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Briefings on How To Use the Federal Register
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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
 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.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

- WHEN:** May 12 and June 15 at 9:00 am
- WHERE:** Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)
- RESERVATIONS:** 202-523-4538

PHILADELPHIA, PA

- WHEN:** May 25, at 1:00 pm
- WHERE:** William J. Green, Jr. Federal Building, Conference Room 6306-10, 600 Arch St. Philadelphia, PA
- RESERVATIONS:** Federal Information Center 1-800-347-1997



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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.

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Rules and Regulations

Federal Register

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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.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Regulations; Size Standards Table and Size Standards Under Section 8(d) Subcontracting Program

AGENCY: Small Business Administration.
ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is revising its Size Standard Table, Standard Industrial Classification (SIC) Code 8711, and its Size Standards Under SBA's Section 8(d) Subcontracting Program, in order to comply with the National Energy Policy Act of 1992. The National Energy Policy Act of 1992 states that for purposes of contracts and subcontracts requiring engineering services awarded under this Act the applicable size standard shall be that established for military and aerospace equipment and military weapons. This final rule amends the size standard table and the regulations regarding the Subcontracting Program to indicate that engineering contracts and subcontracts awarded under the National Energy Policy Act have the same size standard as established at SIC code 8711 for "Engineering Services: Military and Aerospace Equipment and Military Weapons."

EFFECTIVE DATE: This rule is effective April 29, 1993.

FOR FURTHER INFORMATION CONTACT: Catherine Thomas, Size Determinations Program Manager, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416 (202) 205-6460.

SUPPLEMENTARY INFORMATION: The SBA has an established size standard table at 13 CFR 121.601 which classifies and defines activities by industry categories. The size standard (either number of employees or annual receipts) for each industry indicates the maximum allowed for a concern to be considered

small. The SBA also further defines a small business for the purposes of subcontracts under \$10,000 at 13 CFR 121.910. Section 3021 (b)(1) of Public Law 102-486, the National Energy Policy Act of 1992 (106 Stat. 2776, 3133), states that "for purposes of contracts and subcontracts requiring engineering services [awarded under this Act] the applicable size standard shall be that established for military and aerospace equipment and military weapons." Absent this statutory requirement, such engineering services would be classified under SIC code 8711 having the size standard established for "Engineering Services: Other Engineering Services," which is annual receipts of \$2.5 million, or for subcontracts valued at \$10,000 or less, a size standard of 500 persons. However, the language of the law specifically states that such contracts are to have the same size standard as "Engineering Services: Military and Aerospace Equipment and Military Weapons;" thus, the size standard for engineering contracts and subcontracts awarded under the National Energy Policy Act of 1992 is annual receipts of \$13.5 million.

Compliance With Regulatory Flexibility Act, Executive Orders 12291, 12612, 12778 and the Paperwork Reduction Act

SBA certifies that this final rule is not a major rule within the meaning of Executive Order 12291 and will not have a significant economic impact on a substantial number of entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This change to the size regulations only clarifies how contracts and subcontracts awarded under the National Policy Act of 1992 (Pub. L. 102-486) are to be classified and does not change the size standard or impact the dollar amounts to be awarded.

For purposes of Executive Order 12612, SBA certifies that this rule will not have any federalism implications warranting the preparation of a Federalism Assessment.

For purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of that Order.

For purposes of the Paperwork Reduction Act of 1980, 44 U.S.C., ch. 35, SBA certifies that this rule contains

no new reporting or recordkeeping requirements.

SBA is publishing this rule as a final rule without notice and an opportunity for public comment pursuant to section 553 (b)(3). Since we are adding statutorily required language, it is unnecessary to provide such notice and opportunity for public comment.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs-business, Loan programs-business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth above, SBA is amending part 121 of title 13, Code of Federal Regulations, as follows:

PART 121—[AMENDED]

1. The authority citation for part 121 is revised to read as follows:

Authority: 15 U.S.C. 632(a), 634(b)(6), 637(a), 644(c); and Pub. L. 102-486, 106 Stat. 2776, 3133.

2. Section 121.601, Standard Industrial Classification codes and size standards, is amended by revising the entry for 8711 in the table to read as follows:

§ 121.601 Standard Industrial Classification codes and size standards.

SIC	Description (N.E.C.=not elsewhere classified)	Size
8711 ²	Engineering Services: Military and Aerospace Equipment and Military Weapons and Subcontracts for Engineering Services awarded under the National Energy Policy Act of 1992.	\$13.5

¹ Size standards in number of employees or millions of dollars.

² New SIC Code in 1987, not used in 1972

3. Section 121.910, Size standards under SBA's Section 8(d) Subcontracting Program, is amended by revising paragraph (a) to read as follows

§ 121.910 Size standards under SBA's Section 8(d) Subcontracting Program.

(a) In connection with subcontracts of \$10,000 or less which relate to Government procurements, if its number of employees (including its affiliates) does not exceed 500 persons. However, subcontracts for engineering services awarded under the National Energy Policy Act of 1992, in accordance with Public Law 102-486 (106 Stat. 2776, 3133), are to be classified as SIC code 8711 and have the same size standard as Military and Aerospace Equipment and Military weapons and Contracts; and

Dated: April 19, 1993.

Dayton J. Watkins,
Acting Administrator.

[FR Doc. 93-9785 Filed 4-28-93; 8:45 am]

BILLING CODE 8025-01-M

TENNESSEE VALLEY AUTHORITY**18 CFR Part 1316****TVA Contracts**

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Final rule.

SUMMARY: The Tennessee Valley Authority (TVA) hereby issues certain general conditions and certifications which may be included by reference in TVA contract documents or actions. Such inclusion by reference will allow reduction of the length of TVA contract documents. TVA is taking this action to improve administrative efficiency, not to impose any regulatory changes.

EFFECTIVE DATE: April 29, 1993.

FOR FURTHER INFORMATION CONTACT: Mary Carol Campbell, Procurement Specialist, 615-751-2731.

SUPPLEMENTARY INFORMATION: To help streamline TVA contract procedures, TVA intends in some cases to include certain general conditions and certifications by reference instead of reproducing the full text of such provisions in each contract action. Issuing such provisions as a final rule is simply for ease of such inclusion by reference, and does not involve any substantive policy change. The provisions issued here are not automatically incorporated in all contract documents (generally, they will be incorporated only as specified in a given action). Because this rule simply issues common contract provisions, no notice of proposed rulemaking or comment period is necessary, and the Regulatory Flexibility Act does not

apply. This rule is not a major rule for the purposes of Executive Order No. 12291. No information collections are involved.

List of Subjects in 18 CFR Part 1316

Government contracts.

For the reasons set out in the preamble, 18 CFR Chapter XIII is amended by adding part 1316 to read as follows:

PART 1316—GENERAL CONDITIONS AND CERTIFICATIONS FOR INCORPORATION IN CONTRACT DOCUMENTS OR ACTIONS**Subpart A—General Information**

Sec.

1316.1 Applicability

Subpart B—Text of Conditions and Certifications

Sec.

1316.2 Affirmative action and equal opportunity.

1316.3 Anti-kickback procedures.

1316.4 Buy American Act supply contracts.

1316.5 Clean Air and Water Acts.

1316.6 Discrimination on the basis of age.

1316.7 Drug-free workplace.

1316.8 Employee protected activities.

1316.9 Nuclear energy hazards and nuclear incidents.

1316.10 Officials not to benefit.

Authority: 16 U.S.C. 831-831dd.

Subpart A—General Information**§ 1316.1 Applicability.**

This part sets out the text of certain conditions and certifications which may be included by reference in certain TVA contract documents or actions. The provisions set out in this part are not automatically incorporated in all TVA actions.

Subpart B—Text of Conditions and Certifications**§ 1316.2 Affirmative action and equal opportunity.**

When so indicated in TVA contract documents or actions, the following clause is included by reference in such documents or actions:

Affirmative Action and Equal Opportunity

(a) To the extent applicable, contract incorporates the following provisions: "Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era" clause, 41 CFR 60-250.4; the "Affirmative Action for Handicapped Workers" clause, 41 CFR 60-741.4; and the "Equal Opportunity" clause, 41 CFR 60-1.4. Contractor complies with applicable regulatory requirements, including information reports and affirmative action programs.

(b) *Certification of Nonsegregated Facilities:* (1) By submission of its offer, the offeror certifies that it does not and will not

maintain or provide for employees any segregated facilities at any of its establishments, and that it does not and will not permit employees to perform their services at any location under its control where segregated facilities are maintained. The offeror agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract.

(2) As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, or housing facilities provided to employees which are segregated by explicit directive or are in fact segregated on the basis of race, religion, color, or national origin, because of habit, local custom, or otherwise.

(3) Contractor further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) identical certifications will be obtained from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; that it will retain such certifications in its files; and that it will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

Notice to Prospective Subcontractors of Requirement for Certifications of Nonsegregated Facilities. A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract exceeding \$10,000 which is not exempt from the provision of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

(4) *Note:* The penalty for making false statements in offers is prescribed in Title 18 U.S.C. 1001.

(End of clause)

§ 1316.3 Anti-kickback procedures.

When so indicated in TVA contract documents or actions, the following clause is included by reference in such documents or actions:

Anti-Kickback Procedures

Contractor shall comply with the following:

(a) Definitions. As used in this clause, terms shall have the meanings defined in the Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act).

(b) The Act prohibits any person from—
(1) Providing or attempting to provide or offering to provide any kickback;

(2) Soliciting, accepting, or attempting to accept any kickback; or

(3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime contractor to TVA or in the contract price charged by the subcontractor to a prime contractor or higher tier subcontractor.

(c)(1) Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in section (b) of this clause in its own operations and direct business relationships.

(2) When Contractor has reasonable grounds to believe that a violation described in section (b) of this clause may have occurred, Contractor shall promptly report in writing the possible violation. Such reports shall be made to the TVA Inspector General.

(3) Contractor shall cooperate fully with TVA or any other Federal agency investigating a possible violation described in section (b) of this clause.

(4) (i) Regardless of the contract tier at which a kickback was provided, accepted, or charged under the contract in violation of section (b) of this clause, the Contracting Officer may—

(A) Offset the amount of the kickback against any monies owed by TVA under this contract; and/or

(B) Direct that Contractor withhold from sums owed the subcontractor the amount of the kickback.

(ii) The Contracting Officer may order that monies withheld under subsection (c)(4)(i)(B) of this clause be paid over to TVA unless TVA has already offset those monies under subsection (c)(4)(i)(A) of this clause. In the latter case, Contracting shall notify the Contracting Officer when the monies are withheld.

(5) Contractor agrees to incorporate the substance of this clause, including this subsection (c)(5), in all subcontracts under this contract.

(End of clause)

§1316.4 Buy American Act supply contracts.

When so indicated in TVA contract documents or actions, the following clause is included by reference in such documents or actions:

Buy American Act Supply Contracts

(a) In TVA's acquisition of end products, the Buy American Act (41 U.S.C. 10a–10d) provides that preference be given to domestic end products. A domestic end product means:

(1) An unmanufactured end product which has been mined or produced in the United States; and

(2) An end product manufactured in the United States if the cost of components thereof which are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components.

(b) Contractor agrees that there will be delivered under this contract only domestic end products, except end products:

(1) Which are for use outside the United States;

(2) Which TVA determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality;

(3) As to which TVA determines the domestic preference to be inconsistent with the public interest; or

(4) As to which TVA determines the cost to be unreasonable.

(End of clause)

§1316.5 Clean Air and Water Acts.

When so indicated in TVA contract documents or actions, the following clause is included by reference in such documents or actions:

Clean Air and Water Acts

(a) If performance of this contract would involve the use of facilities which have given rise to a conviction under section 113(c)(1) of the Clean Air Act (42 U.S.C. 7413) or section 309(c) of the Federal Water Pollution Control Act (33 U.S.C. 1319), offeror shall include in its offer a statement clearly setting forth the facts and circumstances of said conviction and shall list the facilities which gave rise to said conviction. If no such statement is submitted, submission of an offer constitutes certification by the offeror that performance of this contract will not involve the use of facilities which have given rise to a conviction under section 113(c)(1) of the Clean Air Act or section 309(c) of the Federal Water Pollution Control Act. As used in this clause "facilities" shall have the meaning set forth in 40 CFR 15.4.

(b) TVA will not award a contract to any offeror whose performance would involve the use of any facility or facilities which have given rise to a conviction as set forth in paragraph (a) of this clause except to the extent TVA, in its sole judgment, determines that such contract is exempt at the time of contract award from the provisions of 40 CFR part 15 as set forth therein.

(c) A condition of award of this contract is that contractor shall notify the Contracting Officer in writing of the receipt of any communication from the U.S. Environmental Protection Agency (EPA) indicating that a facility to be utilized for this contract is under consideration to be listed on the EPA List of Violating Facilities. Prompt notification shall be required prior to contract award.

(End of clause)

§1316.6 Discrimination on the basis of age.

When so indicated in TVA contract documents or actions, the following clause is included by reference in such documents or actions:

Discrimination On The Basis Of Age

Executive Order 11141, 3 CFR, 1964–1965 Comp., p. 179, states that it is the policy of the Executive Branch of the United States that: Contractors and subcontractors engaged in the performance of Federal contracts shall not, in connection with the employment, advancement, or discharge of employees, or in connection with the terms, conditions, or privileges of their employment, discriminate against persons because of their age except upon the basis of a bona fide occupational qualification, retirement plan, or statutory requirement; and that contractors and subcontractors, or persons acting on their behalf, shall not specify, in solicitations or advertisements for employees to work on Government contracts, a maximum age limit for such employment unless the specified maximum age limit is based upon a bona fide

occupational qualification, retirement plan, or statutory requirement.

(End of clause)

§1316.7 Drug-free workplace.

When so indicated in TVA contract documents or actions, the following clause is included by reference in such documents or actions:

Drug-Free Workplace

(a) Definitions. As used in this provision:

Controlled substance means a controlled substance in schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulations at 21 CFR 1308.11 through 1308.15

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

Drug-free workplace means a site, including TVA premises, for the performance of work done in connection with a specific contract at which employees of Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

Employee means an employee of a contractor directly engaged in the performance of work under a Government contract.

Individual means an offeror/contractor that has no more than one employee, including the offeror/contractor.

(b) Offerors Other than Individuals. By submission of its offer, the offeror, if other than an individual, who is making an offer that equals or exceeds \$25,000, certifies and agrees that, with respect to all employees of the offeror to be employed under a contract resulting from this solicitation, it will—

(1) Publish a statement notifying such employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish a drug-free awareness program to inform such employees about—

(i) The dangers of drug abuse in the workplace;

(ii) Contractor's policy of maintaining a drug-free workplace;

(iii) Any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by paragraph (b)(1) of this section;

(4) Notify such employees in the statement required by paragraph (b)(1) of this section that, as a condition of continued employment

on the contract resulting from this solicitation, the employee will—

(i) Abide by the terms of the statement; and
(ii) Notify Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(5) Notify the Contracting Officer within 10 days after receiving notice under paragraph (b)(4)(ii) of this section from an employee or otherwise receiving actual notice of such conviction;

(6) Within 30 days after receiving notice under subsection (b)(4) of this section of a conviction, impose the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace:

(i) Take appropriate personnel action against such employee, up to and including termination; or

(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(7) Make a good-faith effort to maintain a drug-free workplace through implementation of subsections (b)(1) through (b)(6) of this provision.

(c) Individuals. By submission of its offer, the offeror, if an individual who is making an offer of any dollar value, certifies and agrees that the offeror will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the performance of the contract resulting from this solicitation.

(d) Enforcement. Failure of the offeror to provide the certification required by section (b) or (c) of this provision, renders the offeror unqualified and ineligible for award. Failure of Contractor to comply with the requirements of subsections (b)(1) through (b)(7) or section (c) shall constitute a material breach of contract entitling TVA to suspend payments, terminate the contract, suspend or debar Contractor from Government contracting in accordance with subsection 5152(b)(2) of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701(b)(2)), or take such other action as may be in accordance with law or the contract.

(e) In addition to other remedies available to the Government, the certification in sections (b) and (c) of this provision concerns a matter within the jurisdiction of an agency of the United States, and making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under 18 U.S.C. 1001.

(End of clause)

§ 1316.8 Employee protected activities.

When so indicated in TVA contract documents or actions, the following clause is included by reference in such documents or actions:

Employee Protected Activities

(Applicable to contracts for goods or services delivered to nuclear facilities or otherwise relating to Nuclear Regulatory Commission (NRC) licensed activities.)

(a) Contractor shall comply with Section 211 of the Energy Reorganization Act of 1974

(42 U.S.C. 5851), as amended, which prohibits discrimination against employees for engaging in certain protected activities. The Secretary of Labor has determined that "discrimination" means discharge or any other adverse actions that relate to compensation, terms, conditions, and privileges of employment; the term "protected activities" includes, among other things, employees raising nuclear safety or quality controls complaints either internally to their employer or to the NRC. Contractor shall aggressively pursue any employee allegation of discrimination and shall fully investigate such allegations. Contractor shall notify the TVA Concerns Resolution Staff Site Representative of such allegation or complaint in writing, together with a copy of any complaint. Contractor shall provide TVA any investigative reports that it may prepare and shall also provide to TVA a full written description of any management action taken in response to any such allegation or complaint. In circumstances where any such allegation or complaint also charges TVA employees with involvement in any discriminatory activities, contractor shall cooperate fully with TVA counsel in its representation.

