on a monthly or quarterly basis, or capitalize on a quarterly basis, interest that has accrued during periods in which the borrower—

(i) Is pursuing a full-time course of study at an eligible institution;

(ii) Is pursuing at least a half-time course of study (as determined by the institution) during an enrollment period for which the student has obtained a FFEL programs or FDSLP loan;

(iii) Is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary; or

(iv) Is pursuing a rehabilitation training program for disabled individuals that is approved by the Secretary.

(4) For a borrower who is in a period of deferment, or a required medical or dental internship forbearance, and has agreed to monthly or quarterly payments of interest, the Secretary capitalizes past due interest after notification to the borrower that the borrower's failure to resolve any delinquency constitutes the borrower's consent to capitalization of delinquent interest and all interest that would accrue through the remainder of that period.

(c) *Origination fee for Federal Direct Stafford, Federal Direct SLS, and Federal Direct PLUS loans.* The Secretary—

(1) Charges a borrower an origination fee on a subsidized Federal Direct Stafford loan not to exceed the maximum rate specified by Federal statute;

(2) Charges a borrower an origination fee on a Federal Direct SLS or Federal Direct PLUS loan of 5 percent of the principal amount of the loan;

(3) Deducts the origination fee from the proceeds of the loan;

(4) In the case of a loan disbursed in multiple installments, deducts a *pro rata* portion of the fee from each disbursement; and

(5) Refunds by a credit against the borrower's loan balance the portion of the origination fee previously deducted from the loan that is attributable to a disbursement of that loan that is repaid within 120 days of disbursement.

(d) *Insurance premium.* The Secretary—

(1) Charges the borrower an insurance premium of up to 3 percent of the principal amount of the Federal Direct Stafford, Federal Direct SLS, or Federal Direct PLUS loan;

(2) Deducts the insurance premium from the proceeds of the loan;

(3) In the case of a loan disbursed in multiple installments, deducts a *pro rata* portion of the insurance premium from each disbursement; and

(4) Refunds by a credit against the borrower's loan balance the portion of the insurance premium previously deducted from the loan that is attributable to a disbursement of that loan that is repaid within 120 days of disbursement.

(e) *Late charge.* (1) The Secretary requires the borrower to pay a late charge under the circumstances described in paragraph (e)(2) of this section. This charge does not exceed six cents for each dollar of each late installment.

(2) The Secretary requires the borrower to pay a late charge if the borrower fails to pay all or a portion of a required installment payment within 10 days after it is due.

(f)(1) *Collection charges before default.* Notwithstanding any provisions of State law, the Secretary requires that the borrower or any endorser pay costs incurred by the Secretary or his agents in collecting installments not paid when due, including, but not limited to—

(i) Attorney's fees;

(ii) Court costs;

(iii) Telegrams; and

(iv) Fees on checks returned due to non-sufficient funds.

(2) *Collection charges after default.* If a borrower defaults on an FDSLP loan, he or she is assessed collection costs under the formula in 34 CFR 30.60.

(Authority: 20 U.S.C. 1087a *et seq.*, 1091a)

§ 685.303 Loan limits.

(a) *Federal Direct Stafford Loan Program annual limits.* (1) In the case of a student who has not successfully completed the first year of a program of undergraduate education, the total amount the student may borrow for any academic year of study under the Federal Direct Stafford Loan Program, in combination with any amount borrowed under the Federal Stafford Loan Program, may not exceed—

(i) $2,625 for enrollment in a program of study of at least a full academic year in length;

(ii) $1,750 for enrollment in a program of study of at least two-thirds but less than a full academic year in length; and

(iii) $875 for enrollment in a program of study of at least one-third but less than two-thirds of an academic year in length.

(2) In the case of a student who has successfully completed the first year of an undergraduate program but has not successfully completed the second year of an undergraduate program, the total amount the student may borrow for any academic year of study under the Federal Direct Stafford Loan Program, in combination with any amount borrowed under the Federal Stafford Loan Program, for that second year may not exceed—

(i) $3,500 for enrollment in a program of study of at least a full academic year in length;

(ii) $2,325 for enrollment in a program of study of at least two-thirds but less than a full academic year in length;

(iii) $1,175 for enrollment in a program of study of at least one-third but less than two-thirds of an academic year in length.

(3) In the case of a student who has successfully completed the first and second year of a program of study of undergraduate education but has not successfully completed the remainder of the program, the total amount the student may borrow for any academic year of study under the Federal Direct Stafford Loan Program, in combination with any amount borrowed under the Federal Stafford Loan Program, may not exceed—

(i) $5,500 for a program of study of at least an academic year in length;

(ii) $3,675 for enrollment in a program of study of at least two-thirds of an academic year but less than an academic year in length; and

(iii) $1,825 for a program of study of at least one-third of an academic year in length but less than two-thirds of an academic year in length;

(4) In the case of a graduate or professional student, the total amount the student may borrow for any academic year of study under the Federal Direct Stafford Loan Program, in combination with any amount borrowed under the Federal Stafford Loan Program, may not exceed $8,500.

(b) *Federal Direct Stafford Loan Program and Federal Stafford Loan Program aggregate limits.* The aggregate unpaid principal amount of all Federal Direct Stafford and Federal Stafford Loan Program loans made to a student may not exceed—

(1) $23,000 in the case of any student who has not successfully completed a program of study at the undergraduate level; and

(2) $65,500, in the case of a graduate or professional student, including loans for undergraduate study.

(c) *Federal Direct PLUS Program annual limit.* The total amount of all Federal Direct PLUS loans that a parent or parents may borrow on behalf of each dependent student for any academic year of study may not exceed the cost of education minus other estimated financial assistance for that student.

(d) *Federal Direct PLUS Program aggregate limit.* The total amount of all Federal Direct PLUS Program loans that a parent or parents may borrow on behalf of each dependent student for enrollment in an eligible program of study may not exceed the student's cost of education minus other estimated financial assistance for that student.

(e) *Federal Direct SLS Program annual limit.* The total amount of all Federal Direct SLS loans, in combination with Federal SLS loans, that a student may borrow for any academic year of study—

(1) In the case of a student who has not successfully completed the first and second year of a program of undergraduate education, may not exceed—

(i) $4,000 for enrollment in a program of study of at least a full academic year in length;

(ii) $2,500 for enrollment in a program of study of at least two-thirds but less than a full academic year in length;

(iii) $1,500 for enrollment in a program of study of at least one-third but less than two-thirds of an academic year in length.

(2) In the case of a student who successfully completed the first and second year of an undergraduate program, but has not completed the remainder of the program of study, may not exceed—

(i) $5,000 for enrollment in a program of study of at least a full academic year;

(ii) $3,325 for enrollment in a program of study of at least two-thirds of an academic year but less than a full academic year in length; and

(iii) $1,675 for enrollment in a program of study of at least one-third of an academic year but less than two-thirds of an academic year.