(b) Contractor shall ensure that no agreement affecting compensation, terms, conditions, and privileges of employment, including, but not limited to, any agreement to settle a complaint filed by an employee or former employee of the Contractor with the Department of Labor pursuant to Section 211 of the Energy Reorganization Act of 1974, as amended, may contain any provision which would prohibit, restrict, or otherwise discourage an employee or former employee from participating in any protected activity as described in the "Employee Protection" regulations of NRC, 10 CFR 50.7, including, but not limited to, providing information to NRC on potential violations of the NRC's regulations or other matters within NRC's regulatory responsibilities.

(c) Any breach of this provision shall be a material breach of the contract. In the event NRC imposes a civil penalty against TVA as a result of a breach of this provision, such a civil penalty is considered by the parties to be direct and not special or consequential damages.

(d) Contractor agrees to place this provision, along with the flow-down requirement of this sentence, in all subcontracts of any tier entered into pursuant to this contract.

(End of clause)

§ 1316.9 Nuclear energy hazards and nuclear incidents.

When so indicated in TVA contract documents or actions, the following clause is included by reference in such documents or actions:

Nuclear Energy Hazards and Nuclear Incidents

(Applicable only to contracts for goods or services delivered to nuclear plants.)

(a) Prior to, or at the time of shipment of the first nuclear fuel to the TVA nuclear facility, TVA will furnish nuclear liability protection in accordance with Section 170 of

the Atomic Energy Act (42 U.S.C. 2210) and applicable regulations of the Nuclear Regulatory Commission. Should this system of protection be repealed or changed, TVA would undertake to maintain in effect during the period of operation of the plant, to the extent available on reasonable terms, liability protection which would not result in a material impairment of the protection afforded to Contractor and its suppliers under existing system.

(b) TVA waives any claim it might have against Contractor or its subcontractors because of damage to, loss of, or loss of use of any property at the site of the TVA nuclear facility resulting from nuclear energy hazards or nuclear incidents. This provision shall not affect Contractor's obligation under the "Warranty" provision of this contract.

(c) TVA will indemnify Contractor and its subcontractors and save them harmless from any claims, losses, or liability arising as a result of damage to, loss of, or loss of use of any property at the site of the TVA nuclear facility resulting from nuclear energy hazards or nuclear incidents. In return for this indemnification, Contractor waives any claim it might have against any third party because of damage to, loss of, or loss of use of its property at the site of the TVA nuclear facility resulting from nuclear energy hazards or nuclear incidents.

(d) The foregoing waiver and indemnification provisions will apply to the full extent permitted by law and regardless of fault. The subcontractors referred to above include any of Contractor's suppliers of material, equipment, or services for the work, regardless of tier.

(e) For purposes of these provisions, the following definitions shall apply: Nuclear energy hazards shall mean the hazardous properties of nuclear material. Hazardous properties shall include radioactive, toxic, or explosive properties of nuclear material. Nuclear material shall include source material, special nuclear material or by-product material as those are defined in the Atomic Energy Act (42 U.S.C. 2014). Nuclear incident shall have the meaning given that term in the Atomic Energy Act (42 U.S.C. 2014(q)).

(End of clause)

§ 1316.10 Officials not to benefit.

When so indicated in TVA contract documents or actions, the following clause is included by reference in such documents or actions:

Officials Not To Benefit

No member of or delegate to Congress or Resident Commissioner, or any officer, employee, special Government employee, or agent of TVA shall be admitted to any share or part of this agreement or to any benefit that may arise therefrom unless it be made with a corporation for its general benefit; nor shall Contractor offer or give, directly or indirectly, to any officer, employee, special Government employee, or agent of TVA, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, except as provided in 5 CFR part 2635. Breach of this clause shall constitute a material breach of this contract, and TVA shall have the right

to exercise all remedies provided in this contract or at law.

(End of clause)

Dated: April 8, 1993.

Victor H. King,

Vice President, Purchasing.

[FR Doc. 93-10025 Filed 4-28-93; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 101 and 122

[T.D. 93-32]

Customs Service Field Organization Vicksburg, MS

AGENCY: U.S. Customs Service,
Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations governing the Customs Field organization by changing the boundaries of the Port of Vicksburg, Mississippi, which lies within the South Central Region. The current port boundaries are being expanded to encompass the user fee airport at Jackson, Mississippi and the neighboring counties of Hinds, Rankin and Madison. This change is being made to reflect the changing nature of the international trade in the area from the river to the airport. By expanding the port limits, Customs will move into the center of the trade area. Through this change, the public and importers will be better served and Customs personnel and resources will be more efficiently utilized.

EFFECTIVE DATE: June 28, 1993.

FOR FURTHER INFORMATION CONTACT: Bob Jones, Office of Workforce Effectiveness and Development, Office of Inspection and Control, U.S. Customs Service, (202) 927-0456.

SUPPLEMENTARY INFORMATION:

Background

As part of its continuing program to obtain more efficient use of its personnel, facilities and resources, and to provide better service to carriers, importers and the public, Customs is amending § 101.3, Customs Regulations (19 CFR 101.3), to expand the boundaries of the port of Vicksburg, Mississippi, in the South Central Region. The expansion of the port will add the counties of Hinds, Rankin and Madison, in Mississippi to the existing limits which are Warren County in Mississippi and Madison Parish in Louisiana.

The present port of Vicksburg generates little Customs activity. However, the volume of international traffic at the user fee airport at Jackson, Mississippi, which was established in 1989, has become increasingly significant. The facts clearly indicate that the customs activity in the area is not occurring within Vicksburg's present port limits, but rather at the airport and in the neighboring counties which are served by the airport. Accordingly, Customs has determined that the port limits should be expanded to include the three neighboring counties and Jackson International Airport. By including the Jackson International Airport within the limits of the port of entry, Customs will convert the airport's status from a user fee airport to a landing rights airport. It is not anticipated that this change will have any adverse financial impact on either the agency or the community.

Comments

Customs published a Notice of Proposed Rulemaking in the *Federal Register* on June 16, 1992 (57 FR 26805) which invited the public to comment on this change to the port limits. No comments were received in response to that invitation. Accordingly, the amendment is being published in final as it was proposed. Because the amendment incorporates the Jackson Municipal Airport within the boundaries of the port of entry, it will cease to be a user fee airport. Accordingly, part 122 of the regulations is also being amended to remove the Jackson Municipal Airport from the list of user fee airports.

The revised port limits are as follows:

The geographic limits of the port of entry of Vicksburg, Mississippi, comprise all of the territory within Madison Parish, Louisiana, and Warren, Hinds, Rankin and Madison counties, Mississippi.

Regulatory Flexibility Act

This document is not subject to the notice and public procedure requirements of 5 U.S.C. 553 because it relates to agency management and organization. Accordingly, this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Executive Order 12291

Because this document relates to agency organization and management, it is not subject to E.O. 12291.

Drafting Information

The principal author of this document was Peter T. Lynch, Regulations Branch,

Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 101

Customs duties and inspection, Exports, Imports, Organization and function (Government agencies).

19 CFR Part 122

Airports, Aircraft, Customs duties and inspection, Imports, Drug traffic control, Security measures.

Amendments to the Regulations

Accordingly, Parts 101 and 122 of the Customs Regulations (19 CFR Parts 101 and 122) are amended as set forth below:

PART 101—GENERAL PROVISIONS

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

Authority: 5 U.S.C. 301, 19 U.S.C. 2, 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1623, 1624, unless otherwise noted.

§ 101.3 [Amended]

2. The list of Customs regions, districts and ports of entry in § 101.3(b) is amended in the following manner:

In the South Central Region under the column headed "ports of entry" in the entry for "Vicksburg, Miss." remove "T.D. 84-126" and insert "T.D. 93-32".

PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for part 122 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1433, 1436, 1459, 1590, 1594, 1624, 1644; 49 U.S.C. App. 1509.

§ 122.15 [Amended]

2. Section 122.15 is amended by removing from the list of user fee airports in paragraph (b) the words "Jackson, Mississippi" and "Jackson Municipal Airport".

Approved: April 8, 1993.

Michael H. Lane,

Deputy Acting Commissioner of Customs.

John P. Simpson,

Assistant Secretary of the Treasury.

[FR Doc. 93-9963 Filed 4-28-93; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Extension of Temporary Placement of Methcathinone into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This final rule is issued by the Administrator of the Drug Enforcement Administration (DEA) to extend the temporary scheduling of methcathinone in Schedule I of the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*). The temporary scheduling of methcathinone is due to expire on May 1, 1993. This notice will extend the temporary scheduling of methcathinone for six months or until rulemaking proceedings pursuant to 21 U.S.C. 811(a) are completed, whichever occurs first.

EFFECTIVE DATE: April 29, 1993.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 307-7183.

SUPPLEMENTARY INFORMATION: On May 1, 1992, the Administrator of the DEA published a final rule in the *Federal Register* (57 FR 18824) amending § 1308.11(g) of title 21 of the Code of Federal Regulations to temporarily place methcathinone into Schedule I of the CSA pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h). This final rule, which became effective on the date of publication, was based on findings by the Administrator that the temporary scheduling of methcathinone was necessary to avoid an imminent hazard to the public safety. Section 201(h)(2) of the CSA (21 U.S.C. 811(h)(2)) requires that the temporary scheduling of a substance expires at the end of one year from the effective date of the order. However, during the pendency of proceedings under 21 U.S.C. 811(a)(1) with respect to the substance, temporary scheduling of that substance may be extended for up to six months. Proceedings for the scheduling of a substance under 21 U.S.C. 811(a) may be initiated by the Attorney General (delegated to the Administrator of the DEA pursuant to 28 CFR 0.100) on his own motion, at the request of the Secretary of Health and Human Services, or on the petition of any interested party. Such proceedings

regarding methcathinone have been initiated by the Administrator.

Therefore, the temporary scheduling of methcathinone, which is due to expire on May 1, 1993, may be extended until November 1, 1993, or until proceedings initiated in accordance with 21 U.S.C. 811(a) are completed, whichever occurs first.

Pursuant to 21 U.S.C. 811(h)(2) the Administrator hereby orders that the temporary scheduling of methcathinone be extended until November 1, 1993, or until the conclusion of scheduling proceedings initiated in accordance with 21 U.S.C. 811(a), whichever occurs first. The Administrator of the DEA hereby certifies that extension of the temporary placement of methcathinone into Schedule I of the CSA will have no significant impact upon entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This action involves the extension of temporary control of a substance with no currently approved medical use or manufacture in the United States.

This final rule is not a major rule for the purposes of Executive Order 12291 (46 FR 13193) of February 17, 1981. It has been determined that drug scheduling matters are not subject to review by the Office of Management and Budget (OMB) pursuant to the provisions of Executive Order 12291. Accordingly, this extension of temporary scheduling is not subject to the provisions of Executive Order 12778 which are contingent upon review by OMB.

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

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Dated: April 22, 1993.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 93-9994 Filed 4-28-93; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 625

[FHWA Docket No. 89-16, Notice No. 3]

RIN 2125-AC34

Design Standards for Highways; Interstate System

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This document amends the design standards which apply to Interstate highway projects. A revised publication of the American Association of State Highway and Transportation Officials (AASHTO) entitled "A Policy on Design Standards—Interstate System" is being adopted by the FHWA and will constitute the FHWA's policy on geometric design for all projects on the Interstate highway system.

Prior to the completion of this rulemaking process, the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 was passed. That act retains without changes the existing statutory provisions for geometric and construction standards for the Interstate system. In addition, it provides that, similar to the previous statutory provision, the Secretary of Transportation, in cooperation with the States, shall establish design and construction standards for projects on the National Highway System (NHS). As defined in the 1991 ISTEA, the interim NHS consists of the Interstate system and other principal arterials.

The FHWA has reviewed this rulemaking in view of the new provisions and has concluded that, because the changes in the Federal-aid highway system definitions do not effect the Interstate system and the existing statutory authority for standards is not changed, there is no effect on this rulemaking.

EFFECTIVE DATE: The final rule is effective June 1, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Seppo I. Sillan, Geometric and Roadside Design Branch, Federal-aid and Design Division, Office of Engineering (202) 366-1327 or Vivian Philbin, Office of Chief Counsel (202) 366-0780, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: The standards, policies and standard specifications that have been approved

by the FHWA are incorporated by reference in 23 CFR 625.4. Those provisions that apply to roadway geometric design and are the subject of this rulemaking are listed in 23 CFR 625.4(a).

The AASHTO is an organization which represents the 50 State highway and transportation agencies as well as the District of Columbia and Puerto Rico. Its members consist of the duly constituted heads and other chief directing officials of those 52 agencies. The Secretary of the United States Department of Transportation (DOT) is an ex-officio member.

Among other functions, the AASHTO develops and issues standards, specifications, policies, guides, and related materials for use by the States on highway projects in the nation. Due to the AASHTO's recognized expertise and representation of all State highway and transportation agencies, the FHWA has assisted AASHTO over the years in the development of design standards pursuant to the provisions of Federal law (title 23, U.S.C.) which direct the FHWA to consult and cooperate with the States in that regard. Many of the standards, policies, and guides approved by the FHWA and incorporated in 23 CFR part 625 were developed and issued by the AASHTO. Revisions made to such documents by the AASHTO are independently reviewed and adopted by the FHWA through the rulemaking process before they are applied to Federal-aid projects.

Background

On July 18, 1989, the FHWA published a notice of proposed rulemaking (NPRM) at 54 FR 30095 requesting comments on the proposal to include the new AASHTO publication "A Policy on Design Standards—Interstate System," 1991 in 23 CFR 625.4(a). The NPRM proposed the substitution of a revised publication entitled "A Policy on Design Standards—Interstate System" (hereafter referred to as the "Standards") for a previous version last revised June 20, 1967. As stated in the NPRM, the primary reasons for development of the revised standards are to establish up-to-date standards for design of highways on the Interstate System and to update the previous standards to incorporate the latest design criteria. A more detailed discussion of the changes in the Standards is included in the NPRM of July 18, 1990.

The FHWA extended the original 60-day comment period by 60 days (54 FR 38388, September 18, 1989) from September 18, 1989, to November 17,

1989, in order to provide interested parties additional time to respond to the NPRM. The July 18 notice also announced procedures that would be followed leading to publication of this final rule. These procedures involved four steps:

1. The FHWA through this notice is proposing to approve the Standards for use on Federal-aid Interstate projects. Comments on the design criteria contained in the document are requested.

2. The FHWA will analyze all comments. Based on that analysis and its own independent review, the FHWA will furnish AASHTO with those modifications that may be required to make the Standards acceptable for use on Federal-aid Interstate projects.

3. If AASHTO makes the necessary modifications or if no modifications are required, the FHWA will adopt the Standards for use on Federal-aid projects on the Interstate System and incorporate it by reference into 23 CFR part 625.

4. If there are any unresolved differences, the FHWA will issue a final rule conditionally adopting the document for Federal-aid Interstate projects by incorporating it in 23 CFR part 625 and officially indicating the extent of material not acceptable to FHWA and, if necessary, alternative criteria would be listed for Federal-aid Interstate projects.

In accordance with these procedures, the AASHTO was furnished copies of comments received to the docket. Based on those comments, concerns expressed by the FHWA, and its own further review of the Standards, the AASHTO revised the 1988 Standards. These revised Standards were published in 1991 by AASHTO. The 1991 Standards include revisions to the 1988 Standards which address comments received to the FHWA docket. The FHWA has decided to adopt the 1991 Standards as now presented because the FHWA believes the 1991 Standards adequately address the comments received and incorporate changes consistent with the FHWA's concerns about the 1988 Standards. The revisions to the 1988 Standards will be discussed later in this final rule.

Discussion of Comments on the 1988 Standards

A number of comments indicated confusion as to how the standards were to be interpreted to resolve discrepancies between these standards and the geometric standards published in "A Policy on the Geometric Design of Highways and Streets" (GDHS) AASHTO 1984. The 1984 GDHS has

also been revised and the FHWA is in the rulemaking process of adopting the 1990 version. Also, the AASHTO has revised the 1988 Standards to remove any discrepancies between the 1990 GDHS and the 1991 Standards. Other comments which would have required expanding the document beyond its intended purpose will not be discussed individually herein.

Nine commenters responded to the NPRM issued on July 18, 1989. Comments were received from the following: Four State transportation agencies, one local government agency, one manufacturer, one consultant, one public interest group and one individual. All the comments expressed disagreement with at least a portion of the Standards but only one suggested total rejection.

Five of the comments were of a general nature.

Comment: The Standards do not provide sufficient specific values and criteria.

Response: These Standards are not intended to be a "stand alone" document but only contain and highlight the major features for the Interstate System. For detailed design information, other publications, such as the GDHS are referenced.

Comment: The GDHS should be cross-referenced more often throughout the publication.

Response: While the GDHS could be referenced more, it is cited sufficiently so that a reader knows to seek information from that publication for additional specific details.

Comment: The need for this publication is questioned.

Response: The Interstate System is a national system of limited access highways intended to connect the major urban areas of the United States. It is a system of highways designed to provide for a consistently high level of service and safety. In order to accomplish this and to comply with 23 U.S.C. 109(b), a separate set of standards is needed.

Comment: The standards should be advisory rather than mandatory.

Response: In order to achieve uniformity in certain design features, it is necessary that mandatory standards be provided for the Interstate System. Otherwise, the design would not be uniform nationwide and a consistently high level of service and safety may not be achieved.

Comment: Safety is not stressed sufficiently.