(3) In the case of a graduate or professional student, may not exceed $10,000.

(f) *Federal Direct SLS Program aggregate limit.* The total unpaid principal amount of Federal Direct SLS and Federal SLS loans may not exceed—

(1) $23,000 for an undergraduate student.

(2) $73,000 for a graduate or professional student.

(g) *Minimum loan interval.* The annual loan limits applicable to a student shall apply to the greater of—

(1) The length of the school's academic year; or

(2) Seven consecutive months.

(h) *Treatment of Federal Consolidation loans for purposes of determining loan limits.* The percentage of the outstanding balance on a Federal Consolidation loan counted against a borrower's aggregate loan limits—

(1) For the Federal Direct Stafford Loan Program, equals the percentage of the original amount of the Federal Consolidation loan attributable to the Federal Stafford and Federal Direct Stafford loans; and

(2) For the Federal Direct SLS Loan Program, equals the percentage of the original amount of the Federal Consolidation loan attributable to the Federal SLS and Federal Direct SLS loans.

(i) In no case may a Federal Direct Stafford, Federal Direct PLUS, or Federal Direct SLS loan amount exceed the student's estimated cost of attendance for the period of enrollment for which the loan is intended, less—

(1) The student's estimated financial assistance for that period; and

(2) The borrower's expected family contribution for that period, in the case of a Federal Direct Stafford loan.

(Authority: 20 U.S.C. 1087a *et seq.*)

§ 685.304 Repayment of a loan.

(a) *Conversion of a loan to repayment status.* (1) For a Federal Direct PLUS loan, the 10-year repayment period begins on the date the loan is disbursed. The first payment is due within 60 days after the date the loan is fully disbursed.

(2)(i) For a Federal Direct SLS loan, the 10-year repayment period begins on the date the loan is disbursed, or, if the loan is disbursed in multiple installments, on the date of the last disbursement of the loan. Except as provided in paragraph (a)(2)(ii) of this section, the first payment is due within 60 days after the date the loan is fully disbursed.

(ii) For a Federal Direct SLS borrower who has not yet entered repayment on a Federal Direct Stafford loan, the borrower may postpone payment, consistent with the grace period on the borrower's Federal Direct Stafford loan.

(3) Except as provided in paragraphs (a) (4) and (5) of this section, for a Federal Direct Stafford loan the repayment period begins—

(i) For a borrower with a loan for which the applicable interest rate is 7 percent per year, 9 months following the date on which the borrower is no longer enrolled on at least a half-time basis at an eligible school; and

(ii) For a borrower with a loan for which the initial applicable interest rate is 8 or 9 percent per year, 6 months following the date on which the borrower is no longer enrolled on at least a half-time basis at an eligible school.

(4) For a borrower of a Federal Direct Stafford loan who is a correspondence student, the grace period specified in paragraph (a)(3) of this section begins on the earliest of the date—

(i) The borrower completes the program;

(ii) The borrower falls 60 days behind the due date for submission of a scheduled assignment, according to the schedule required in § 685.402. However, a school may grant the borrower one restoration to in-school status if the borrower fails to submit a lesson within this 60-day period after the due date for submission of a particular assignment if, within the 60-day period, the borrower declares, in writing, an intention to continue in the program and an understanding that the required lessons must be submitted on time; or

(iii) That is 60 days following the latest allowable date established by the school for completing the program under the schedule required under § 685.402.

(5) A Federal Direct Stafford loan borrower may upon written request begin the repayment period prior to the end of the grace period. In this event, a borrower waives the remainder of the grace period.

(6) The repayment schedule may provide for substantially equal installment payments or for installment payments that increase in amount over the repayment period.

(7)(i) Subject to paragraphs (a)(7) (ii) through (iv) of this section, a borrower is entitled to at least 5 years, but not more than 10 years, to repay a Federal Direct Stafford, Federal Direct SLS, or Federal Direct PLUS loan, calculated from the beginning of the repayment period.

(ii) If the borrower receives an authorized deferment or is granted forbearance, as described in § 685.305 or § 685.306, respectively, the periods of deferment or forbearance are excluded from determinations of the 5-, and 10-year periods.

(iii) If the minimum annual repayment required in paragraph (c) of this section would result in complete repayment of the loan in less than 5 years, the borrower is not entitled to the full 5-year period.

(iv) The borrower may, prior to the beginning of the repayment period, request and be granted by the Secretary a repayment period of less than 5 years. Subject to paragraph (a)(7)(iii) of this section, a borrower who makes such a request may, by written notice to the Secretary at any time during the repayment period, extend the repayment period to a minimum of 5 years.

(8) If, with respect to the aggregate of all loans held by the Secretary, the total payment made by a borrower for a monthly or similar payment period would not otherwise be a multiple of five dollars, the Secretary may round that periodic payment to the next highest whole dollar amount that is a multiple of five dollars.

(b) *Prepayment.* The borrower may prepay the whole or any part of a loan at any time without penalty.

(c) *Minimum annual payment.* (1)(i) Subject to paragraphs (c)(1)(ii) and (2) of this section, during each year of the repayment period a borrower's total payments to all holders of the borrower's FFEL Program and FDSLP loans must total at least $600 or the unpaid balance of all loans, including interest, whichever amount is less.

(ii) If the borrower and the Secretary agree, the amount paid may be less.

(2) The provisions of paragraphs (c)(1) (i) and (ii) of this section may not result in an extension of the maximum repayment period unless forbearance, as described in § 685.306, or deferment, as described in § 685.305, has been approved.

(Authority: 20 U.S.C. 1087a *et seq.*)

§ 685.305 Deferment.

An FDSLP borrower is entitled to the same deferments as an FFEL programs borrower under the conditions specified in 34 CFR 682.210, with references therein to an FFEL programs borrower understood to mean an FDSLP borrower, references therein to a Federal Stafford, Federal SLS, or Federal PLUS loan understood to mean a Federal Direct Stafford, Federal Direct SLS, or Federal Direct PLUS loan, and references therein to a lender understood to mean the Secretary.

(Authority: 20 U.S.C. 1087a *et seq.*)

§ 685.306 Forbearance.

(a)(1) An FDSLP borrower may receive forbearance from the Secretary if the borrower is willing but unable to make scheduled loan payments. "Forbearance" means permitting the temporary cessation of payments, allowing an extension of time for making payments, or temporarily accepting smaller payments than previously scheduled. A forbearance is granted by the Secretary only if the borrower requests forbearance in accordance with procedures established by the Secretary, and

(i) The Secretary believes that the borrower or endorser intends to repay the loan but, due to poor health or other acceptable reasons, is currently unable to make scheduled payments; or

(ii) The borrower's payments of principal are deferred under § 685.305 and the Secretary does not subsidize the interest benefits on behalf of the borrower under § 685.300(a)(2).