Response: Considering the limited purpose of this document, as previously indicated, it is felt that safety is sufficiently emphasized. For example on page 3 the Policy indicates: "Each

section of Interstate highway shall be designed to serve safely and efficiently the volumes of vehicles, buses, trucks, including tractor-trailer and semitrailer combinations and corresponding military equipment estimated for the design year." On page 1 it is emphasized that values approaching minimum should only be used under unusual specified conditions. On page 2 full control of access is required on the entire system. On page 5 it is indicated that a clear recovery area beyond the shoulder should be provided free of fixed objects, or if there are objects that cannot be moved they should be breakaway or be appropriately shielded. There are many other examples that could be cited indicating that safety is a primary concern of the Standards.

There were four specific comments on the "General" section.

Comment: Interstate highways should provide for "predicted" or "expected" traffic rather than "possible" growth in traffic.

Response: The commenter's words better describe how Interstate highways are designed. The 1991 Standards are changed to "predicted growth in traffic" as recommended.

Comment: The sentence "The standards for horizontal alignment, vertical alignment and cross-sectional elements for resurfacing, restoration and rehabilitation (RRR) projects may be the AASHTO Interstate standards that were in effect at the time of the original construction" should be omitted. The FHWA cannot approve the use of obsolete Interstate Standards for RRR work.

Response: The purpose of this provision in the section titled "General" is to eliminate needless paperwork associated with design exceptions required because of relatively minor changes in standards over the years. For example, slightly longer vertical curves are required to meet changes in the way stopping sight distance is determined. To lengthen the vertical curves would require removing existing pavement for the length of the vertical curve just to lower the surface of the highway anywhere from a few feet to several inches. This would not be cost-effective and if the State requested an exception to the Standards because of the above circumstance it would likely be granted. The standards for cross-section dimensions, vertical and horizontal alignment have not changed significantly over the years. Therefore, the FHWA does not agree that the provision be eliminated. However, the term "cross-sectional elements" is changed in the 1991 Standards to specify the "widths of median, traveled

way, and shoulders" only. This change was made at least in part because of the FHWA's concern that there could be RRR projects that do not meet current roadside safety requirements. The revision satisfies the FHWA's concern. Also, "or inclusion into the Interstate System" is added to clarify how existing Interstate highways that were incorporated into the system are to be treated.

Comment: There should be a requirement that minimum values shall not be used in combination.

Response: The present wording discouraging the use of minimum values is adequate to protect design and safety of the system.

There were a number of comments on the section on "Design Traffic."

Comment: Interstate highways should be built "at least 20 years beyond that which the plans, specifications and estimate for construction of the section are approved."

Response: The 1991 Standards are revised accordingly.

Comment: The sentence "In those extraordinary instances where environmental and/or political decisions intervene, the design year and resulting traffic will be consistent with that decision" should not be included. Because any new or major reconstructed Interstate highway will have major environmental and/or political involvement, this statement allows almost any design year. Furthermore, every effort should be made to use a design year of 20 years and if extraordinary conditions occur a design exception should be processed. The previous sentence has already introduced flexibility and this sentence only encourages "abusive exceptions to the 20-year rule."

Response: This sentence reflects present practice and recognition of common constraints. There are reasons why a sufficient number of lanes cannot be provided in all cases to serve traffic predicted for 20 years in the future.

Comment: Design should be for the 10th highest hourly volume of the design year rather than the 30th highest hour.

Response: The use of the 30th highest hour is in keeping with current practice and in most cases it would not be practical to use the 10th highest hourly volume. Such change would require designing for a much higher volume, almost the highest occurring volume, which might occur during a year. The reason that some highways become congested soon after they are opened is not because they were designed on the basis of the 30th highest hourly volume, but because traffic growth is greater than

expected or for some reason the number of lanes that could be provided was less than the design volume would indicate.

There were 12 comments on the section on right-of-way.

Comment: The first paragraph should be omitted or it should be recognized that right-of-way should be sufficient for a facility designed for a future year. Another similar comment was that the right-of-way should be sufficient to accommodate the expected growth in traffic.

Response: The FHWA has determined that the paragraph should be retained. However, the words "in the design year and for known future improvements" are added in the 1991 Standards. This indicates that sufficient right-of-way should be obtained for future highway needs.

Comment: Guidance should be provided on acceptable and optimal designs for control-of-access where frontage roads interface with Interstate facilities.

Response: This guidance is beyond the scope of this publication and the GDHS should be referred to for guidance on this subject.

Comments: There were four comments on the extension of control-of-access beyond the ramp terminal: (1) The control-of-access should be extended 800 feet in urban areas and 1200 feet in rural areas; (2) The control-of-access should be extended 300 feet in urban areas and 600 feet in rural areas; (3) The lengths specified should be reduced in the case of major reconstruction projects; and (4) separate guidance should be provided for the case where there are auxiliary lanes along the crossroad.

Response: Over the years the lengths of 100 feet and 300 feet have proven to be reasonable and practical distances and should continue to be required for both new and major reconstruction projects. Providing separate guidance for the case where there are auxiliary lanes along the crossroad is beyond the scope of this publication.

Comment: There are 100 to 200 permitted legal at-grade access points (locked gates) in Arizona. Concern was expressed that their elimination would cause a serious problem because alternative, much more expensive means of access would have to be provided.

Response: The control-of-access section of the Standards does not apply to existing locked-gate access points. New locked gate access points would be permitted by obtaining approval of a new point-of-access.

Comment: The last paragraph in this control-of-access section should be

clarified to better state how at-grade intersections of driveways are to be eliminated.

Response: This is mainly an editorial comment. However, to clarify the intent, the second sentence in the 1991 Standards has been revised to read as follows: "At-grade intersections shall not be allowed."

There were 8 individual comments on the section on "Geometric Controls and Criteria."

Comment: A sentence should be added indicating that the design speed of a new or reconstructed highway shall exceed the posted speed limit.

Response: This is unnecessary since the design speed does not necessarily have to exceed the posted speed, although the design speed will invariably exceed the posted speed on Interstate highways.

Comment: The phrase "And depending on the nature of the terrain and development" should be eliminated from the first sentence of the first paragraph.

Response: This is mainly an editorial comment. This paragraph is completely revised in the 1991 Standards to clarify its meaning as follows: "A design speed of 70 miles per hour should be used in rural areas. Where terrain is mountainous, a design speed of 60 miles per hour or 50 miles per hour which is consistent with design expectancy, may be used. A design speed of 60 miles per hour is acceptable in rolling terrain. In urban areas the design speed shall be at least 50 miles per hour."

Comment: There is no provision for 60 mph for rolling terrain in the GDHS. Highways in other than mountainous terrain should have a minimum 70 mph design speed.

Response: Since this provision will not effect highway design to any great extent as almost all highways in nonurban areas are designed for 70 mph in rolling terrain, it is accepted.

Comment: There is a discrepancy between the maximum possible grade allowed in the Standards and the GDHS. Six percent is the maximum permitted in the GDHS while 7 percent could be permitted by these Standards.

Response: The gradients permitted in the 1991 Standards are revised to agree with those in the GDHS.

Comment: "Shall" should be substituted for "should" regarding the use of the upper range of values for stopping sight distance established in the current edition of AASHTO's GDHS.

Response: The FHWA concurs that the upper range of values for stopping sight distance should be used in almost all cases for the Interstate System. However, it is felt the wording in the

standards will accomplish this and there is no need to require a change in the existing wording.

Comment: It was suggested that the curvature, superelevation and allied features "shall" be correlated with the design speed in accordance with the GDHS rather than "should" be correlated.

Response: The FHWA was also concerned with this wording and the Standards have been revised as suggested by this comment.

The section on "Cross Section Elements" received approximately 30 comments. The majority of the comments were editorial and are not discussed in this rulemaking.

Comment: The actual level-of-service should be provided or the reference should be to the "Highway Capacity Manual" (HCM) (23 CFR 625.5(a)(6)) rather than the GDHS.

Response: The new revised GDHS (which the FHWA is in the rulemaking process of adopting) incorporates material from the HCM to include specific level-of-service criteria and does not need to be repeated in this publication.

Comment: Left shoulders on four lane highways should have a paved width of 10 feet rather than 4 feet.

Response: On four lane highways 4-foot left shoulders have proved to be adequate and it would not be economically justified to require 10 feet.

Comment: Shoulder width should not be reduced in mountainous terrain.

Response: In mountainous terrain traffic volumes may be low and because of terrain, the provision of full shoulders could add considerably to the cost. Therefore, the reduction in shoulder widths is considered justified in mountainous areas.

Comment: Minimum shoulder widths should be reduced in urban areas in order to allow for provision of additional traffic lanes.

Response: Because of greater traffic volumes, shoulders are needed more in urban areas. Any justified reduction in shoulder widths will be handled on an exception basis.

Comment: The maximum shoulder slope should be 4 percent rather than 6 percent.

Response: There are some cases where a 6 percent slope is necessary and desirable, particularly in areas subject to heavy rainfall. This slope should not create a hazard since vehicles entering or using the shoulder intentionally should be traveling at lower speeds.

Comment: The shoulder slope should be uniform for the entire shoulder width.

Response: There are situations where it may be desirable to provide slope which is not uniform over the entire shoulder width. These situations occur on the outside of superelevated curves. An expanded discussion of this is beyond the intended scope of this publication.

Comment: The maximum foreslopes should be a ratio of 6:1 rather than 4:1 and preferably be 10:1.

Response: The slopes indicated in the Standards agree with recommended minimum safety requirements in the "Roadside Design Guide," AASHTO, 1989, incorporated by reference at 23 CFR 625.5(a)(3).

Comment: The foreslope requirements are too restrictive.

Response: As indicated above, the slopes presented in the Standards agree with the recommended safety requirements in the "Roadside Design Guide."

Comment: The term "wherever feasible" should be omitted from the paragraph on "sideslopes."

Response: The term "wherever feasible" has been omitted from the 1991 Standards.

Comment: The minimum median width should be 8 feet rather than 10 feet in urban areas.

Response: The 10-foot minimum median width is necessary to accommodate the two 4-foot shoulders plus a barrier, if required.

Comment: All medians including those on highways in mountainous terrain and in urban areas should be at least 36 feet wide plus width for barriers.

Response: It would not be economically feasible in many cases in urban and mountainous areas to require a 36-foot wide median. A narrower median with an appropriately designed barrier is often appropriate.

Comment: Medians in rural areas should be at least 46 feet wide and medians in urban and mountainous areas should be at least 14 feet wide.

Response: While it generally is desirable to provide as wide a median as possible on freeways, for economic and environmental reasons it is not always feasible. The FHWA believes the minimum widths presented in the Standards are reasonable.

Comment: All medians between parallel bridges should be decked when the median is 30 feet wide or less. An analysis should be required for median openings between 46 to 30 feet to determine if they also should be decked.

Response: A median width of 30 feet is considered appropriate for the possible decking of a median. The alternative is to provide a crashworthy

barrier next to the roadways in order to prevent vehicles from entering the opening between the structures. While this is not as desirable as covering the opening, it should not adversely affect safety. Decking the entire median for widths of medians greater than 30 feet generally would not be cost effective.

Comment: There should be a requirement for median barriers in all medians of 26 feet or less. Wider medians should be analyzed to determine if a barrier is required.

Response: The AASHTO "Roadside Design Guide" does not indicate a need for barriers in all medians 26 feet or less. There is no need for these Standards to go beyond this guidance.

Comment: A minimum 30 foot clear recovery area should be specified in all cases. Another comment was to provide at least a 20-foot clear recovery area.

Response: The "Roadside Design Guide" suggests different widths of recovery area depending on design speed, traffic volumes, side slopes, etc. Therefore, no standard minimum width should be specified.

Comment: Barrier curbs should not be allowed under any conditions.

Response: The 1991 Standards indicate that "barrier curbs shall not be used."

Comment: Barrier curbs should be permitted along existing facilities.

Response: The FHWA does not agree that this statement should be included in the Standards. They have been found to cause drivers to lose control of their vehicles and do not provide necessary redirection for out-of-control vehicles.

Comment: Mountable curbs should not be used in conjunction with traffic barriers or attenuators.

Response: The "Roadside Design Guide" indicates that curbs may not be desirable in front of traffic barriers, but does not prohibit them when used flush with or behind a barrier. This is included in the 1991 Standards.

Only one commenter provided comments on the section on "Interchanges."

Comment: (1) All movements should be provided at all interchanges; (2) The GDHS should be referenced regarding design of ramps; and (3) No direct access should be allowed to malls and residential developments.

Response: There is now an indication in the 1991 Standards that each interchange shall provide for all traffic movements. The GDHS is already referenced in the "General" section and does not need to be referenced again. In light of the first sentence of this section, there is no need to single out malls and residential areas as land uses that should not be provided direct access.

There were a number of comments on the section on "Bridges and other Structures."

Comment: There should be no reduction in width allowed for long bridges.

Response: While this would be possible, it usually is not economically desirable.

Comment: The offset to the parapet rail on long bridges should be 3 feet rather than 4 feet for new bridges.

Response: Three feet would be less than required in previous standards for new bridges and 4 feet is considered the minimum width that should be provided.

Comment: All tunnels should have a width of no less than the desirable width cited in the Standards and that all tunnels should have at least a 16-foot vertical clearance.

Response: The FHWA has determined that such a requirement is not always economically desirable and should not be required in the Standards.

In conclusion, the FHWA intends to adopt the 1991 Standards. The revisions to the 1988 Standards are now included in the 1991 Standards and make them acceptable to the FHWA for use in the design of highways on the Interstate System.

Rulemaking Analyses and Notices

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

The FHWA has determined that this action is not major within the meaning of Executive Order 12291 or significant within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required. This determination is based on the fact that although the new Policy contains new material, the basic criteria remain essentially the same. For all practical purposes, the new Policy reflects the criteria which, for the most part, have been in use in designing Interstate highways for the last several years.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 605(b)), the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirements for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 625

Design standards, Grant programs—Transportation, Highways and roads, Incorporation by reference, Reporting and recordkeeping requirements.

Issued on: April 20, 1993.

E. Dean Carlson,
Executive Director.

In consideration of the foregoing, the FHWA is amending chapter I of Title 23, Code of Federal Regulations, part 625 as set forth below.

PART 625—DESIGN STANDARDS FOR HIGHWAYS

1. The authority citation for part 625 continues to read as follows:

Authority: 23 U.S.C. 109, 315 and 402; 49 CFR 1.48(b).

2 In § 625.4, paragraph (a)(2) is revised to read as follows:

§ 625.4 Standards, policies, and standard specifications.

(a) * * *

(2) A Policy on Design Standards—Interstate System, AASHTO, 1991. [3]

[FR Doc. 93-9930 Filed 4-28-93; 8:45 am]

BILLING CODE 4910-22-P

23 CFR Part 625

[FHWA Docket No. 90-13]

RIN 2125-AC22

Design Standards for Highways; Geometric Design Policy

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This document amends the design standards which apply to construction and reconstruction of projects on the National Highway System (NHS). A revised publication of the American Association of State Highway and Transportation Officials (AASHTO) entitled "A Policy on Geometric Design of Highways and Streets" is being adopted by the Federal Highway Administration (FHWA) and will constitute the FHWA's policy on geometric design as applicable to projects on the NHS.

The FHWA will issue implementing instructions outlining how certain criteria contained in the new Policy will be applied, as discussed above and later in this final rule.

Prior to the completion of this rulemaking process, the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 was passed. That act provides that, similar to the previous statutory provisions, the Secretary of Transportation, in cooperation with the States, shall establish design and construction standards for projects on the NHS. As defined in the 1991 ISTEA, the interim NHS consists of the Interstate system and other principal arterials.

The FHWA has reviewed this rulemaking in light of the new provisions and concluded that, because of the changes in the Federal-aid highway system definitions and the applicability of national design standards, the effect on this rulemaking is that the criteria contained in the functional chapter on collector roads and streets (Chapter 6 of the "A Policy on Geometric Design of Highways and

Streets") are not applicable to projects on the NHS (but may be applied to non-NHS projects at the option of the State).

EFFECTIVE DATE: The final rule is effective June 1, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Seppo I. Sillan, Geometric and Roadside Design Branch, Federal-aid and Design Division, Office of Engineering (202) 366-1327, or Ms. Vivian Philbin, Office of Chief Counsel (202) 366-0780, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The standards, specifications, policies, guides and references that have been approved by the FHWA for use on Federal-aid projects are incorporated by reference in 23 CFR part 625.

Those provisions that apply to roadway geometric design and are the subject of this rulemaking are listed in 23 CFR 625.4(a)(1).

AASHTO is an organization which represents the 50 State highway and transportation agencies as well as the District of Columbia and Puerto Rico. Its members consist of the duly constituted heads and other chief directing officials of those 52 agencies. The Secretary of the United States Department of Transportation (DOT) is an ex-officio member.

Among other functions, the AASHTO develops and issues standards, specifications, policies, guides, and related materials for use by the States on all highway projects in the nation. Due to the AASHTO's recognized expertise and representation of all State highway and transportation agencies, the FHWA has assisted AASHTO over the years in the development of design standards pursuant to the provisions of 23 U.S.C. 109. Many of the standards, policies, and guides approved by the FHWA and incorporated in 23 CFR part 625 were developed and issued by the AASHTO. Revisions made to such documents by the AASHTO are independently reviewed and adopted by the FHWA before they are applied to Federal-aid projects.

Background

On December 3, 1990, the FHWA published a notice of proposed rulemaking (NPRM) at 55 FR 49903 requesting comments on the use of the geometric design standards contained in "A Policy on Geometric Design of Highways and Streets, 1990." Specifically, that publication would be substituted for the previous version dated 1984. The primary reasons for

development of the 1990 Policy were to update the previous publication and to incorporate the latest design criteria. A more detailed discussion of the changes in the Policy is included in the notice of proposed rulemaking.

Discussion of Comments

Thirteen commenters responded to the NPRM issued on December 3, 1990. Comments were received from eight State transportation agencies, one local government agency, two public interest groups, one consultant and one association.

The majority of 13 of the commenters expressed support for adoption of the Policy. Only two commenters expressed overall opposition. Eight of the commenters expressed concern or opposition to a particular issue as covered in the Policy including those who supported adoption of the Policy. For instance, one commenter supported adoption of the Policy, but had concerns with the minimum lengths of acceleration and deceleration lanes.

A discussion of the specific comments on the proposed rule follows. Unspecific comments, editorial comments, and comments providing general discussions of various transportation issues which were not specific to this rulemaking are not included in this discussion. Also, there were a number of comments on the local roads and streets criteria and the criteria for collector roads and streets. Local roads and streets were never eligible for Federal-aid funding and therefore it was not the intent of the rulemaking process to adopt standards for their construction or reconstruction. Furthermore, as indicated previously as a result of the ISTEA, criteria contained in the functional chapter on collector roads and streets are not applicable to projects on the NHS. Therefore, comments on criteria for highways classified as local roads and streets and collectors are not included in the following discussions. Finally, as was done with the comments on the 1984 Policy rulemaking, all comments including those pertaining to local roads and streets and collectors will be provided to the AASHTO Geometric Design Task Force for its consideration in preparing the next revision of the Policy.

Comment: "A Guide for Development of Bicycle Facilities" (Bike Guide) recently revised by AASHTO should be incorporated into this document (Policy) rather than be a separate publication, and FHWA should adopt the Bike Guide at the same time as this Policy.

Response: While the Policy does not contain all the information needed to

design a bicycle path or a separate bicycle facility, it does contain information on designing streets and highways to accommodate bicyclists. The FHWA believes that having two publications is more workable. It provides designers with a separate, easy to use publication with information for designing bicycle facilities. The FHWA will issue appropriate rulemaking as soon as possible to incorporate the new Bike Guide into 23 CFR part 625 as a publication to be used for the design of bicycle facilities constructed with Federal-aid highway funds and make an effort to adopt the Bike Guide near the same time as the 1990 Policy is adopted.

Comment: The Policy has no nationally-controlled interface between chosen driver characteristics and explicit design principles, and driver behavior assumptions used to justify design practices are unsupported.

Response: Based on careful review of the research publications on the subject, the assumptions pertaining to driver behavior are considered to be the best available at this time. There are a number of research studies underway in the area of driver behavior, particularly that of elderly drivers. Results from these studies should be available before the next revision of the Policy and will be considered in its development.

Comment: There were a number of comments pertaining to the lack of information on passenger car equivalents of longer trucks and work zone pedestrian considerations.

Response: The Policy is not intended to cover in detail this type of information, but only to provide a brief introduction and a reference. The Highway Capacity Manual (Transportation Research Board Report 209, 1985) deals with passenger car equivalents. If new information needs to be developed on passenger car equivalents, it should be done in the context of revising that particular technical manual and not the Policy. Other publications such as "Planning Design and Maintenance of Pedestrian Facilities," FHWA Publication Number FHWA IP-88-019, 1988, and the "Standards for Work Zone Traffic Control" (American Traffic Safety Services Association, 1988), cover operations through work zones.

Comment: The assumed driver reaction time is too short to accommodate elderly drivers.

Response: Present research indicates that the existing assumed reaction time will accommodate most elderly drivers. However, further research is underway and the results will be considered during future revision of the Policy.

Comment: The stopping sight distances are too short because they do not consider the elderly driver and are based on dry weather conditions.

Response: The friction factors used are based on wet weather conditions and, based on currently available information, reaction times do consider the elderly drivers.

Comment: The passing sight distances are too short for the passing of longer trucks.

Response: The Policy's passing sight distance values (almost $\frac{1}{2}$ mile for a 70 mph design speed) are approaching the limit where drivers can judge distances.

Passing sight distance is an operational feature affecting capacity. No minimum required amounts of passing sight distance are prescribed in the Policy or in any of its predecessor documents.

Comment: The assumed eye height is too high at 3.5 feet.

Response: A National Cooperative Highway Research Program (NCHRP) project currently underway is investigating the procedures for determining various stopping sight distance requirements. The study includes the height of eye determination. Any necessary adjustments of the stopping sight distance model and the height of eye will be made when this research is completed.

Comment: There is no guidance for superelevation for curves on downgrades.

Response: The FHWA agrees that there needs to be some guidance in this area. In recognition of this, research is included on a list of needed research suggested by the AASHTO Task Force on Geometric Design. However, at this time there is no specific information available to develop definite criteria on when and what superelevation should be used with various grade and curvature combinations.

Comment: More up to date information should be provided for side friction.

Response: A recent study cited on page 152 of the Policy, "Side Friction for Superelevation on Horizontal Curves," FHWA Report Number FHWA RD-86-024, 1985, confirms the use of the current values.

Comment: The Policy should favor the use of spirals more than it does.

Response: The FHWA agrees that there are advantages to using spirals in many instances, and will continue to encourage their use. However, the FHWA has no basis for concluding that their use in lieu of circular curves is so critical as to require mandating that spirals be used.

Comment: Width of turning roadways should be sufficient to accommodate two WB-114 or WB-96 design vehicles.

Response: It is not practical or necessary to design all turning roadways to accommodate trucks of this size. To do so would result in two lane pavement widths up to and over 50 or 60 feet resulting in obvious operational and safety problems. Therefore, the design tables are a compromise to accommodate combinations of different types of vehicles, but not necessarily the largest ones at the same time.

Comment: A chart should be included for acceleration of trucks on grades.

Response: The FHWA agrees and this will be considered as an addition to a future issue of the Policy.

Comment: A number of commenters were opposed to the suggestion in the Policy that shoulder use by vehicles being passed may be permitted or that bicycles are not a consideration in deciding whether such use could or should be permitted.

Response: The Policy only refers to such use of shoulders in some States and the text includes many precautions. Although such use has been successful under some circumstances, the FHWA, nevertheless, will not endorse it as a national policy and will so state in its implementation memorandum.

Comment: Circular curves rather than parabolic vertical curves should be used for designing vertical curves because parabolic curves do not provide as much sight distance.

Response: The FHWA disagrees. Parabolic vertical curves, almost exclusively, have been used for vertical curve design. They provide essentially the same sight distance as circular vertical curves and are considerably easier to calculate.

Comment: There also were a number of other comments concerning the length of crest vertical curves and stopping sight distances.

Response: As indicated previously, an NCHRP study is just beginning to examine stopping sight distance and design of vertical curves. Therefore, FHWA believes any change in sight distance criteria and design of vertical curves should await the completion of this comprehensive study.

Comment: The section on utilities should cite the "Roadside Design Guide" and other related studies.

Response: The Policy cites two AASHTO publications dealing with utilities. The FHWA believes that the coverage of utilities is adequate. For more specific information, one should refer to the cited AASHTO publications: "A Policy on the Accommodation of Utilities Within Freeway Right-of-Way"

and a "Guide for Accommodating Utilities Within Highway Right-of-Way."

Comment: The vertical clearance requirement should allow for a minimum of 6 inches for future resurfacing and not only "up to 6 inches."

Response: The FHWA agrees that in most cases it is desirable to provide at least a 6-inch allowance for future resurfacing. However, provision for additional clearance above and beyond the minimum required for possible future overlays has always been a recommendation. The only requirement is that the minimum vertical clearance (14 or 16 feet) is to be provided and maintained.

Comment: All corner sight distances are too short for trucks and a corner sight distance of 200 feet is too short for any vehicle.

Response: Intersection sight distance is to be studied as an NCHRP project. When the results from this study become available, they will be evaluated and considered in revising the Policy.

Comment: Minimum design speed of 40 mph is too low for arterial highways.

Response: Because of terrain and other constraints, a 40 mph minimum design speed may be the maximum that can be obtained. The 40 mph design speed has been added to provide geometric design criteria just for those instances. There are no Federal mandates for specific design speed on any project other than that the design speed has to be equal to or exceed the posted or regulatory speed limit.

Comment: The superelevation rates for rural arterials are set too low.

Response: The superelevation rates are consistent with those that have been used successfully for a considerable number of years. They are coordinated with the maximum allowed curvature and are the same as in the 1984 Policy. Snow and ice conditions as well as slow speed operation, especially by high centered vehicles, on steeply superelevated curves is a factor which is considered.

Comment: Full shoulders should be continued over bridges longer than 200 feet.

Response: Although the FHWA agrees that full shoulders on all bridges would be ideal, there may be a number of instances where traffic volumes are low or costs of providing them are such that full shoulders on some longer bridges might not be appropriate. The 1990 Policy continues the flexibility provided by all prior policies on geometric design.

Comment: Eight-foot shoulders are too narrow for arterials with design hour

volumes (DHV's) over 200 because that width does not provide adequate off-the-travel-lane refuge for 102-inch wide trucks.

Response: The commenter correctly noted that 8-foot wide shoulders do not allow a 102-inch wide vehicle to use the shoulders without encroaching on the travel lane. However, the 8-foot wide shoulder is quite adequate for use by the predominant vehicles on the road, such as passenger cars, pickup trucks and vans. It is not reasonable to design all shoulders for the widest possible vehicle regardless of its relatively low frequency in the traffic stream.

Therefore, the FHWA will accept the 8-foot shoulder dimension in question. This does not preclude the use of wider shoulders when and where appropriate.

Comment: Eleven-foot lanes should not be permitted on arterial highways used by large trucks.

Response: The most prevalent travelled way width specified for arterials is 24 feet. Twenty-two feet (11-foot lanes) are provided for only in the lower volume and speed combinations. Also, 11-foot lanes may be retained on reconstructed arterials only if the alignment and safety record is satisfactory. Since the types of highways on the Designated Network are typically required to have 12-foot lanes, use by large trucks is obviously a factor that is considered. The FHWA will emphasize that as well as the need for 12-foot lanes for roads on the Designated Network in its implementing instructions.

Comment: The minimum stopping sight distances for arterials are too short.

Response: As indicated previously, an NCHRP research project is investigating stopping sight distance criteria and any change should await the results of this project.

Comment: Auxiliary lane pavements on divided arterials should not have a cross slope of 3 percent.

Response: A permissible cross slope of 3 percent is consistent with the general criteria discussed in Chapter IV for multiple lane pavements and will provide the means to improve pavement drainage. Main line cross slope remains at 2 percent. Also, at only 1 percent, the cross slope rollover is well within accepted limits. The commenter noted that the FHWA failed to list this change from the 1984 Policy in its notice of proposed rulemaking. The commenter was correct in pointing out this unintentional oversight by the FHWA. There was no attempt by FHWA to list all changes and revisions, but only those that appeared to be of some significance or possible interest.

Comment: For urban arterials with barrier curbs at the edge of the shoulder,

a 6-foot shoulder is not adequate for 102-inch wide trucks.

Response: The commenter is correct. However, as discussed above in regards to 8-foot shoulders on rural arterials, shoulder widths to accommodate the predominant vehicles is more appropriate than trying to always provide for a relatively infrequent situation. Nevertheless, a 6-foot shoulder, although adequate, is somewhat marginal under the above discussed conditions. Therefore, although the FHWA will accept 6-foot shoulders as a minimum, it will recommend in the implementing instructions that when shoulders with curbs are used on urban arterials, a preferred shoulder width is 8 feet. As indicated in the Policy, when no curbs are used, the rural shoulder criteria should be used.

Comment: The 1.5-foot recommended clearance for urban arterials from the curb face to obstructions is inadequate.

Response: While it is desirable to obtain a greater clearance where possible, and the Policy so indicates, often it is not possible on urban streets. As the commenter points out, 1.5 feet provides no better impact mitigation than a location directly at the edge of the curb. The reason for specifying the 1.5-foot offset is not to provide a "clear zone" in the context of clear roadside concept but to provide some lateral clearance for overhang of trucks and buses.

Comment: Several comments were made concerning intersection sight distance. One commenter indicated that it should not be assumed that the main line traffic will slow down when determining required intersection sight distance. Another commenter indicated that it should be assumed that the main line traffic will slow down to more than 85 percent of the design speed. Another commenter indicated there was not sufficient consideration given to trucks.

Response: As indicated previously, an NCHRP study will investigate intersection sight distance criteria. When the results of this study become available, the intersection sight distance criteria will be reevaluated to determine what, if any, changes to the Policy might be needed.

Comment: There were a number of comments concerning the section on "Railroad Grade Crossings." One commenter indicated that larger trucks are not considered sufficiently in determining needed sight distances. Another commenter indicated that the suggestions regarding horizontal and vertical alignments at railroad-highway intersections should be more positive and that the provision of active warning

devices should not be related to sight distance. Also, the surface of the roadway should be no lower than 3 inches below the railroad rather than the 6 inches suggested in the Policy. At the railroad highway intersection there should be an indication that highway intersections should not be near the railroad crossing or if there is a possibility of a backup onto the railroad, escape areas and interconnected highway signals should be provided as well as other signing.

Response: A 65-foot truck is sufficiently representative for most railroad-highway grade crossings. Longer trucks should be dealt with as special cases and necessary sight distances computed using the formulas in the Policy instead of the table values which are clearly identified as being for 65-foot vehicles only. The comments suggesting that statements regarding other nearby highway intersections and vertical and horizontal alignment relative to the railroad highway grade crossings should be more positive will be considered for the next revision of the Policy. The FHWA believes the current statements regarding use of active warning devices and sight distances are adequate in the Policy.

Comment: It is suggested that the language from the 1984 Policy which states that a curve with a radius of 1000 feet or more for a length of 200 feet should be provided in advance of the acceleration lane that is contiguous to the through lanes (i.e., in advance of a parallel type acceleration lane) should be continued in the 1990 Policy.

Response: The FHWA believes that this comment has merit and intends to consider it further. As stated above the comment will be shared with AASHTO for its continuing efforts to revise and improve the Policy on Geometric Design of Highways and Streets.

Comment: There were several comments expressing the opinion that the lengths of acceleration lanes have been made too short.

Response: The actual tabulated acceleration lengths are unchanged from previous criteria. Also unchanged is how the actual lengths available for acceleration are measured, i.e., how much of the approach to the merge can be used. Although, the 1984 Policy had a conflict between the recommendation made in the text and the dimensions shown in a drawing, it nevertheless provided for a minimum of 600 feet for combined length of full width acceleration lane and taper for parallel-type acceleration lanes. The 1990 Policy has the same minimum criteria. For the taper-type entrance, the 1990 Policy

retains the 50:1 to 70:1 tapers of the 1984 Policy.

Comment: The selection of specific design speed number is inappropriately based on unquantifiable subjective factors, not on formulae based on verifiable scientific values.

Response: Design speed is a concept by which coordination of the various physical design elements is achieved. The selection of a design speed is subjective and depends, for example, on topography, land use, functional classification of the highway and expected speed limits. It is not a physical design feature or a concept that lends itself to precise scientific formulae. Judgment of present and future conditions and needs, not arbitrary guesswork as implied by the commenter, is expected and the Policy has considerable guidance for making such judgments.

Comment: Discussion of truck climbing speeds does not recognize grandfathered or permitted divisible loads of up to 134,000 pounds.

Response: The criteria for truck climbing lanes is based on the more typical vehicles in the traffic stream, not the relatively infrequent heavier vehicles. The data available at the time of this revision indicated that the weight to horsepower ratio of 300 lb/hp is a reasonable assumption for typical conditions.

Comment: Placement of curbs and dikes in front of barriers is not acceptable.

Response: The Policy does not advocate placement of curbs or dikes in front of barriers. Additionally, the FHWA currently recommends that if curbs must be used in conjunction with traffic barriers on high speed highways, they be no higher than 4 inches or be placed behind the barrier as suggested by the commenter. (FHWA "Guidelines for Application of the AASHTO Roadside Design Guide for Federal-aid Highway Projects," 1990.)

Comment: Figure IV-9 on bridge railings depicts, and implies acceptance of, a bridge railing and high curb combination known to be dangerous.

Response: The FHWA agrees. This figure was in the 1984 Policy but does not appear in the 1990 version. For all new and replacement roadside barrier installations on Federal-aid projects, including bridge rails, the FHWA already requires testing and evaluation in accordance with NCHRP Report 230, "Recommended Procedures for the Safety Performance Evaluation of Highway Appurtenances," 1981, and where curbs or sidewalks are involved, the testing is to be with the curb or sidewalk in place.

Comment: The recommendations for the tunnel cross section in the 1990 Policy conflict with the recommendations in the proposed AASHTO Interstate Design Policy. The commenter also indicated that the Interstate Policy should be altered to conform with the more desirable Policy recommendations.

Response: The FHWA has compared the cross-section criteria in each of the noted documents and finds them to be identical in their recommended cross-section dimensions and the expressed preference to use the desirable criteria instead of the minimum.

Comment: The 30th highest hour for design hourly volume is too low a design index.

Response: The commenter referred the FHWA to a previously submitted similar comment in response to another FHWA rulemaking docket which suggested that the 10th highest hourly volume of the design year be used. It would not be practical to do so. Such change would require designing for much higher volume, almost the highest occurring volume, which might occur during a year. The reason that some highways become congested soon after they are opened is not because they were designed on the basis of the 30th highest hourly volume, but because the traffic growth is greater than expected, or for some reason the number of lanes is restricted to less than the design volume would indicate.

Comment: The new Policy does not contain sufficient information in the intersection chapter for a vehicle larger than a WB-62 design vehicle.

Response: Although the minimum edge-of-pavement design tables do not have detailed layout information for trucks bigger than a WB-62, other sections of the Policy have more than adequate information on the turning paths of several larger sizes of trucks to allow designing for them when appropriate. Inclusion of such information in the intersections chapter can be considered in the next revision which is presently underway by AASHTO.