(2) If two individuals are liable for repayment of a Federal Direct PLUS loan as co-makers, the Secretary grants forbearance only if the ability of both individuals to make scheduled payments has been impaired.

(3) If payments of interest are forborne, they are capitalized.

(b) Upon the written request of a borrower whose eligibility for an internship or residency deferment under 34 CFR 682.210(n) has expired, the Secretary grants forbearance of payment of principal, and, unless otherwise indicated by the borrower, interest, in 12-month intervals, until the borrower

has completed the internship or residency.

(Authority: 20 U.S.C. 1087a *et seq.*)

§ 685.307 Borrower responsibilities.

(a) The borrower shall give the school, as part of the origination process for a Federal Direct Stafford, Federal Direct SLS, or Federal Direct PLUS loan—

(1) A statement, as described in 34 CFR Part 668, that the loan will be used for the cost of the student's attendance;

(2) Information demonstrating that the borrower is eligible for the loan;

(3) Information concerning the outstanding FFEL programs and FDSLP loans of the borrower and, for a parent borrower, of the student, including any Consolidation loan used to discharge a Stafford, SLS, or PLUS loan;

(4) A statement authorizing the school to release information to the Secretary relevant to the student's eligibility to borrow or to have a parent borrow on the student's behalf (e.g., the student's enrollment status, financial assistance, and employment records).

(b) The borrower shall promptly notify—

(1) The Secretary of any change of name, address, student status to less than half-time, employer, or employer's address; and

(2) The school of any change in local address during enrollment.

(Authority: 20 U.S.C. 1087a *et seq.*)

Subpart D—Requirements, Standards, and Payments for FDSLP Schools

§ 685.400 Agreement between an eligible school and the Secretary for participation in the FDSLP.

(a)(1) *General.* Participation of a school in the FDSLP means that the school's students are eligible to receive FDSLP loans. To participate in the FDSLP, a school must—

(i) Demonstrate to the satisfaction of the Secretary that it meets the elements of basic eligibility as defined in 34 CFR part 600 through certification by the Secretary; and

(ii) Enter into a written program participation agreement with the Secretary that is signed by the Chief Executive Officer of the school on a form approved by the Secretary.

(2) *Program participation agreement.* The school, in the program participation agreement, shall promise to comply with the applicable provisions of—

(i) The Act and applicable regulations;

(ii) The Student Assistance General Provisions, 34 CFR Part 668; and

(iii) The Institutional Eligibility regulations, 34 CFR Part 600.

(b) In the participation agreement, the school shall—

(1) Certify that information provided to the Secretary with regard to each student's or parent's eligibility for an FDSLP loan will be correct and consistent with borrower eligibility requirements.

(2) Agree to use the software or specifications provided by the Secretary to collect the data necessary for making loans and transmitting requested information to the Secretary.

(3) Agree to timely forward promissory notes for loans made under the FDSLP as well as other information required by the Secretary.

(4) Agree to comply with conditions that the Secretary may require for testing income-contingent repayment methods.

(Authority: 20 U.S.C. 1087a *et seq.*, 1094)

§ 685.401 Rules for a school making loans in the FDSLP.

(a) *General.* An FDSLP school, acting as the agent of the Secretary, is responsible for all loan-making duties, including determining the amount of the loan, processing the promissory note and other required forms, approving the borrower for the loan, explaining to the borrower his or her rights and responsibilities under the loan, and having the borrower sign the promissory note.

(b) (1) A school participating in the FDSLP shall ensure that any information it provides to the Secretary in connection with a loan application about the borrower and, in the case of a parent borrower, the student for whom the loan is intended, is complete and accurate.

(2) The information to be provided to the Secretary by the school about the borrower receiving the loan must include—

(i) The borrower's eligibility for a loan, as determined in accordance with § 685.300 and § 685.302;

(ii) The student's estimated cost of attendance for the period for which the loan is sought;

(iii) The student's estimated financial assistance for the period for which the loan is sought;

(iv) For a Federal Direct Stafford loan, the student's eligibility for interest benefits;

(v) For a Federal Direct Stafford, Federal Direct SLS, or Federal Direct PLUS loan, the disbursement date(s) and disbursement amounts of the loan proceeds; and

(vi) The student's loan amount.

(3) A school may not certify a Federal Direct Stafford, Federal Direct PLUS, or Federal Direct SLS loan application, or combination of loan applications, for a loan amount that—

(i) The school has reason to know would result in the borrower exceeding the annual or maximum loan amounts in § 685.303; or

(ii) Exceeds the student's estimated cost of attendance, less—

(A) The student's estimated financial assistance for that period; and

(B) In the case of a Federal Direct Stafford that is eligible for interest benefits, the borrower's expected family contribution for that period.

(4) A school may refuse to certify a Federal Direct Stafford, Federal Direct SLS, or Federal Direct PLUS loan application or may reduce the borrower's determination of need for the loan if the reason for that action is documented and provided to the student in writing, provided—

(i) The determination is made on a case-by-case basis;

(ii) The documentation supporting the determination is retained in the student's file; and

(iii) The school does not engage in any pattern or practice that results in a denial of a borrower's access to FDSLP loans because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income.

(5) A school may not assess a fee for the completion or certification of any FDSLP loan data.

(c) *Disbursing a loan.* Before disbursing a loan, a school must determine that all required information has been provided by the borrower and, if applicable, the student. A school may not ask the borrower to sign an FDSLP promissory note before it has been fully completed.

(d) *Promissory note.* (1) The Secretary provides promissory notes for use in the FDSLP and a school may not modify, or make any additions to, the promissory note without the Secretary's prior written approval.

(2) A school shall obtain from the borrower an executed legally enforceable promissory note as proof of the borrower's indebtedness.

(3) A school shall give the borrower and any endorser or co-maker a copy of each executed promissory note.

(Authority: 20 U.S.C. 1087a *et seq.*)

§ 685.402 Correspondence school schedule requirements.

(a) A school offering a course of study by correspondence shall establish a schedule for submission of lessons by its students and provide it to a prospective student prior to the student's enrollment.

(b) The school shall include in its schedule—

(1) A due date for each lesson in the course;

(2) A description of the options, if any, available to the student for altering the sequence of lesson submissions from the sequence in which they are otherwise required to be submitted;

(3) The date by which the course is to be completed; and

(4) The date by which any resident training must begin, the location of any residential training, and the period of time within which that resident training must be completed.

(Authority: 20 U.S.C. 1087a *et seq.*)

§ 685.403 Disbursing borrowers' loan proceeds and counseling borrowers.

(a) *Purpose.* This section establishes rules governing a school's disbursement of a borrower's Federal Direct Stafford, Federal Direct SLS, or Federal Direct PLUS loan proceeds, and for counseling borrowers. The school shall also comply with any rules for processing a loan contained in 34 CFR part 668.

(b) *General.* (1) A school may not deliver any loan proceeds without first obtaining an executed legally enforceable promissory note from the borrower.

(2) (i) Except in the case of a late disbursement under paragraph (e) of this section, or as provided in (b)(2)(iii) of this paragraph, a school may disburse loan proceeds only to a student whom the school determines continuously has maintained eligibility in accordance with the provisions of § 685.300, from the beginning of the loan period certified by the school.

(ii) If, after the first disbursement is made to the student, the student becomes ineligible due solely to the school's loss of eligibility to participate in the Title IV programs, the school may make the second or subsequent disbursement to the borrower as permitted by 34 CFR part 668.

(iii) If, prior to when the loan is made to the student, the student temporarily ceases to be enrolled on at least a half-time basis, the school may make the first disbursement of the loan and any subsequent disbursement to the student if the school subsequently determines and documents in the student's file—

(A) That the student has resumed enrollment on at least a half-time basis;

(B) The student's revised cost of attendance; and

(C) That the student continues to qualify for the entire amount of the loan, notwithstanding any reduction in the student's cost of attendance caused by the student's temporary cessation of enrollment on at least a half-time basis.

(c) *Processing of the proceeds of an FDSLP loan.* (1) The school shall, not more than 30 days prior to the first day of the loan period, obtain the student's or parent borrower's written authorization for the release of the initial and any subsequent disbursement of each FDSLP program loan to be made, and after the student has registered either—

(i) Disburse the proceeds to the student borrower subject to paragraph (d)(3) of this section; or

(ii) Credit the student's account in accordance with paragraph (d)(2) of this section, notify the student or parent borrower in writing that it has so credited that account, and deliver to the student or parent borrower the remaining loan proceeds, subject to paragraph (d)(3) of this section not later than 45 days after the disbursement of the funds.

(2) A school may not credit a student's account or release the proceeds of a loan to a student who is on a leave of absence, as described in § 685.404(c).

(3) A school may not make the first disbursement of a Federal Direct Stafford or Federal Direct SLS loan to a student who is enrolled in the first year of an undergraduate program of study and who has not previously received a Stafford, SLS, Federal Direct Stafford, or Federal Direct SLS loan until 30 days after the first day of the student's program of study.

(d) *Disbursing FDSLP loan proceeds.* (1) A school may not make a loan if the student does not register for the loan period.

(2)(i) For purposes of paragraph (c)(1)(ii) of this section, a school may not make the first disbursement of a loan by crediting a registered student's account earlier than 3 weeks before the first day of classes of the loan period.

(ii) The school may credit a registered student's account with only those loan proceeds covering costs of attendance owed to the school by the student for which substantially all of the school's students incurring those costs have been billed.

(3) For purposes of paragraph (c)(1) of this section, a school may not deliver loan proceeds to a registered student earlier than 10 days before the first day of classes of the loan period.

(4) If a registered student withdraws or is expelled prior to the first day of classes of the period of enrollment for which the loan is made or fails to attend school during that period, or if the school is unable for any other reason to document that the student attended school during that period, the school within 30 days of the period described in § 685.404(c) shall notify the Secretary of the student's withdrawal, expulsion, or failure to attend school, if applicable, and return to the Secretary—

(i) Any loan proceeds credited directly by the school to the student's account; and

(ii) The amount of any loan proceeds delivered by the school to the student.

(e) *Late disbursement.* (1) For purposes of this paragraph, a disbursement is late if the school delivers loan proceeds—

(i) After the period of enrollment for which the loan was intended; or

(ii) Before the end of the period of enrollment for which the loan was intended but after the student ceased to be enrolled at the school on at least a half-time basis.

(2) A school may make a late disbursement only if it has received a completed promissory note prior to whichever condition specified in paragraph (e)(1) of this section applies.

(3) Notwithstanding paragraph (e)(2), a school may not make—

(i) A late disbursement to a student borrower whose last recorded day of attendance is earlier than the 30th day of the period of enrollment for which the loan is intended if the loan was subject to delayed delivery under § 685.403(c)(3);

(ii) A late second or subsequent disbursement of a Federal Direct Stafford or Federal Direct SLS loan to a borrower who has ceased to be enrolled on at least a half-time basis unless the borrower has graduated or successfully completed the period of enrollment for which the loan was intended; or

(iii) Any late disbursement that under 34 CFR part 668 is considered to be awarded for a payment period in which the student was not enrolled on at least a half-time basis at the school.

(f) *Initial counseling.* (1) Except in the case of a correspondence school or for a student enrolled in a study-abroad program approved for credit at the home institution, a school shall conduct counseling with each Federal Direct Stafford and Federal Direct SLS borrower either in person or by videotape presentation. In each case, the school shall conduct this counseling prior to making the first disbursement of the proceeds of the first Federal Direct Stafford or Federal Direct SLS loan made to a borrower who has not received a Federal Stafford or Federal SLS loan for attendance at the school and shall ensure that an individual with expertise in the Title IV programs is reasonably available shortly after the counseling to answer the borrower's questions regarding those programs. In the case of a correspondence school or a student enrolled in a study-abroad program that the school approves for credit, the school shall provide the borrower with written counseling

materials by mail prior to releasing those proceeds.

(2) In conducting the initial counseling, the school must—

(i) Emphasize to the borrower the seriousness and importance of the repayment obligation the borrower is assuming; and

(ii) Describe in forceful terms the likely consequences of default, including adverse credit reports and litigation.

(3) Additional matters that the Secretary recommends that a school include in the initial counseling session or materials are set forth in appendix D to 34 CFR part 668.

(g) *Exit counseling.* (1) A school shall conduct in-person exit counseling with each Federal Stafford, Federal SLS, Federal Direct Stafford, or Federal Direct SLS borrower shortly before the borrower ceases at least half-time study at the school, except that—

(i) In the case of a correspondence school, the school shall provide the borrower with written counseling materials by mail within 30 days after the borrower completes the program; and

(ii) If the borrower withdraws from school without the school's prior knowledge or fails to attend an exit counseling session as scheduled, the school shall mail written counseling material to the borrower at the borrower's last known address within 30 days after learning that the borrower has withdrawn from school or failed to attend the scheduled session.