Rulemaking Analyses and Notices

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

The FHWA has determined that this action is not major within the meaning of Executive Order 12291 or significant within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory

evaluation is not required. This determination is based on the fact that although the new Policy contains new material, the basic criteria remain essentially the same. For all practical purposes, the new Policy reflects the criteria which, for the most part, have been in use in designing Federal-aid highways for the last several years.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 605(b)), the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain collection of information requirements for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 625

Design standards, Grant programs—Transportation, Highways and roads, Incorporation by reference.

Issued on: April 20, 1993.

E. Dean Carlson,
Executive Director.

In consideration of the foregoing, the FHWA is amending 23 CFR part 625 as follows:

PART 625—DESIGN STANDARDS FOR HIGHWAYS

1. The authority citation for part 625 continues to read as follows:

Authority: 23 U.S.C. 109, 315 and 402; 49 CFR 1.48(b).

2. In § 625.4, paragraph (a)(1) is revised to read as follows:

§ 625.4 Standards, policies, and standard specifications.

* * * * *

(a) *Roadway and appurtenances.* (1) A Policy on Geometric Design of Highways and Streets, AASHTO 1990. [3]

* * * * *

Appendix A to Part 625 [Amended]

3. Appendix A to part 625 is amended in paragraph 1 by removing the word "in" following "Register" and adding in its place the words ", 800 North Capitol Street, NW., suite 700,".

[FR Doc. 93-9932 Filed 4-28-93; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 270

RIN 1510-AA31

Availability of Records

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: The Financial Management Service (FMS) is revising its regulations to provide more accurate information to the public concerning where to send requests for information and the fees that will be charged for services. This revision also includes editorial changes for clarity and address changes.

EFFECTIVE DATE: June 1, 1993.

FOR FURTHER INFORMATION: Rita Franklin, Manager, Programs Branch, Financial Management Service, 3700 East-West Highway, Hyattsville, Maryland 20782, (202) 874-8300.

SUPPLEMENTARY INFORMATION: The Department of the Treasury has statutory responsibilities, with respect to the general public, to implement uniformly and consistently the Freedom of Information Act (5 U.S.C. 552) and to provide maximum allowable disclosure of agency records upon request by any individual. To fulfill these responsibilities, FMS is clarifying its instructions for submitting requests for information and consolidating its fee schedule with the Department of Treasury regulations found at 31 CFR part 1 (52 FR 26302-01, July 14, 1987). The proposed rule also will clarify that some sections of the Treasury Financial Manual do not affect the public, and therefore, may not be made available.

In addition, claims for the redemption of mutilated currency of the United States now shall be submitted to the Bureau of Engraving and Printing pursuant to 31 CFR part 100 (47 FR 32044, July 23, 1982, as amended at 56 FR 10170, Mar. 11, 1991). The proposed rule was published in the **Federal Register** on September 9, 1992. No comments on the proposed rule were received. There are no substantive differences between the proposed rule and the final rule.

This rule is not a major rule for the purpose of Executive Order 12291 of February 17, 1981, and a regulatory impact analysis is not required. As explained above, this revision merely updates and clarifies existing practices. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

List of Subjects in 31 CFR Part 270

Freedom of information.

For the reasons set forth in the preamble, title 31 part 270 of the Code of Federal Regulations, is revised to read as set forth below:

PART 270—AVAILABILITY OF RECORDS

Sec.

- 270.1 Rules governing availability of information.
- 270.2 Materials available for inspection and copying.
- 270.3 Requests for identifiable records.
- 270.4 Fees for services.

Authority: 5 U.S.C. 552.

§ 270.1 Rules governing availability of information.

The records of the Financial Management Service required by 5 U.S.C. 552 to be made available to the

public shall be made available in accordance with the definitions, procedures and other provisions of the regulations on the Disclosure of Records of the Office of the Secretary and of other bureaus and offices of the Department issued under 5 U.S.C. 552 and published as part 1 of title 31 of the Code of Federal Regulations, except as provided in these regulations.

§ 270.2 Materials available for inspection and copying.

(a) *Materials available.* The materials in the Financial Management Service which are required by 5 U.S.C. 552(a)(2) to be made available for public inspection and copying are the following:

(1) Final opinions, as well as orders, made in the adjudication of cases. These will include final dispositions of claims on Government checks which are of a precedential nature. Generally, however, the Financial Management Service does not issue orders in the adjudication of cases.

(2) Statements of policy and interpretations which have been adopted by the Service and are not published in the Federal Register.

(3) Administrative staff manuals and instructions to staff that affect a member of the public. These materials include sections of the Treasury Financial Manual and such Department Circulars applicable to Financial Management Service operations, that have been determined by the agency to affect a member of the public, and have not been incorporated into that manual or published as parts of title 31 of the Code of Federal Regulations.

(4) Current indices for the foregoing materials.

(b) *Location.* The materials listed in paragraph (a) of this section issued on or after the effective date of these regulations are available for inspection and copying during office hours in the public reading room of the Treasury Department, 15th Street and Pennsylvania Avenue, NW., Washington, DC 20220. Materials issued prior thereto are available in the public reading room to the extent feasible. If not so available, they may be requested as identifiable records.

§ 270.3 Requests for identifiable records.

(a) *Procedure.* A written request for an identifiable record shall be addressed to: Freedom of Information Disclosure Officer, Financial Management Service, 401 14th Street, SW., Washington, DC 20227.

(b) *Determination of request.* Determination as to the disclosure of a record request shall be made, subject to

appeal to the Commissioner of the Financial Management Service, by the head of the division in which the record belongs and by the Disclosure Officer of the agency. The decision of the Commissioner shall constitute final agency action, unless the Commissioner refers the appeal to the Fiscal Assistant Secretary, in which case the decision of the Fiscal Assistant Secretary shall constitute final agency action.

§ 270.4 Fees for services.

Fees for services performed by the Financial Management Service will be imposed and collected as set forth in part 1 of title 31 of the Code of Federal Regulations.

Michael T. Smokovich,

Acting Commissioner.

[FR Doc. 93-10085 Filed 4-28-93; 8:45 am]

BILLING CODE 4810-35-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect a determination by the Judge Advocate General of the Navy that USS RHODE ISLAND (SSBN 740), USS MAINE (SSBN 741), USS WYOMING (SSBN 742), and USS LOUISIANA (SSBN 743) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special function as naval submarines. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: April 14, 1993.

FOR FURTHER INFORMATION CONTACT:

Captain R.R. Rossi, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400. Telephone number: (703) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This

amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS RHODE ISLAND (SSBN 740), USS MAINE (SSBN 741), USS WYOMING (742), and USS LOUISIANA (SSBN 743) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS; Rule 21(c) pertaining to the location and arc of visibility of the sternlight; Annex 1, section 2(a)(i), pertaining to the height of masthead light; Annex I, section 2(k), pertaining to the height and relative positions of the anchor lights; and Annex I, section 3(b), pertaining to the location of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the vessels. The Judge Advocate General of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS RHODE ISLAND (SSBN 740), USS MAINE (SSBN 741), USS WYOMING (SSBN 742), and USS LOUISIANA (SSBN 743) are members of the SSBN 726 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of section 706.3, are equally applicable to USS RHODE ISLAND (SSBN 740), USS MAINE (SSBN 741), USS WYOMING (SSBN 742), and USS LOUISIANA (SSBN 743).

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner differently from that prescribed herein will adversely affect the vessels' ability to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR part 706 is amended as follows:

1. The authority citation for 32 CFR part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table One of § 706.2 is amended by adding the following vessels:

Vessels	No.	Distance in meters of forward masthead light below minimum required height, § 2(a)(i)
USS Rhode Island	SSBN 740	3.70
USS Maine	SSBN 741	3.70
USS Wyoming	SSBN 742	3.70
USS Louisiana	SSBN 743	3.70

§ 706.2 [Amended]

3. Table Three of § 706.2 is amended by adding the following vessels:

TABLE THREE

Vessel	No.	Masthead light arc of visibility rule 21 (A)	Side lights arc of visibility rule 21 (B)	Stem lights arc of visibility rule 21 (C)	Side lights distance inboard of ship sides in meters annex 1 section 3 (b)	Stem lights distance forward of stern in meters rule 21 (C)	Forward anchor lights height above hull in meters annex 1 section 2 (k)	Anchor lights relationship of aft light to forward light in meters annex 1 sec. 2(k)
USS Rhode Island.	SSBN 740			209	5.3	9.0	3.8	4.0 below
USS Maine	SSBN 741			209	5.3	9.0	3.8	4.0 below
USS Wyoming	SSBN 742			209	5.3	9.0	3.8	4.0 below
USS Louisiana	SSBN 743			209	5.3	9.0	3.8	4.0 below

Dated: April 14, 1993.

Approved:

W. L. SCHACHTE, Jr.,

Rear Admiral, JAGC, U.S. Navy, Acting Judge Advocate General.

[FR Doc. 93-10021 Filed 4-28-93; 8:45 am]

BILLING CODE 3810-AE-P

Department of the Navy**32 CFR Part 706**

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined that USS CURTIS WILBUR (DDG 54) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval destroyer. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: April 14, 1993.

FOR FURTHER INFORMATION CONTACT:

Captain R.R. ROSSI, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400. Telephone number: (703) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS CURTIS WILBUR (DDG 54) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, the placement of the after masthead light, and the horizontal distance between the forward and after masthead lights; Annex I, section 2(f)(i) pertaining to placement of the masthead light or lights above and clear of all other lights and obstructions; and, Annex I, section 3(c) pertaining to placement of task

lights not less than 2 meters from the fore and aft centerline of the ship in the athwartship direction; without interfering with its special function as a Navy ship. The Judge Advocate General has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR part 706 is amended as follows:

1. The authority citation for 32 CFR part 706 continues to read:

§ 706.2 [Amended]

Authority: 33 U.S.C. 1605.

2. Table Four of section 706.2 is amended by:

a. Adding the following vessel to Paragraph 15:

Vessel	No.	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
USS Curtis Wilbur	DDG 54	1.90 meters.

b. Adding the following vessel to Paragraph 16:

Vessel	No.	Obstruction angle relative ship's headings
USS Curtis Wilbur	DDG 54	89.78 thru 106.65 degree.

§ 706.2 [Amended]

3. Table Five of § 706.2 is amended by adding the following vessel:

TABLE FIVE

Vessel	Number	Masthead lights not over all other lights and obstructions. Annex 1 sec. 2(f)	Forward masthead light not in forward quarter of ship Annex 1 sec. 3(a)	After masthead light less than 1/2 ship's length aft of forward masthead light Annex 1, sec. 3(a)	Percentage horizontal separation attained
USS Curtis Wilbur	DDG 54	X	X	X	12.3

Dated: April 14, 1993.

Approved:

W.L. Schachte, Jr.,

Rear Admiral, JAGC, U.S. Navy, Acting Judge Advocate General.

[FR Doc. 93-10022 Filed 4-28-93; 8:45 am]

BILLING CODE 3810-AE-P

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 165**

[COTP Baltimore, MD Regulation 93-05-07]

Safety Zone Regulation: Chesapeake Bay, MD

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard Marine Safety Office Baltimore is establishing 2 safety zones for the U.S. Army Corps of Engineers wreck removal operation of two charted wrecks in the Chesapeake Bay. The Army Corps of Engineers diving operations will be using explosive charges to clear and remove obstructions northeast of Smith Point, Virginia. These 2 safety zones are needed to control commercial and recreational vessel traffic and to provide for the safety of life and property on U.S. navigable waters. Entry into these safety zones is prohibited unless authorized by the Captain of the Port, Baltimore.

EFFECTIVE DATE: This regulation becomes effective on April 26, 1993, at 7 a.m. and terminates at 7 p.m. June 04, 1993. These safety zones will be in effect on the above dates, from 7 a.m. to 7 p.m. daily.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Mark Williams, U.S. Coast Guard Marine Safety Office Baltimore, U.S. Custom House, 40 South Gay Street, Baltimore, Maryland 21202-4022, (410) 962-5104.

SUPPLEMENTARY INFORMATION: In accordance with Title 5 United States Code (U.S.C.) section 553, a notice of proposed rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of Federal Register publication. Specifically, the U.S. Army Corps of Engineers requested Coast Guard assistance on March 30, 1993, leaving insufficient time to publish a Notice of Proposed Rulemaking (NPRM) in advance of the event. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to

prevent property damage, and personal injuries which could result from the use of explosives in the safety zones.

Drafting Information

The drafters of this regulation are Lieutenant Junior Grade Mark Williams, project officer for the Captain of the Port, Baltimore, Maryland and Lieutenant Commander Keith B. Letourneau, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulations

On March 30, 1993, the Army Corps of Engineers requested Coast Guard assistance in establishing safety zones during the removal of 2 obstructions to navigation, northeast of Smith Point, Virginia, Chesapeake Bay. These obstructions will be removed by the Army Corps of Engineers between April 26 to June 04, 1993. The operation will include the removal of two charted wrecks which are located northeast of Smith Point in the Chesapeake Bay along the western edge of the outboard shipping channel. The safety zones will consist of a circle with a 200 yard radius

drawn from the center of each wreck site. The center of the first wreck site is located at approximately Latitude 37 degrees, 57.9 minutes North; Longitude 076 degrees, 11.9 minutes West. The Center of the second wreck site is located at approximately Latitude 37 degrees 55.2 North; Longitude 076 degrees 11.2 minutes West. The Army Corps of Engineers survey vessel LINTHICUM will remain on station and monitor channel 13 VHF-FM. This regulation is issued pursuant to 33 U.S.C. 1231 as set out in the authority citation for Title 33 CFR part 165.

Regulatory Evaluation

This regulation is not considered major under Executive Order 12291 and is also not considered significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

Federalism Assessment

This action has been analyzed in accordance with the principals and criteria contained in Executive Order 12612. This temporary final rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment. This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart F of part 165 of title 33, Code of Federal Regulations is amended as follows:

PART 165—AMENDED

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new temporary section 165.T0518 is added to read as follow:

§ 165.T0518 Safety zones: Chesapeake Bay, MD

(a) *Location*: Two safety zones are hereby established northeast along the western edge of the outbound channel, off of Smith Point, VA. The following 2 areas are safety zones. The center of the first wreck site is located at approximately Latitude 37 degrees, 57.9 minutes North; Longitude 076 degrees, 11.9 minutes West. The center of the

second wreck site is located at approximately Latitude 37 degrees 55.2 North; Longitude 076 degrees 11.2 minutes West. The safety zones will consist of a circle with a 200 yard radius drawn from the center of each wreck site.

(b) *Effective dates*: This regulation becomes effective on April 26, 1993, at 7 a.m. and terminates at 7 p.m. June 04, 1993. These safety zones will be in effect on the above dates, from 7 a.m. to 7 p.m. daily, unless sooner terminated by the Captain of the Port, Baltimore.

(c) Regulations.

(1) In accordance with the general regulations in § 165.23 of this part, entry into each of the safety zones is prohibited unless authorized by the Captain of the Port or his designated representative.

(2) The operator of any vessel which enters into or operates in either of these safety zones shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard Ensign.

(d) *Definitions*. The designated representative of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port, Baltimore, Maryland to act on his behalf.

(e) The Captain of the Port and the Duty Officer at the Marine Safety Office, Baltimore, Maryland may be contacted at telephone number (410) 962–5105.

The Coast Guard Patrol Commander and each Coast Guard vessel enforcing the safety zone may be contacted on VHF-FM channels 13 and 16.

Dated: April 20, 1993.

D.B. Crawford,

Commander, U.S. Coast Guard, Acting Captain of the Port, Baltimore, Maryland.

[FR Doc. 93–10046 Filed 4–28–93; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6966

[CA–940–4210–06; CACA 7569]

Partial Revocation of Secretarial Order Dated September 14, 1942; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a Secretarial order insofar as it affects 10 acres of public land withdrawn for the Bureau of Reclamation's Central Valley Project, American River Investigations. The land is no longer needed for reclamation purposes, and the revocation is needed to permit disposal of the land through land exchange under section 206 of the Federal Land Policy and Management Act of 1976. This action will open the land to surface entry and mining, unless closed by overlapping withdrawals or temporary segregations of record. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: June 1, 1993.

FOR FURTHER INFORMATION CONTACT: John Beck, BLM California State Office, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, 916–978–4820.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Secretarial Order dated September 14, 1942, which withdrew lands from operation of the public land laws, for the Bureau of Reclamation's Central Valley Project, is hereby revoked insofar as it affects the following described land:

Mount Diablo Meridian

T. 11 N., R. 9 E.,

Sec. 12, NW¼NE¼SE¼.

The area described contains 10 acres in El Dorado County.

2. At 10 a.m. on June 1, 1993, the land will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on June 1, 1993 shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on June 1, 1993 the land will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no

rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: April 19, 1993.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93-10017 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-40-M

43 CFR Public Land Order 6967

[OR-943-4210-06; GP2-458; OR-45401]

Withdrawal of Public Lands for the New River Area of Critical Environmental Concern; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 882.98 acres of public lands from surface entry and mining for a period of 20 years for the Bureau of Land Management to protect the New River Area of Critical Environmental Concern. An additional 80.43 acres of non-Federal land, when acquired by the United States, would also be withdrawn by this order. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: April 29, 1993.