(2) In conducting the exit counseling, the school shall—

(i) Provide the borrower with general information with respect to the average indebtedness of the students who have obtained Federal Direct Stafford or Federal Direct SLS loans for attendance at that school;

(ii) Inform the student as to the average anticipated monthly repayment for those students based on that average indebtedness;

(iii) Review for the borrower available repayment options (e.g., loan consolidation, refinancing);

(iv) Suggest to the borrower debt-management strategies that the school determines would best assist repayment by the borrower;

(v) Include the matters described in paragraph (f)(2) of this section; and

(vi) Review with the borrower the conditions under which the borrower may defer repayment of a loan for service under the Peace Corps Act, Domestic Volunteer Service Act of 1973, or for comparable full-time service as a volunteer with a tax-exempt organization.

(3) Additional matters that the Secretary recommends that a school include in the exit counseling session or materials are set forth in appendix D to 34 CFR part 668.

(4) The school shall maintain in the student borrower's file documents substantiating the school's compliance with paragraphs (f)–(g) of this section as to that borrower.

(h) *Treatment of excess loan proceeds.* Before the delivery of any Federal Direct Stafford or Federal Direct SLS loan disbursement, if a school learns that the borrower would receive or has received financial aid for the period of enrollment for which the loan was intended that exceeds the amount of assistance for which the student is eligible, the school shall reduce or eliminate the overaward by either—

(1) Using the student's Federal Direct SLS, Federal Direct PLUS, or State-sponsored or private loan to cover the expected family contribution, if not already done; or

(2) Reduce the disbursements to eliminate the overaward.

(Authority: 20 U.S.C. 1087a *et seq.*)

§ 685.404 Determining the date of a student's withdrawal.

(a) *Purpose.* This section establishes rules for how a school shall determine the withdrawal date for a student to whom or on whose behalf a loan has been made under this part for the purpose of reporting to the Secretary the date that the student has withdrawn from the school and for determining when a refund must be paid under § 685.405.

(b) *The withdrawal date.* (1) Except as provided in paragraphs (b)(2) and (b)(3) of this section, the student's withdrawal date is the earlier of—

(i) The date the student notifies the school of the student's withdrawal or the date of withdrawal specified by the student, whichever is later; or

(ii) The date of withdrawal as determined by the school. The school must determine the student's date of withdrawal no later than—

(A) 45 days after the expiration date of the academic term in which the student was enrolled for a school that uses academic terms (e.g., semester, trimester, or quarter), except that 30 days after the first day of the next scheduled term may be used in the case of a summer break; or

(B) 25 days after a student's last date of attendance for a school that measures academic progress either in clock hours or credit hours but does not use a semester, trimester, or quarter system.

(2) If the student has not returned to school at the expiration of a leave of absence approved under paragraph (c) of this section, the student's withdrawal date is the first day of the leave of absence.

(3) If the student is enrolled in a program of study by correspondence, the student's withdrawal date is the date of the last lesson submitted if the student fails to submit the next scheduled lesson in accordance with the schedule of lessons established under § 685.402. However, if the student establishes in writing, within 60 days of the date of the last lesson submitted, a desire to continue in the program and an understanding that the required lessons must be submitted on time, the school may restore that student to in-school status for purposes of the loan made under this part. The school may not grant the student more than one restoration to in-school status on this basis.

(4) For the purpose of a school's reporting to the Secretary, a student's withdrawal date is the month, day, and year of the withdrawal date determined under paragraphs (b)(1)–(b)(3) of this section.

(c) *Leaves of absence.* A student who has been absent from school and has been granted a leave of absence by a school in accordance with this paragraph is not considered to have withdrawn from school for purposes of paragraph (a) of this section. In any 12-month period, a school may grant no more than a single leave of absence to a student, provided that—

(1) The student has made a written request to be granted a leave of absence;

(2) The leave of absence involves no additional charges by the school to the student; and

(3) The leave of absence does not exceed—

(i) 60 days; or

(ii) 6 months under either of the following circumstances:

(A) The school is not a correspondence school and the school's next period of enrollment after the start of the leave of absence would begin more than 60 days after the first day of the leave of absence.

(B) The leave of absence is requested because of the student's medically determinable condition, in which case the student must provide the school with a written recommendation from a physician for a leave of absence longer than 60 days.

(Authority: 20 U.S.C. 1087a *et seq.*)

§ 685.405 Payment of a refund to the Secretary.

(a) *General.* By applying for an FDSLP loan, a borrower authorizes the school to pay directly to the Secretary that

portion of a refund from the school that is allocable to the loan. A school—

(1) Shall pay that portion of the student's refund that is allocable to an FDSLP loan to the Secretary; and

(2) Shall provide simultaneous written notice to the borrower if the school pays a refund to the Secretary on behalf of that student.

(b) *Allocation of refund.* In determining the portion of a student's refund for an academic period that is allocable to an FDSLP loan received by the borrower for that academic period, the school shall follow the procedures established in 34 CFR part 668 for allocating a refund that is payable.

(c) *Timely payment.* A school shall pay a refund that is due—

(1) Within 60 days after the student's withdrawal as determined under § 685.404(b) (1)–(3); or

(2) In the case of a student who does not return to school at the expiration of an approved leave of absence under § 685.404(c), within 30 days after the last day of that leave of absence.

(Authority: 20 U.S.C. 1087a *et seq.*)

§ 685.406 Withdrawal procedure for schools in the FDSLP.

(a) A school participating in the FDSLP may withdraw if it demonstrates to the Secretary that continued participation in the FDSLP would present an undue burden on the school.

(b) A school that withdraws from the FDSLP may not participate in the FFEL programs through June 30, 1998.

(Authority: 20 U.S.C. 1087a *et seq.*)

§ 685.407 Remedial actions.

(a) *General.* The Secretary requires a school to purchase that portion of an FDSLP loan that is unenforceable, that the borrower was ineligible to receive, or for which, contrary to the school's certification, the borrower was ineligible to receive interest subsidies. The school shall make arrangements acceptable to the Secretary for reimbursement of interest the Secretary has subsidized for any loan determined to be ineligible for interest subsidies. The Secretary requires the repayment of funds and the purchase of loans if the Secretary determines that the unenforceability of a loan or loans, or the disbursement of loan amounts for which the borrower was ineligible or for which the borrower was ineligible for interest subsidies, resulted in whole or in part from—

(1) The school's violation of a Federal statute or regulation; or

(2) The school's negligent or willful false certification.

(b) In requiring a school to repay funds to the Secretary or to purchase loans from the Secretary in connection with an audit or program review, the Secretary follows the procedures described in 34 CFR part 668, subpart H.

(c) Notwithstanding paragraph (a) of this section, the Secretary may waive the right to require repayment of funds or purchasing of loans by a school if, in the Secretary's judgment, the best interest of the United States so requires.

(d) The Secretary may impose a fine or take an emergency action against a school or limit, suspend, or terminate a school's participation in the FDSLP in accordance with 34 CFR part 668, subpart G.

(e) The Secretary may take any other action necessary to enforce the Secretary's rights under the agreement specified in 34 CFR 685.400.

(Authority: 20 U.S.C. 1087a *et seq.*)

§ 685.408 Administrative and fiscal control and fund accounting requirements for schools participating in the FDSLP.

(a) *General.* Each school shall—

(1) Establish and maintain proper administrative and fiscal procedures and all necessary records as set forth in the regulations in this part and in 34 CFR part 668 in order to—

(i) Protect the rights of student and parent borrowers;

(ii) Protect the United States from unreasonable risk of loss; and

(iii) Comply with specific requirements in those regulations; and

(2) Submit all reports required by this part and 34 CFR part 668 to the Secretary.

(b) *Student status confirmation reports.* A school shall—

(1) Upon receipt of a student status confirmation report from the Secretary, complete and return that report to the Secretary within 30 days of receipt; and

(2) Unless it expects to submit its next student status confirmation report to the Secretary within the next 60 days, notify the Secretary within 30 days—

(i) If it discovers that a Federal Direct Stafford, Federal Direct SLS, or Federal Direct PLUS loan has been made to or on behalf of a student who enrolled at that school, but who has ceased to be enrolled on at least a half-time basis;

(ii) If it discovers that a Federal Direct Stafford, Federal Direct SLS, or Federal Direct PLUS has been made to or on behalf of a student who has been accepted for enrollment at that school, but who failed to enroll on at least a half-time basis for the period for which the loan was intended; or

(iii) If it discovers that a Federal Direct Stafford, Federal Direct SLS, or Federal Direct PLUS loan has been made to or on behalf of a full-time student who has ceased to be enrolled on a full-time basis.

(c) *Record retention requirements.* Unless otherwise directed by the Secretary, the school or its successors—

(1)(i) Shall keep all records required under the regulations in this part for 5 years following the last day of the borrower's attendance at the school;

(2) Shall keep for 5 years after completion, copies of reports and other forms used by the school relating to the Federal Direct Stafford, Federal Direct SLS, or Federal Direct PLUS programs;

(3) Shall keep all records involved in any loan, claim, or expenditure questioned by a Federal audit until resolution of any audit questions.

(4) Shall provide, in the event of the school's closure, termination, suspension, or change in ownership resulting in a change of control as described in 34 CFR part 600, for the retention of the records and reports required by the regulations in this part and for access by the Secretary or the Secretary's authorized representatives to those records and reports for inspection and copying; and

(5) May keep records and copies of reports on microfilm, optical disk, or in other machine readable format.

(d) *Loan record requirements.* In addition to records required by 34 CFR part 668, for each Federal Direct Stafford, Federal Direct SLS, and Federal Direct PLUS loan received under this part by or on behalf of its students, a school shall maintain a copy of the loan application or data electronically submitted to the Secretary and shall, upon request, produce a record of—

(1) The amount of the loan and the loan period;

(2) The data used to construct an individual student budget or the school's itemized standard budget used in calculating the student's estimated cost of attendance;

(3) The sources and amounts of financial assistance available to the student that the school used in determining the student's estimated financial assistance for the loan period in accordance with § 685.103;

(4) The amount of the student's tuition and fees paid for the loan period and the date the student paid the tuition and fees;

(5) The amount and basis of its calculation of any refund paid to or on behalf of a student;

(6) In the case of a Federal Direct Stafford loan for which the borrower applies for interest subsidies under § 685.300, the data used to determine the student's expected family contribution;

(7) In the case of a Federal Direct Stafford, Federal Direct SLS, or Federal Direct PLUS loan—

(i) The date the school made each loan disbursement and the amount of that disbursement; and

(ii) A copy of the borrower's written authorization required under § 685.403(c)(1) to transfer the initial and subsequent disbursements of each FDSLP loan;

(8) The student's job placement, if known; and

(9) Any other matter for which a record would be required for the school to be able to document its compliance with applicable requirements with respect to the loan.

(e) *Inspection requirements.* Upon request, a school or its agent shall cooperate with an independent auditor, the Secretary, the Department's Office of the Inspector General, and the Comptroller General of the United States, or their authorized representatives, in the conduct of audits, investigations, and program reviews authorized by law. This cooperation must include—

(1) Providing timely access for examination and copying to the records (including computerized records) required by the applicable regulations and to any other pertinent books, documents, papers, computer programs, and records; and

(2) Providing reasonable access to institutional personnel associated with the institution's administration of the Title IV, HEA programs for the purpose of obtaining relevant information. In providing reasonable access, the institution may not—

(i) Refuse to supply any relevant information;

(ii) Refuse to permit interviews with those personnel without the presence of representatives of the institution's management; and

(iii) Refuse to permit interviews with those personnel unless they are recorded by the institution.

(f) *Information sharing.* (1) Upon request of the Secretary, a school promptly shall provide the Secretary with any information the school has respecting the last known address, surname, employer, and employer address of a borrower who attends or has attended the school.

(2) If the school discovers that a student who is enrolled and who has received a Federal Direct Stafford, or Federal Direct SLS loan has changed his or her permanent address, the school shall notify the holder of the loan within 30 days thereafter.

(g)(1) *Accounting requirements.* A school shall establish and maintain on a current basis financial records that reflect all transactions for the bank account specified in paragraph (h)(1). The school shall establish and maintain general ledger control accounts and related subsidiary accounts that identify each program transaction and separate those transactions from all of the school's other financial activities.

(2) The school shall account for receiving and expending FDSLP funds in accordance with generally accepted accounting principles.

(h)(1) *FDSLP bank account.* The school shall establish and maintain a separate bank account as trustee for the Secretary and the borrower for FDSLP funds. The account shall require the written approval of the borrower for each FDSLP loan for which funds are released from the account. The school shall notify in writing the bank where the FDSLP account is located that the FDSLP account contains Federal funds. This notice must be given by including the word "Federal" in the name of the school's FDSLP account.

(2) Any interest earned on FDSLP funds deposited in the account described in (h)(1) is considered Federal funds and may not be used by the school for any purpose other than making FDSLP loans.

(i) A school shall divide the functions of authorizing payments and disbursing funds so that no single office has responsibility for both functions to borrowers under the FDSLP.

(j) Funds received by a school under this part may be used only to make FDSLP loans to eligible borrowers and may not be used or hypothecated for any other purpose.

(Authority: 20 U.S.C. 1087a *et seq.*)

Appendix A—Addendum to Program Participation Agreement for Participation in the Federal Direct Student Loan Program

Name of Institution _____

Address of Institution _____

_____

IRS Employer Identification Number _____

OPE Identification Number _____

The postsecondary educational institution listed above, referred to hereafter as the "Institution" and the United States Secretary of Education, referred to hereafter as the "Secretary," agree that this addendum is made a part of the Program Participation Agreement (PPA) between the Institution and Secretary, executed for the Secretary on _____. The purpose of this addendum is to allow the Institution to participate in the Federal Direct Student Loan Program (FDSLP), authorized by Title IV, Part D of the Higher Education Act of 1965, as amended (the HEA).