FOR FURTHER INFORMATION CONTACT:

Donna Kauffman, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208-2965, 503-280-7162.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect the unique geological, cultural, botanical, recreational, and biological resources within the area:

Willamette Meridian

T. 30 S., R. 15 W.,

Sec. 2, W $\frac{1}{2}$ SW $\frac{1}{4}$, and those portions of lots 3 and 4 described as follows:

Beginning at a point on the North line of Sec. 2, T. 30 S., R. 15 W., said point being 904.55 feet Westerly of the North $\frac{1}{4}$ corner of said Sec. 2; Thence S. 11°52'11" W.,

213.74 feet; Thence S. 33°17'37" W., 255.02 feet; Thence S. 28°05'29" W., 204.30 feet; Thence S. 02°21'58" E., 210.46 feet; Thence S. 13°53'04" E., 110 feet, more or less, to the North bank of Lower Four Mile Creek; Thence running Westerly along the North bank of said Four Mile Creek to a point on the West line of said Sec. 2, said point being located 250 feet, more or less, South of the Northwest corner of said Sec. 2; Thence North along the said West line of Sec. 2, 250 feet, more or less, to the Northwest corner of said Sec. 2; Thence Easterly along the North line of said Sec. 2, 1,736 feet, more or less, to the point of beginning; and EXCLUDING that portion described as follows: Beginning at the $\frac{1}{4}$ corner (North) of said Sec. 2; Thence N. 89°40'46" W. along the North line of said Sec. 2, 904.55 feet to the true point of beginning; Thence N. 89°40'46" W., 62.82 feet; Thence S. 9°29'14" W., 192.11 feet; Thence S. 30°54'40" W., 270.94 feet; Thence N. 83°13" W., 594.73 feet; Thence S. 28°19'14" W., 190.00 feet; Thence S. 00°19'14" W., 425.86 feet to the North edge of Four Mile Creek; Thence Easterly along the North edge of Four Mile Creek, 744 feet, more or less, to the East boundary of the property conveyed to Oregon Shores Associated and recorded on Microfilm Number 73-6-86449-51, County Courthouse Deed Records; Thence Northerly along said Easterly boundary to the point of beginning;

Sec. 3, lots 3 and 4;

Sec. 10, lots 1, 2, 3, and 4, E $\frac{1}{2}$ NE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 11, NW $\frac{1}{4}$ NW $\frac{1}{4}$ EXCLUDING that portion described as follows:

Beginning at the Southeast corner of the said NW $\frac{1}{4}$ NW $\frac{1}{4}$ and running thence North 122.0 feet; Thence N. 76°20' W. 180.0 feet to a $\frac{3}{4}$ inch pipe post; Thence N. 82°23' W. and 257.0 feet passing through a $\frac{1}{2}$ inch pipe post and continuing the same course a total distance of 512.0 feet; Thence South 225.0 feet, more or less, to the South boundary of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Sec. 11; Thence along said South boundary East 694.0 feet to the place of beginning; AND those portions of the S $\frac{1}{2}$ NW $\frac{1}{4}$ described as follows: Beginning at a point in the center of a road which is 631.8 feet South and 315.12 feet East of the Southeast corner of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 11, and running Thence South 610.0 feet to the East and West quarter line of said Sec. 11; Thence West 500.82 feet to a point which is 1,137.0 feet East of the West $\frac{1}{4}$ corner of said Sec. 11; Thence North 860.0 feet to the center of a road; Thence along the center of said road Southeasterly 550.0 feet to the place of beginning; EXCLUDING an easement for a road 20 feet wide along the North boundary of the foregoing described parcel; AND: Beginning at the quarter section corner on the line between Secs. 10 and 11; Thence East 1,137 feet along the quarter section line; Thence North 1,320 feet to the sixteenth section line; Thence West 1,137 feet along said sixteenth section line to the section line between Secs. 10 and 11; Thence South 1,320 feet to the place of beginning;

Sec. 15, lots 1, 2, 3, and 4, and NW $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 21, lot 2;

Sec. 22, lots 1 and 2, and NW $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 28, lots 2 and 3, and SE $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 32, lot 1;

Sec. 33, lot 2.

Including any accretion of lands, the areas described aggregate 882.98 acres in Coos and Curry Counties.

2. The following described non-Federal land is within the exterior boundary of the New River Area of Critical Environmental Concern. When the United States subsequently acquires this land, the land will be subject to the terms and conditions of this withdrawal:

Willamette Meridian

T. 30 S., R. 15 W.,

Sec. 21, lot 1;

Sec. 28, lot 4.

Including any accretion of lands, the area described contains 80.43 acres in Coos and Curry Counties.

3. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

4. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: April 19, 1993.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93-9982 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-33-M

43 CFR Public Land Order 6970

[AK-932-4210-06; A-027005]

Revocation of Public Land Order No. 1127, as Amended, for Selection of Land by the State of Alaska; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes in its entirety a public land order as it affects approximately 740 acres of National Forest System land withdrawn for use by the Forest Service, Department of Agriculture, for the Snug Harbor Road public service site. The land is no longer needed for the purpose for which it was withdrawn. This action also opens the land for selection by the State of Alaska if such land is otherwise available. Any land described herein that is not conveyed to the State will be subject to the terms and conditions of the national

forest reservation and any other withdrawal of record.

EFFECTIVE DATE: April 29, 1993.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-5477.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Public Land Order No. 1127, as amended, which withdrew National Forest System land for use as a public service site, is hereby revoked insofar as it affects the following described land:

Seward Meridian

Chugach National Forest

A strip of land 25 chains (1,650 feet) in width paralleling the southwest shore of Kenai Lake, located within:

- T. 4 N., R. 2 W., unsurveyed, Secs. 19, 29, 30, 31, and 32.
- T. 4 N., R. 3 W., unsurveyed, Sec. 24.

The area described contains approximately 740 acres.

2. Subject to valid existing rights, and any other withdrawal of record, the land described above is hereby opened for selection by the State of Alaska under the Alaska Statehood Act of July 7, 1958, 48 U.S.C. note prec. 21 (1988).

3. The State of Alaska application for selection made under section 906(e) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(e) (1988), becomes effective without further action by the State upon publication of this public land order in the **Federal Register**, if such land is otherwise available. Land not conveyed to the State will be subject to the terms and conditions of the Chugach National Forest reservation and any other withdrawal of record.

Dated: April 19, 1993.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93-10015 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-JA-M

43 CFR Public Land Order 6973

[OR-943-4214-10; GP2-392; OR-46538]

Withdrawal of Public Lands for Coos Bay North Spit Special Recreation Management Area; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 1,972.28 acres of public lands from

mining for a period of 5 years for the Bureau of Land Management to protect the Coos Bay North Spit Special Recreation Management Area. An additional 227.13 acres of non-Federal lands, when acquired by the United States, would also be withdrawn by this order. The public lands have been and remain open to surface entry and mineral leasing.

EFFECTIVE DATE: April 29, 1993.

FOR FURTHER INFORMATION CONTACT: Donna Kauffman, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208-2965, 503-280-7162.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect a recreation management area:

Willamette Meridian

- T. 25 S., R. 13 W.,
Sec. 4, N $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 5, fractional NW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 6, lots 1 to 4, inclusive, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 7, lots 2 to 8, inclusive, NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and fractional SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 18, lots 7 and 8, E $\frac{1}{2}$ NW $\frac{1}{4}$, fractional W $\frac{1}{2}$ NW $\frac{1}{4}$, and fractional NW $\frac{1}{4}$ SW $\frac{1}{4}$.
- T. 25 s., R. 14 W.,
Sec. 12, lot 1;
Sec. 13, lots 1 to 4, inclusive, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 23, lot 1;
Sec. 24, lots 6 to 13, inclusive, W $\frac{1}{2}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 25, lot 3;
Sec. 26, lots 8, 9, and 10.

The areas described aggregate 1,972.28 acres in Coos County.

2. The following described non-Federal lands are within the exterior boundary of the Coos Bay North Spit Special Recreation Management Area. When the United States subsequently acquires these lands, the lands will be subject to the terms and conditions of this withdrawal:

Willamette Meridian

- T. 25 S., R. 13 W.,
Sec. 5, SW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 8, lot 3;
Sec. 18, lots 3 and 4, and NE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 19, lot 4.
- T. 25 S., R. 14 W.,
Sec. 24, lot 4;
Sec. 25, lot 1.

Including any accretion of lands, the areas described aggregate 227.13 acres in Coos County.

3. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

4. This withdrawal will expire 5 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended

Dated: April 19, 1993.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93-10016 Filed 4-28-93, 8:45 am]

BILLING CODE 4310-33-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 92-226; RM-8082]

Radio Broadcasting Services; Seminole, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of One Ten Broadcast Group, Inc., substitutes Channel 290A for Channel 288A at Seminole, Oklahoma, and modifies Station KIRC's license to specify operation on the alternate Class A channel to enable the station to improve its facilities to 6 kW. See 57 FR 49056, October 29, 1992. Channel 290A can be allotted to Seminole in compliance with the Commission's minimum distance separation requirements at Station KIRC's licensed site, at coordinates North Latitude 35-12-53 and West Longitude 96-44-26. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 7, 1993.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-226, adopted April 5, 1993, and released April 23, 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 contractor.

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 Oklahoma, is amended by removing Channel 288A and adding Channel 290A at Seminole.

Federal Communications Commission

Michael C. Ruger,

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

[FR Doc. 93-9989 Filed 4-28-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-315; RM-8141]

Radio Broadcasting Services; Starbuck, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 247C2 to Starbuck, Minnesota, as that community's first local broadcast service in response to a petition filed by Starbuck Broadcasters. See 58 FR 6201, January 27, 1993. The coordinates for Channel 247C2 are 45-33-44 and 95-34-15. There is a site restriction 6.7 kilometers (4.2 miles) southwest of the community. With this action, this proceeding is terminated.

DATES: Effective June 7, 1993. The window period for filing applications for Channel 247C2 at Starbuck will open on June 8, 1993, and close on July 8, 1993.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 92-315, adopted March 31, 1993, and released July 8, 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

Services, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857-3800.

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 Minnesota, is amended by adding Starbuck, Channel 247C2.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 93-9990 Filed 4-28-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 94

[PR Docket No. 90-260; FCC 93-189]

Reinstatement of Grandfathering Provisions Applicable to Licensees on Multiple Address Station Frequencies

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to various petitions for reconsideration of our Report and Order in PR Docket No. 90-260, the grandfathering provisions for multiple address stations ("MAS") licensed after January 1, 1981, and on or before May 11, 1988, operating on bandwidths of 25 kHz or more, are reinstated.

EFFECTIVE DATE: June 1, 1993.

FOR FURTHER INFORMATION CONTACT: Tatsu Kondo, Land Mobile and Microwave Division, Private Radio Bureau, (202) 632-7125.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in PR Docket No. 90-260, FCC 93-189, adopted April 9, 1993, and released April 23, 1993, 56 FR 30698 (July 5, 1991). 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 full text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., 2100 M St. NW., Washington, DC 20037, (202) 857-3800.

Summary of the Memorandum Opinion and Order

1. On reconsideration of the Report and Order, PR Docket 90-260, 6 FCC Rcd 3721 (1991), 56 FR 30698, July 5, 1991, the Commission rescinded the rule adopted in the Report and Order requiring MAS stations licensed after January 1, 1981, and on or before May 11, 1988, and operating on 25-50 kHz bandwidth, to conform to a spectrum review plan to justify the need for greater than 12.5 kHz bandwidth at the time of their first license renewal after June 1, 1996. These stations therefore will continue to retain their grandfathered status as proposed in the Notice of Proposed Rule Making, 5 FCC Rcd 3079 (1990), 55 FR 22038, May 31 1990.

2. Final Regulatory Flexibility Analysis

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

3. Need and Purpose of the Action

This Memorandum Opinion and Order retains the rules that "grandfather" stations licensed after January 1, 1981, and on or before May 11, 1988, operating on bandwidths of 25 kHz or more. This action provides effective and adaptive regulation for communications, while lessening the impact on licensees' investment in new equipment.

4. Issues Raised in Response to the Initial Regulatory Flexibility Analysis

There were no comments submitted in response to the Initial Regulatory Flexibility Analysis.

5. Significant Alternatives Considered and Rejected

The initial Report and Order adopted a spectrum review plan for MAS stations licensed between January 1, 1981, and May 11, 1988, and operating between 25-50 kHz bandwidth. The spectrum review plan would have required these stations to convert to 12.5 kHz bandwidth operations during their first license renewal after June 1, 1996, unless justification for use of a wider bandwidth was made concurrent with the license application and approved. On reconsideration, we return to the proposal made in the Notice of Proposed Rule Making to continue to grandfather these stations at their current bandwidth.

List of Subjects in 47 CFR Part 94

Radio.

Federal Communications Commission.

Donna R. Searcy,
Secretary.

Amendatory Text

Part 94 of title 47 of the Code of Federal Regulations is amended to read as follows.

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

1. The authority citation continues to read as follows:

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

2. 47 CFR 94.65 is amended by revising paragraph (a)(1) to read as follows:

§ 94.65 Frequencies.

(a) * * *

(1) *Multiple address system frequencies.* Multiple address system (MAS) frequencies are available for the point-to-multipoint transmission of a licensee's products or services, excluding video entertainment material, to a licensee's customer or for its own internal communications. The paired frequencies listed in this section shall be used for two-way interrogate/response communications between a master station and remote stations. Each master station operating on these frequencies is required to serve a minimum of four separate active remote stations. Ancillary one-way communications on paired frequencies are permitted on a case-by-case basis. Ancillary communications between interrelated master stations are permitted on a secondary basis. The normal channel bandwidth assigned will be 12.5 kHz. Upon adequate justification, however, channels with bandwidths up to 50 kHz may be authorized. Tables 2, 4, and 6 list frequencies with 25 kHz bandwidth channels. When licensed for a larger bandwidth, the system still is required to use equipment which meets the ± 0.00015 percent tolerance requirement. (See § 94.67). Systems licensed for frequencies in these MAS bands prior to August 1, 1975, may continue to operate as authorized until June 11, 1996, at which time they must comply with current MAS operations based on the 12.5 kHz channelization set forth in this paragraph. Systems licensed between August 1, 1975, and January 1, 1981, inclusive, were permitted to operate as authorized until January 1, 1991, at which time they were required to comply with the grandfathered 25 kHz standard bandwidth and channelization

requirements set forth in this paragraph. Systems originally licensed after January 1, 1981, and on or before May 11, 1988, with bandwidths of 25 kHz and above, will be grandfathered indefinitely.

* * * * *

[FR Doc. 93-9988 Filed 4-28-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 95

[PR Docket 91-2; FCC 93-197]

Private Radio Services

AGENCY: Federal Communications Commission

ACTION: Final rule.

SUMMARY: The Private Radio Bureau has adopted a Second Memorandum Opinion and Order in response to Petitions for Reconsideration from the Campaign to Preserve Statutory Fees (CPSF) and Radio Telecom and Technology, Inc. (RTT). CPSF and RTT sought reconsideration of certain decisions made in this proceeding concerning the IVDS rules and policies. By this action, the Commission granted the CPSF petition concerning the IVDS application fee and denied in part and dismissed in part the RTT petition concerning the IVDS application process.

EFFECTIVE DATE: June 1, 1993.

FOR FURTHER INFORMATION CONTACT:

Marc S. Martin, (202) 632-6497, Private Radio Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Private Radio Bureau's Second Memorandum, Opinion and Order, FCC 93-197, adopted April 13, 1993; and released April 23, 1993. The full text of this Second Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Reference Center, room 230, 1919 M Street, NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, 1919 M Street, room 246, Washington, DC 20554, telephone (202) 337-1433.

Summary of Second Memorandum Opinion and Order

1. On January 16, 1992, the Commission adopted a Report and Order (*Report*) in this proceeding that, *inter alia*, established a frequency allocation and service rules for the Interactive Video and Data Service (IVDS). The purpose of the Report was to make available an allocation of radio spectrum that licensees could use to

provide a variety of radio-based interactive services to the public. In response to six petitions which requested reconsideration of certain aspects of the Report, a Memorandum Opinion and Order (*MO&O*) variously granted and dismissed those requests. Following the adoption of the *MO&O*, the Petition for Further Reconsideration of Radio Telecom and Technology, Inc. (RTT) and the Petition for Reconsideration of Mr. William E. Zimsky and the Committee to Preserve Statutory Fees (jointly referred to as CPSF), were filed requesting that we reconsider certain decisions in the *MO&O*. This Second Memorandum Opinion and Order grants the CPSF and denies in part and dismisses in part the RTT petitions for reconsideration. In addition, it makes minor editorial clarifications to the IVDS rules.

2. In granting the CPSF petition, the Commission deleted the requirement for IVDS applicants to apply initially and submit payment for a minimum number of 40 call signs for each of the cell transmitter station (CTS) base stations. Rather, an IVDS licensee may submit its application for a blanket license under one call sign, regardless of the number of CTS base stations it intends to construct. Therefore, the new application fee for an IVDS system license will be \$35, and one call sign will be awarded. Applications that require special administrative review, due to antenna height for example, must be individually licensed through the filing of separate Form 574s.

3. As a result of this action, IVDS applications that included at least \$35 but were dismissed for failure to be accompanied by the \$1,400 IVDS application fee will be reinstated. Further, IVDS applicants that submitted an IVDS application fee based on the 40 CTS requirement shall be refunded the amount greater than the basic \$35 per call sign fee. This minor rule change, however, does not affect the IVDS filing windows previously announced in Public Notices.