The Institution and the Secretary agree that the following Article is added to the PPA:

"ARTICLE IVA. Federal Direct Student Loan Program—Specific Provisions

1. The Institution agrees to establish and maintain a direct loan program at the Institution, subject to the program statutes and implementing regulations of Title IV, Part D of the HEA, under which the Institution will:

a. Determine the eligibility in accordance with section 484 of the HEA of student and parent borrowers who seek student financial assistance at the Institution;

b. Estimate the need of each student in accordance with Title IV, Part F, of the HEA;

c. Originate loans to eligible students and eligible parents in accordance with Title IV, Part D, and not charge any administrative fees to such students or parents for such origination activities;

d. Provide timely information concerning the status of student and parent borrowers to the Secretary or the Secretary's agents for loan collection purposes;

e. Use the software or specifications provided by the Secretary to collect the data necessary for making loans and transmitting information to the Secretary.

f. Participate in the FDSLP for its duration, subject to procedures for withdrawal established by section 455 of the HEA.

2. The Institution agrees that the note or evidence of obligation on the loan shall be the property of the Secretary and that the Institution will act as the agent of the Secretary for the purpose of making loans under the FDSLP.

3. The Institution will accept responsibility and liability stemming from its failure to perform its functions under this agreement.

4. The Institution agrees that students at the Institution and their parents (with respect to such students) will not be eligible to participate in the Federal Stafford Loan program, the Federal Supplemental Loans to Students program, or the Federal PLUS loan program for the period during which such institution participates in the FDSLP.

5. If the Secretary offers income contingent repayment and the institution is selected by the Secretary pursuant to section 453(f) of the HEA, the Institution agrees:

a. to offer borrowers the option of income contingent repayment, based on an annual review of the borrower's Federal income tax return, to any student who applies for a loan under the FDSLP;

b. to include terms and conditions in the notes or other agreements entered into by the borrower, required by the regulations governing the FDSLP, to facilitate the testing of income contingent repayment methods, including the requirement that the borrower disclose subsequent income.

c. that the notes or other agreements entered into by the borrower will provide for the discharge of loans after not more than 25 years of income contingent repayment, as specified by the Secretary by regulation.

6. The Institution agrees to provide borrowers with the loan information specified in section 463A of the HEA.

7. The Institution will provide access to the Secretary, the Department of Education's Inspector General, the Comptroller General of the United States, or persons designated by these officials, to program and accounting records.

Signature of Chief Executive Officer

Date

Print name and title

For the Secretary

Date

[FR Doc. 93–7795 Filed 3–31–93; 10:55 am]

BILLING CODE 4000–01–U

Reader Aids

Federal Register

Vol. 58, No. 62

Friday, April 2, 1993

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202–523–5227
Public inspection desk	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–3447

Code of Federal Regulations

Index, finding aids & general information	523–5227
Printing schedules	523–3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230

Presidential Documents

Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230

The United States Government Manual

General information	523–5230

Other Services

Data base and machine readable specifications	523–3447
Electronic Bulletin Board	275–1538, 275–0920
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

FEDERAL REGISTER PAGES AND DATES, APRIL

17081–17320.....1
17321–17490.....2

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
12842.....17081

12 CFR

226.....17083

21 CFR

Ch. I.....17085
1.....17085
5.....17091, 17093, 17094, 17095, 17096, 17105, 17105
12.....17095
14.....17095
20.....17096, 17097
74.....17098
100.....17096, 17097
101.....17085, 17096, 17097, 17099, 17100, 17101, 17102, 17103, 17104
102.....17102, 17103
104.....17104
105.....17096, 17104
130.....17103, 17105
131.....17105
133.....17105
135.....17103, 17105
136.....17103
137.....17103
139.....17103
145.....17103
146.....17103
150.....17103
152.....17103
155.....17103
156.....17103
158.....17103
160.....17103
161.....17103
163.....17103
164.....17103
166.....17103
168.....17103, 17105
169.....17103
172.....17098
177.....17098
178.....17098
186.....17098
189.....17098
1308.....17106

Proposed Rules:
100.....17171
101.....17171
102.....17171
135.....17172
161.....17171

24 CFR

50.....17164
574.....17164
905.....17164
3500.....17165

Proposed Rules:
125.....17172

26 CFR

1.....17166

30 CFR

Proposed Rules:
935.....17173

34 CFR

377.....17308

36 CFR

Proposed Rules:
1191.....17175

40 CFR

Proposed Rules:
80.....17175

46 CFR

174.....17316

47 CFR

61.....17166
64.....17167

Proposed Rules:
2.....17180
80.....17180
97.....17180

50 CFR

658.....17169

Proposed Rules:
226.....17181
672.....17193, 17196
675.....17196, 17200

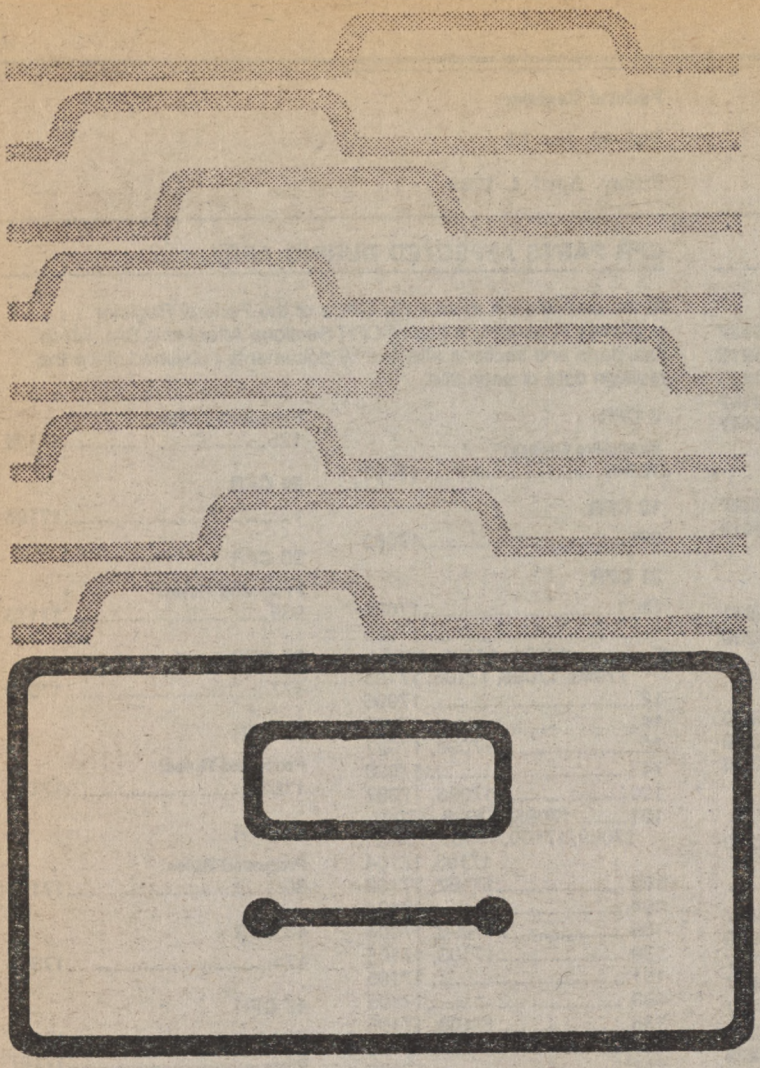
LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List March 31, 1993

ELECTRONIC BULLETIN BOARD

Free Electronic Bulletin Board Service for Public Law Numbers is available on 202–275–1538 or 275–0920.



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in the Code of Federal Regulations (CFR)

GUIDE: Revised January 1, 1992

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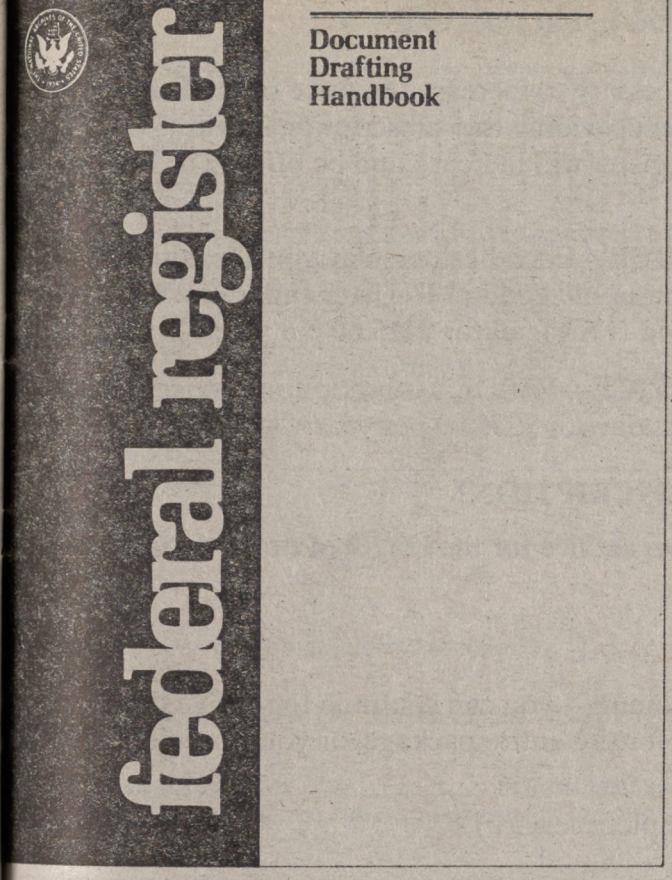
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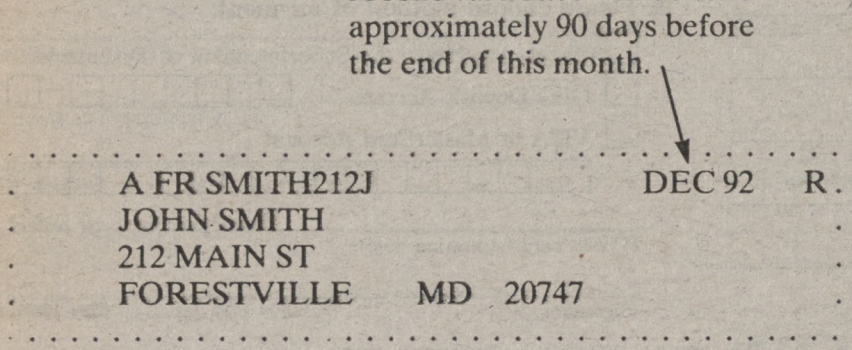
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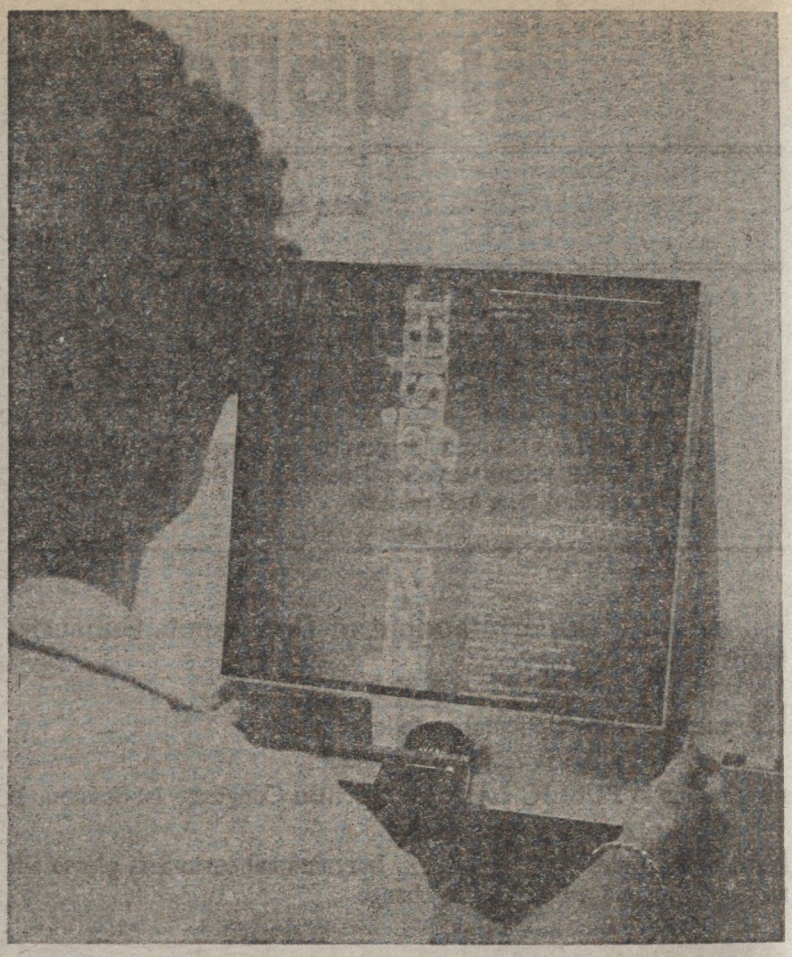
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