4. In addition, the Commission denied in part and dismissed in part the Petition for Reconsideration of Radio Telecom and Technology, Inc. (RTT). In denying the RTT request, the Commission reconfirmed that prospective IVDS applicants electing to use unique technology that needs higher antenna heights with no reduction in power in order to operate efficiently must submit a waiver request with their applications. Lastly, the Commission noted that RTT's concern relating to the 48 hour application deadline for tentative selectees pertains to a decision in the IVDS Report and Order and not

in the *MO&O*. Therefore, the Commission dismissed RTT's petition concerning this decision as untimely under our procedural rules. Further, the Commission made minor editorial clarifications to the IVDS rules.

5. Accordingly, *It is Ordered* That part 95 of the Commission's Rules is amended as set forth below; effective thirty days after publication in the Federal Register.

List of Subjects in 47 CFR Part 95

Radio.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Final Rule

Part 95 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 95—PERSONAL RADIO SERVICES

1. The authority citation for part 95 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

2. Section 95.813 is amended by revising paragraph (a)(3) and adding a new paragraph (a)(4) to read as follows:

§ 95.813 Eligibility.

(a) * * *

(3) The entity is a corporation organized under the laws of the United States of America; or

(4) The entity is a trust and no beneficiary is a representative of a foreign government.

* * * * *

3. Section 95.815 is amended by revising paragraph (e) to read as follows:

§ 95.815 License application.

* * * * *

(e) Each IVDS system license is licensed for an unlimited number of

CTs that meet the 6.1 meter (20 foot) criteria.

[FR Doc. 93-9986 Filed 4-28-93; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

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 Pacific Ocean perch in the Bering Sea subarea (BS) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the Pacific Ocean perch total allowable catch (TAC) in the BS.

EFFECTIVE DATES: Effective 12 noon, Alaska local time (A.l.t.), April 26, 1993, until 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 governing by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(7)(ii) the Pacific Ocean perch TAC for the BS was established by the final groundfish specifications (58 FR 8703, February 17, 1993) as 2,331 metric tons (mt).

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with § 675.20(a)(8), that the Pacific Ocean perch TAC in the BS soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 2,331 mt, with consideration that 500 mt will be taken as incidental catch in directed fishing for other species in the BS. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific Ocean perch in the BS, effective from 12 noon, A.l.t., April 26, 1993, until 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: April 28, 1993.

David S. Crestin,

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

[FR Doc. 93-10055 Filed 4-26-93; 2:22 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 58, No. 81

Thursday, April 29, 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.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 362

RIN 3064-AB20

Activities and Investments of Insured State Banks

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Petition for rulemaking; request for comments.

SUMMARY: The FDIC is seeking comment on whether to amend its regulations governing insurance underwriting by well-capitalized insured state banks and their subsidiaries to provide that excepted insurance underwriting activities may only take place in the state in which the bank is chartered and in the state in which the bank's insurance underwriting subsidiary is incorporated. If this change would be made, the exception for insurance underwriting activities would be narrowed.

DATES: Comments must be received by June 28, 1993.

ADDRESSES: Send comments to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. Comments may be hand delivered to room F-402, 1776 F Street NW., Washington, DC on business days between 8:30 a.m. and 5 p.m. [FAX number: (202) 898-3838.] Comments may also be inspected in the FDIC's Reading Room, room 7118, 550 17th Street NW. between 9 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Curtis L. Vaughn, Examination Specialist, (202) 898-6759, Division of Supervision, FDIC, 550 17th Street NW., Washington, DC 20429; Pamela E.F. LeCren, Counsel, (202) 898-3730, or Grovetta N. Gardineer, Senior Attorney, (202) 898-3905, Legal Division, FDIC, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: On December 19, 1991, President George Bush signed into law the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) (Pub. L. 102-242, 105 Stat. 2236). Section 303 of FDICIA added section 24 to the Federal Deposit Insurance Corporation Act, "Activities of Insured State Banks" (FDI Act) (12 U.S.C. 1831a). With certain exceptions, section 24 of the FDI Act limits the activities and equity investments of state chartered insured banks (insured state banks) to the activities and equity investments that are permissible for national banks. Well-capitalized insured state banks and their subsidiaries that were lawfully providing insurance as principal in a state on November 21, 1991 may continue to provide insurance of the same type to residents of the state, individuals employed in the state and any other person to whom insurance was provided without interruption since such person resided in or was employed in the state. (Section 24(d)(2)(B), 12 U.S.C. 1831a(d)(2)(B)).

On June 16, 1992, the FDIC's Board of Directors adopted a proposed regulation implementing the above described insurance underwriting provisions of section 24. (12 CFR part 362, "Activities and Investments of Insured State Banks", 57 FR 30435, July 9, 1992.) The preamble accompanying the proposed regulation indicated that it was the FDIC's intention to construe the reference to "in a state" as excepting insurance underwriting activities by an insured state bank only in the state in which the bank was chartered as of November 21, 1991 and as limiting the subsidiary of the bank to insurance underwriting activities to the state in which the subsidiary was incorporated and doing business as of November 21, 1991. The following explanation was given for the FDIC's position:

The FDIC believes that this reading of section 24 is consistent with the provision's legislative history which, among other things, clearly indicates that the exception was intended to lapse if any changes in an insured state bank's underwriting capability within its own state occurred. (See, 137 Cong. Rec. S17316 (daily ed. November 21, 1991) (remarks of Sen. Graham)). The legislative history also indicates that the provision was intended to close a loophole in the law that permitted one state to be used as a base for nationwide insurance underwriting and the language did so by

limiting the activities to the state that authorized it but nowhere else. (See, 137 Cong. Rec. S18619 (daily ed. November 21, 1991) (remarks of Sen. Dodd)). The construction of the exception adopted by the proposal somewhat narrowly circumscribes the exception and is also consistent with one of the basic tenets of statutory construction which provides that exceptions should be narrowly construed within the purpose of the overall provision. In view of the overall indication that insurance underwriting activities that are not permissible for national banks are inappropriate for insured state banks, it is in the FDIC's view appropriate to adopt a narrow reading of the exception. 57 FR 30443, July 9, 1992.

On October 27, 1992 the Board of Directors adopted part 362 in final. (57 FR 53213, November 9, 1992.) The final regulation did not limit the geographic scope of the insurance underwriting exception to the bank's home state and the subsidiary's state of incorporation. Under part 362 as adopted in final, the insurance underwriting exception is understood by the FDIC to extend to any state in which the bank or its subsidiary was underwriting insurance on November 21, 1991. The change of position was a result of information brought to the FDIC's attention during the comment period. The following explanation for the change of position appeared in the Federal Register.

Fourteen comments, several of which were from members of Congress, criticized the proposed rule because of the interpretation of the phrase "in a state" which excepted insurance underwriting activities by an insured state bank only in the state in which the bank was chartered as of November 21, 1991 and the insurance underwriting activities of a subsidiary of the bank only in the state in which the subsidiary was incorporated and doing business as of November 21, 1991. These comments urged the FDIC to be guided by the clear, unambiguous language of section 24(d)(2)(B) which did not limit the exception as the FDIC indicated. In short, "a state" did not mean "in the home state". The comments pointed out that if the FDIC felt compelled to review the legislative history of the provision, a careful reading of that legislative history demonstrates that Congress specifically rejected the approach the FDIC is now advocating by regulation. According to these comments, there was a managers' amendment to the bill on the Senate floor which changed the language in the proposed bill limiting insurance underwriting activities of a state bank from "in that State" to "in a State" (emphasis added) (See, 137 Cong. Rec. S16683-85 (daily ed. Nov. 14, 1991)). Only two changes of note were

subsequently made: the insertion of the requirement that the bank be well-capitalized and the elimination of a transition rule that was designed to allow banks and their subsidiaries to phase-out activities that would no longer be permissible. The latter was pointed to as evidence that Congress anticipated that all existing insurance underwriting activities would be grandfathered and that there was therefore no need for a transition rule. Senator Roth described the provision as enacted on the Senate floor as grandfathering all existing activities of state banks and their subsidiaries. "Apparently, the grandfather clause, which was drafted originally to exclude Delaware, did not and does not limit its protection to the home State, so to speak, but rather covers any State in which the bank was providing insurance it underwrites. Thus, when Delaware was included within the grandfather clause, its banks obtained the same rights as others.

Those rights are described as the "continuation of existing activities" in the head note preceding the text in the Senate bill * * * [T]he conference agreement preserves the rights of State banks authorized to underwrite insurance to continue to underwrite the same type of insurance in any State in which they provided such insurance as of November 21, 1991." (Cong. Rec. S18626, November 27, 1991, remarks of Senator Roth). Lastly, it was pointed out that the exchange between Senator Graham and Senator Garn cited by the FDIC in the preamble accompanying the proposed regulation pertained to interstate insurance sales restrictions that had been contained in the Senate bill and that the FDIC had taken from those remarks an incorrect inference.

After carefully reviewing the comments and reexamining the legislative history of section 24(d)(2)(B), the FDIC is persuaded that its initial reading of the provision was flawed. 57 FR 53226 (November 9, 1992).

The FDIC has been petitioned pursuant to section 553(e) of the Administrative Procedure Act (5 U.S.C. 553(e)) to repeal that portion of part 362 construing the phrase "in a state" and to seek further comment before adopting any provision concerning insurance underwriting by insured state banks. According to the petitioners, the FDIC's original position was correct and should not have been changed. The Board of Directors acknowledges that the issue of the proper construction of the phrase "in a state" is a complex one and that discerning legislative intent can be difficult in the case of a controversial, hotly debated exception particularly where it is the result of congressional compromise. The Board also acknowledges that the rulemaking process undertaken to date did bring matters to the FDIC's attention on the issue of congressional intent which were previously unconsidered by the FDIC. Although the Board of Directors is of the opinion that the agency has adopted the correct position based upon

what is known at this time, it is possible that further comment will shed additional light on the issue which the FDIC should give due consideration. In view thereof, the Board of Directors has voted to reopen the "in a state" issue for further comment.

The FDIC will accept comment for sixty days on whether § 362.4 of the FDIC's regulations should continue to read as it is presently worded or whether the provision should be amended to read as it had originally been proposed. It should be understood that the regulation continues in effect as written until and unless the FDIC, following notice and comment, determines to amend part 362. The FDIC also wishes to make clear that the agency is not soliciting additional comment due to some procedural flaw in the original rulemaking but is doing so rather to satisfy itself that the agency has considered all relevant information that may shed light on congressional intent in this instance.

The language of § 362.4, Notification of exempt insurance activities, currently reads as follows:

Any insured state bank that was lawfully underwriting insurance in a state on November 21, 1991, and any insured state bank that has a subsidiary that was lawfully underwriting insurance in a state on November 21, 1991, shall submit a notice to the regional director for the Division of Supervision for the region in which the bank's principal office is located not later than 60 days from December 9, 1992, if those insurance underwriting activities would not be permissible for a national bank or a subsidiary of a national bank. The notice requirement does not apply in the case of an insured state bank described in § 362.3(b)(7)(ii). The notice shall contain the following information:

- (a) The name of the bank and/or subsidiary;
- (b) The state or states in which the bank and/or its subsidiary was underwriting insurance on November 21, 1991;
- (c) A recitation of the authority for the bank or subsidiary to conduct insurance underwriting activities;
- (d) A list of the types of insurance that the bank and/or subsidiary provided to the public as of November 21, 1991 in the states(s) identified in paragraph (b) of this section. For purposes of this list, various lines of insurance are considered to be distinct types of insurance.

If the FDIC decides to amend § 362.4, notification of exempt insurance activities, as requested by the petitioners, it would read as it had originally been proposed in the July 9, 1992 solicitation of public comment. The text of that section reads as follows:

Any insured state bank that was lawfully providing insurance as principal in a state on November 21, 1991, and any insured state

bank that has a subsidiary that was lawfully providing insurance as principal in a state on November 21, 1991, shall submit a notice to the regional director for the Division of Supervision for the region in which the bank's principal office is located not later than 60 days from [December 9, 1992]. The notice requirement does not apply in the case of an insured state bank described in § 362.3(b)(7)(ii). The notice shall contain the following information:

- (a) The name of the bank/or subsidiary;
- (b) The state in which the bank is chartered;
- (c) If applicable, a recitation of the authority for the bank or subsidiary to conduct insurance underwriting activities;
- (d) The state in which the subsidiary is incorporated; and
- (e) A description of the insurance policies and other insurance products that the bank and/or subsidiary provided to the public as of November 21, 1991 in the states(s) identified in paragraphs (b) and (d) of this section.

Regulatory Flexibility Analysis

The Board of Directors has concluded after reviewing the request for comment that if the proposed amendments are adopted they will not impose a significant economic hardship on small institutions. The proposal does not necessitate the development of sophisticated recordkeeping or reporting systems by small institutions nor will small institutions need to seek out the expertise of specialized accountants, lawyers, or managers in order to comply with the regulation. The Board of Directors therefore hereby certifies pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that the proposal, if adopted, will not have significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

By Order of the Board of Directors.

Dated at Washington, DC, this 20th day of April, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93-9850 Filed 4-28-93; 8:45 am]

BILLING CODE 6714-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93-NM-29-AD]

Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Industrie Model A320 series airplanes. This proposal would require modification of the nose landing gear (NLG) wheels. This proposal is prompted by reports of deteriorating NLG wheel bearings; such deterioration caused damage to the sliding tube/integral axle assembly of the NLG wheel. The actions specified by the proposed AD are intended to prevent reduced directional control due to loss of the NLG wheel during taxiing or landing.

DATES: Comments must be received by June 23, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-29-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2140; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before

and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93-NM-29-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-29-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Industrie Model A320 series airplanes. The DGAC advises that there have been two reports of damage to the sliding tube/integral axle assembly on the nose landing gear (NLG) on these airplanes. Damage was caused by the deterioration of NLG wheel bearings. This condition, if not corrected, could cause rupture of the bearings in the NLG front wheel, which could lead to reduced directional control due to loss of the NLG wheel during taxiing or landing.

Airbus Industrie has issued Service Bulletin No. A320-32-1061, Revision 3, dated October 19, 1992, that describes procedures for modification of the NLG wheel. This modification entails rework of the inner and outer wheel half, and adding an aluminum spacer and two phenolic spacers at the level of each nose wheel axle. This modification will increase the stiffness of the NLG wheel assembly installation. This service bulletin refers to BF Goodrich Service Bulletin No. 3-1470-32-1, for additional service information. The DGAC classified the Airbus Industrie service bulletin as mandatory and issued French Airworthiness Directive 92-164-026(B), August 19, 1992, in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations and the

applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require modification of the NLG wheels. The actions would be required to be accomplished in accordance with the Airbus Industrie service bulletin described previously.

The FAA estimates that 52 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per airplane to accomplish the proposed actions, and that the average labor rate is \$55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$14,300, or \$275 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 93-NM-29-AD.

Applicability: Model A320-111, -211, and -231 series airplanes, as listed in Airbus Industrie Service Bulletin No. A320-32-1061, Revision 3, dated October 19, 1992; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced directional control due to loss of the nose landing gear wheel during taxiing or landing, accomplish the following:

(a) Within 4 months after the effective date of this AD, modify the nose landing gear wheels in accordance with Airbus Industrie Service Bulletin No. A320-32-1061, Revision 3, dated October 19, 1992.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

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

Issued in Renton, Washington, on April 23, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-10031 Filed 4-28-93; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 39

[Docket No. 93-NM-27-AD]

Airworthiness Directives; Boeing Model 737-200, -300, -400, and -500 Series Airplanes Equipped With BFGoodrich Evacuation Slides

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737-200, -300, -400, and -500 series airplanes. This proposal would require modification of the evacuation slide valise. This proposal is prompted by three reports indicating that inflation pressure of the evacuation slides was lost due to failure of the aspirator to close and seal after ingesting the battery test lead, disabling the evacuation slide and making it unusable. The actions specified by the proposed AD are intended to prevent passengers from being unable to exit the airplane in the event of an emergency evacuation.

DATES: Comments must be received by June 23, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-27-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from BFGoodrich Aircraft Evacuation Systems, 3414 South 5th Street, Phoenix, Arizona 85040. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425.

FOR FURTHER INFORMATION CONTACT:

Andrew Gfrerer, Aerospace Engineer, Systems and Equipment Branch, ANM-131L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (310) 988-5338; fax (310) 988-5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93-NM-27-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-27-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

The FAA has received three reports that, following deployment of evacuation slides installed in Boeing Model 737 series airplanes, inflation pressure was lost. These incidents occurred due to failure of the aspirator to close and seal after ingesting the battery test lead, disabling the evacuation slide and making it unusable. This condition, if not corrected, could prevent passengers from being able to exit the airplane in the event of an emergency evacuation.

The FAA has reviewed and approved BFGoodrich Service Bulletin 101658/659/660-25-257, dated November 20, 1992, that describes procedures for modification of the evacuation slide valise. Modification of the valise involves installation of a pocket/tunnel to anchor and route the battery test lead

and wire coil. This pocket/tunnel restrains the test lead and wire coil from coming near the aspirator during slide deployment and provides a route for the test lead to the bottom left (open end) of the valise. In addition, a nameplate is added to the slide assembly for permanent identification.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require modification of the evacuation slide valise. The actions would be required to be accomplished in accordance with the service bulletin described previously.

There are approximately 600 BFGoodrich evacuation slides installed on Boeing Model 737-200, -300, -400, and -500 series airplanes of the affected design in the worldwide fleet. The actual number of Model 737-200, -300, -400, and -500 series airplanes on which these evacuation slides are installed is unknown. However, the FAA has confirmed that none of the affected slides are installed on Model 737-200, -300, -400, or -500 series airplanes of U.S. registry; therefore, no airplanes of U.S. registry would be affected by this proposed AD. If an affected airplane were to be placed on the U.S. Register in the future, the FAA estimates that it would take approximately 1 work hour per slide to accomplish the proposed actions, at an average labor rate of \$55 per work hour. Required parts would be provided to operators by the evacuation slide manufacturer at no charge. Based on these figures, the total cost impact of the proposed AD is estimated to be \$55 per slide.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in

the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 93-NM-27-AD.

Applicability: Model 737-200, -300, -400, and -500 series airplanes equipped with BFGoodrich evacuation slides, as listed in BFGoodrich Service Bulletin 101658/659/660-25-257, dated November 20, 1992; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent passengers from being unable to exit the airplane in the event of an emergency evacuation, accomplish the following:

(a) Within 3 years after the effective date of this AD, modify the evacuation slide valise in accordance with BFGoodrich Service Bulletin 101658/659/660-25-257, dated November 20, 1992.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

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

Issued in Renton, Washington, on April 23, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-10030 Filed 4-28-93; 8:45 am]

BILLING CODE 4910-13-P

Coast Guard

33 CFR Part 100

[CGD1 93-007]

Special Local Regulation: Gateway Powerboat Regatta, Greenwich, CT and Port Chester, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary special local regulation for the Gateway Powerboat Regatta. The regatta will be held on Saturday, August 28, 1993, in the waters of Long Island Sound adjacent to the harbors of Greenwich, Connecticut and Port Chester, NY. This regulation is needed to protect the boating public from the hazards associated with high speed powerboat racing in confined waters.

DATES: Comments must be received on or before July 10, 1992.

ADDRESSES: Comments should be mailed to the Commander, First Coast Guard District, Boating Safety Division, 408 Atlantic Ave., Boston, MA 02110-3350, or may be delivered to Room 428 at the address listed above, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant E. G. Westerberg, Chief, Boating Safety Affairs Branch, First Coast Guard District, (617) 223-8311.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD1 93-007) and the specific section of the proposal to which their comment applies, and give reason for each comment. Persons requesting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public

hearing by writing to the Boating Safety Division at the address under "ADDRESSES". If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the *Federal Register*.

Drafting Information

The drafters of this notice are LT E. G. Westerberg, Project Manager, First Coast Guard District, and LCDR J. D. Stieb, Project Attorney, First Coast Guard District, Legal Office.

Background and Purpose

On February 8, 1993 the sponsor, Gateway Powerboat Association, Inc., submitted a request to hold an offshore powerboat race on Long Island Sound. The Coast Guard is considering establishing a temporary regulation in Long Island Sound for this event known as the "Gateway Powerboat Regatta." The proposed regulation would establish a regulated area in Long Island Sound and provide specific guidance to control vessel movement during the race.

This event will include up to 40 powerboats competing on a rectangular course at speeds approaching 100 m.p.h. Due to the inherent dangers of a race of this type, vessel traffic will be temporarily restricted to provide for the safety of the spectators and participants.

The sponsor, Gateway Powerboat Association, Inc. has previously conducted this event in Long Island Sound in 1987, 1988, and 1992. This year's race will follow a similarly marked course and the same regulations as set forth in the previous years.

Discussion of Proposed Amendments

The Coast Guard proposes to establish a Special Local Regulation on specified waters of Long Island Sound adjacent to the harbors of Greenwich, Connecticut and Port Chester, New York. The event will close the regulated area to all traffic from 10 a.m. to 3 p.m. on August 28, 1993. In case of inclement weather, the event will close the regulated area to all traffic from 10 a.m. to 3 p.m. on August 29, 1993. This regulation is needed to protect spectators and participants from the hazards that accompany a high speed powerboat race.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be

so minimal that a Regulatory Evaluation is unnecessary. Minimal impact is expected due to the limited duration of the race, the extensive advisories that have been and will be made to the affected maritime community, and the fact that the event is taking place on a Saturday afternoon, which is normally a very light volume day for commercial marine traffic.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

The Coast Guard expects the impact of this proposal to be minimal. For the reasons discussed in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

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

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2.c. of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "ADDRESSES."

List of Subjects in 33 CFR Part 100

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

Proposed Regulations

For reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—[AMENDED]

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

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

2. A temporary section, 100.35T01-007 is added to read as follows:

§ 100.35T01-007 Gateway Powerboat Regatta, Greenwich, CT and Port Chester, NY

(a) *Regulated area.* The regulated area will include all waters within the following points:

Latitude	Longitude
40°56.1' N	73°37.4' W
40°57.9' N	73°33.2' W
40°58.4' N	73°33.9' W
40°56.9' N	73°38.4' W

(b) *Special local regulations.*

(1) Commander, U.S. Coast Guard Group Long Island Sound reserves the right to delay, modify or cancel the race as conditions or circumstances require.

(2) No person or vessel may enter, transit, or remain in the regulated area during the effective period of regulation unless participating in the event as authorized by the sponsor or the Coast Guard. The Patrol Commander, as delegated by the Commander, Coast Guard Group Long Island Sound, will attempt to minimize any delays for commercial vessels transiting the area and will monitor channel 16 VHF-FM.

(3) All persons and vessels shall comply with the instructions of the Commander, U.S. Coast Guard Group Long Island Sound or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(c) *Effective period.* This regulation will be effective from 10 a.m. through 3 p.m. on August 28, 1993. In case of inclement weather, this regulation will be effective from 10 a.m. through 3 p.m. on August 29, 1993.

Dated: April 26, 1993.

J.D. Sipes,
Rear Admiral, U.S. Coast Guard Commander,
First Coast Guard District.

[FR Doc. 93-10047 Filed 4-28-93; 8:45 am]

BILLING CODE 4810-14-M

33 CFR Part 168**[CGD 91-202]****RIN 2115-AE10****Escort Vessels for Certain Oil Tankers****AGENCY:** Coast Guard, DOT.**ACTION:** Notice of public hearings.

SUMMARY: The Coast Guard published a notice of proposed rulemaking (NPRM) on July 7, 1992 (57 FR 30058), and reopened the comment period in a notice on March 26, 1993 (58 FR 16391), to define areas in Prince William Sound, Alaska, and Rosario Strait and Puget Sound, Washington, where at least two escort vessels will be required for certain tankers. This document gives notice of public hearings in Anchorage and Valdez, Alaska, and Seattle, Washington, which will take comments on defining those areas. At these hearings, the Coast Guard is also encouraging comment on standards for escort vessels, other appropriate requirements for tanker escort operations, and other navigable waters of the United States where escorts may be required.

DATES: The hearings will be held on Thursday, June 3, 1993, at 6 p.m. in Anchorage, Alaska; Saturday, June 5, 1993, at 6 p.m. in Valdez, Alaska; and Monday, June 7, 1993, at 6 p.m. in Seattle, Washington.

ADDRESSES: The Anchorage, Alaska hearing will be held at the Anchorage Museum of History and Art, Main Auditorium, 121 West 7th Avenue, Anchorage, AK 99501; the Valdez, Alaska hearing will be held at the City Council Chambers, Fairbanks Street, Valdez, AK 99686; the Seattle, Washington hearing will be held at the National Oceanic and Atmospheric Administration Sand Point, Building 9 Auditorium, 7600 Sand Point Way, NE, Seattle, WA 98115-0070.

Interested parties should note that the Anchorage and Valdez hearings will be teleconferenced to other communities in the Exxon Valdez impact area. A notice of locations participating in the teleconferences will be given in those communities prior to the hearing.

Correspondence concerning these public hearings may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406) (CGD-91-202), U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593-0001 or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

The Executive Secretary maintains the public docket for this rulemaking. Correspondence concerning these public hearings will become part of this docket and will be available for inspection or copying in room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Capt. Gerald T. Willis, Project Manager, Oil Pollution Act (OPA 90) Staff (G-MS(d)), at (202) 267-6732 between 8:30 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Dated: April 22, 1993.

A. Cattalini,
Captain, U.S. Coast Guard, Acting Chief,
Office of Navigation Safety and Waterway
Services.

[FR Doc. 93-10048 Filed 4-28-93; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF AGRICULTURE**Forest Service****36 CFR Parts 215 and 217**

**Review and Comment and Appeal
Procedures for National Forest
Planning and Project Decisions;
Requesting Review of National Forest
Plans and Project Decisions**

AGENCY: Forest Service, USDA.

ACTION: Notice; extension of public comment period.

SUMMARY: On April 14, 1993, at 58 FR 19369, the Forest Service published a proposed rule, with request for comment, which revises the current process for administrative review of decisions concerning the management of National Forest System lands. The public comment period ends April 29, 1993. Several organizations and individuals have indicated that the 15 day review period was not sufficient time to review and analyze the draft regulations and the impacts on their organizations, and have requested additional time to prepare comments on the proposed rule. In response the Forest Service has decided to extend the comment period to June 1, 1993. Any comments received after the initial comment deadline and prior to this notice of extension will be considered in adoption of the final guidelines.

DATES: Comments must be received in writing and postmarked no later than June 1, 1993.

ADDRESSES: Comments should be addressed to: Deputy Chief, National Forest System (1570), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090.

FOR FURTHER INFORMATION CONTACT:

Susan Yonts-Shepard, Staff Assistant, Operations, Office of the Deputy Chief, National Forest System, telephone (202) 205-1519.

Dated: April 23, 1993.

George M. Leonard,
Associate Chief.

[FR Doc. 93-10043 Filed 4-28-93; 8:45 am]

BILLING CODE 3410-11-M

POSTAL SERVICE**39 CFR Part 20**

**Proposed Amendment of International
Mail Manual Part 790**

AGENCY: Postal Service.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to its authority under 39 U.S.C. 401(2), the Postal Service proposes to amend International Mail Manual part 790 to clarify when mailings posted in foreign countries are by or on behalf of a resident of the United States and to provide for the collection of U.S. domestic postage on certain mailings posted by or on behalf of a foreign mailer in a country other than the country where the mailer resides.

DATES: Comments on the proposed amendments must be received on or before June 1, 1993.

ADDRESSES: Written comments should be directed to the Manager, Mailing Standards, U.S. Postal Service, Washington, DC 20260-2419. Copies of all written comments will be available for public inspection and photocopying between the hours of 9 a.m. and 4 p.m., Monday through Friday in room 8430, 475 L'Enfant Plaza West, SW., Washington, DC 20260-2419.

FOR FURTHER INFORMATION CONTACT: Walter J. Grandjean, (202) 268-5180.

SUPPLEMENTARY INFORMATION: The United States is a member of the Universal Postal Union (UPU). By virtue of that membership, the U.S. Postal Service receives compensation, called terminal dues, from other postal administrations for delivering their U.S. destinating mail. Under the basic UPU system of compensation, which is largely influenced by small and developing countries' small volumes and their need for administrative simplicity, the Postal Service receives a fixed rate per kilogram of mail regardless of the number of items in that kilogram. Under the UPU system for higher-volume mail exchanges, the Postal Service receives one fixed rate per kilogram of letters and a different, lower fixed rate per kilogram of other

articles. The higher-volume system has a mechanism for adjusting the level of compensation if the average number of items per kilogram in a particular mail exchange is sufficiently greater than the world average on which the terminal dues charge is based, but this has not worked well in practice.

These flaws in the UPU compensation system have led to the diversion of heavier-weight items from the international mails, and the Postal Service and a number of other postal administrations negotiating different terminal dues arrangements that more accurately reflect the costs they incur for both light-weight and heavier-weight items. As we explain below, however, the flaws in the UPU system make it possible for foreign mailers to avoid paying foreign international postage rates that include terminal dues charges that cover the costs of the Postal Service in delivering foreign origin mail. Finally, the flaws in the UPU system have created opportunities for U.S. domestic mailers to avoid paying U.S. domestic postage.

"International remail" is a practice whereby a mailer transports mail from the country where he resides to another country for mailing. There are three kinds of remail. ABA remail is where a mailer who resides in country A transports mail to country B for mailing to addressees back in country A. ABB remail is where a mailer who resides in country A transports mail to country B for mailing to addressees in country B. ABC remail is where a mailer who resides in country A transports mail to country B for mailing to addressees in a third country, country C.

International remail, particularly ABA and ABC remail, can adversely affect the economic and financial stability of postal administrations. This is because these kinds of remail are based largely on taking advantage of the flaws in the UPU terminal dues systems. In the case of the United States, when U.S. residents take ½ ounce items to UPU terminal dues countries for mailing back to the U.S. the Postal Service can receive as little as 6¢ per item in compensation instead of 29¢ domestic postage.

Similarly, when a foreign mailer in a cost-based terminal dues country takes ½ ounce items to a UPU terminal dues country for mailing, the Postal Service can receive as little as 6¢ per item instead of the 23¢ per item it would have received under a cost-based terminal dues system. Since the Postal Service is required to break even financially, and all international costs must be covered by international revenues, the losses caused by remail

have to be made up by charging higher rates to users of U.S. international mail services. In the view of the Postal Service, this is manifestly unfair.

International Mail Manual (IMM) part 790 authorizes the Postal Service to collect U.S. domestic postage on mailings addressed to the U.S. which are posted in foreign countries by or on behalf of U.S. residents or firms which have a place of business in the U.S. if (1) the foreign postage is lower than U.S. postage or (2) there are 1000 or more items in the mailing. These provisions are based on paragraphs 1, 2, and 3 of article 25 of the Universal Postal Convention, which authorizes postal administrations to collect domestic postage on mail posted in foreign countries by or on behalf of their residents. Neither article 25 nor IMM 790 defines who are residents or when a mailing is by or on behalf of a resident. This has resulted in a number of instances where U.S. residents have established overseas firms and joint ventures for the sole or main purpose of evading the application of IMM 790 and the payment of U.S. postage. The Postal Service proposes to stop this abuse by amending IMM 790.

The Postal Service first proposes adopting a broad definition of U.S. resident that would ensure not only that firms which are organized in the U.S. or have a place of business in the U.S. will pay U.S. postage, but also that any firm that has a sufficiently substantial connection with U.S. firms or individuals to act as their alter egos will pay U.S. postage. This proposed definition would include foreign firms and joint ventures in which firms organized in the U.S. or individuals who are residents of the U.S. have, directly or indirectly, a twenty percent or greater interest. The Postal Service believes that a twenty percent interest is generally enough to exercise control of a firm. The proposed definition would also include as U.S. residents foreign firms and joint ventures which have, directly or indirectly, a twenty percent interest in U.S. subsidiaries or firms. In this case, the Postal Service believes that the presence in the U.S. of a firm controlled by a foreign firm establishes a sufficient nexus with the U.S. to warrant treatment of the foreign firm as a U.S. resident. The proposed definition would also include foreign firms that have a presence in the U.S. but no fixed place of business. These firms, for example, have more or less permanent representatives in the U.S. that travel from city to city and conduct business in hotels. The Postal Service proposes that firms of this kind that are in the U.S. 180 days a year be considered U.S.

residents for postage collection purposes. Finally, the proposed definition would specifically exclude firms whose only presence in the U.S. consists of a non-exclusive agent for receiving orders and remittances and for distributing goods exported to the U.S.

The Postal Service proposes to define "mailing by or on behalf of a U.S. resident" as a mailing from which a U.S. resident seeks or expects to derive economic benefit or advantage. This definition focuses on the party that is truly interested in a mailing, not the nominal mailer. It also focuses on the prospective nature of mail. Economic benefit or advantage would include sale of goods or services, or the collection of money owed.

IMM 790 does not presently apply to ABC remail, although paragraph 4 of article 25 of the Universal Postal Convention provides that postal administrations are not obliged to deliver mail posted in a country other than the one where the mailer resides. Until the development of cost-based terminal dues systems, it did not matter whether mail was posted in any particular country because the Postal Service would receive the same compensation regardless of where the mail was posted. With the advent of cost-based terminal dues, where mail is posted can mean the difference between foreign mailers paying the full cost of delivering their mail in the U.S. and U.S. mailers having to pay the cost of delivery. The Postal Service therefore proposes to extend the application of IMM 790 to mail posted in UPU terminal dues countries by or on behalf of residents of countries with which the Postal Service has negotiated cost-based terminal dues arrangements.

The Postal Service proposes to define country of residence as the country in which a firm has its principal place of business, where it is organized, or where the owners of a fifty percent interest in the firm reside. This is different from the definition of resident of the U.S. for a number of reasons. The definition of U.S. resident is based on finding a sufficient nexus with the U.S. to require payment of U.S. domestic postage regardless of where else a firm might be considered a resident or how many places a firm might be considered to reside. The definition of resident of a foreign country recognizes that firms may be present in many countries, but that only one or a few of those countries should be considered as any particular firm's residence for ABC remail postage collection purposes. Which criterion would apply in any particular case would depend on all the facts and circumstances.

The Postal Service proposes to define mailing by or on behalf of a resident of a cost-based terminal dues country as a mailing from which a firm seeks or expects to derive economic benefit or advantage related to activities conducted in any cost-based terminal dues country. This proposed definition takes into account that a firm can have operations in many countries, some of which may not be party to a cost-based terminal dues arrangement. A firm's reasons for being in any particular country may have nothing to do with the abuse with which the Postal Service is concerned: the migration of mail from countries that pay cost-based terminal dues to countries that do not, which results in subsidy of foreign mailers by users of U.S. international mail services. If a mailing benefits a resident of a cost-based terminal dues country and relates to activities conducted in any of the cost-based terminal dues countries, it should not be subsidized by U.S. mailers.

By the same token, it does not matter to the Postal Service whether a mailing is posted in the cost-based terminal dues country of residence or some other cost-based terminal dues country. With few exceptions, the compensation the Postal Service would receive would be the same. Moreover, particularly in Europe, a multinational firm may choose to mail in one country rather than several, and for non-postage reasons may choose to mail in a country other than the one of which it is a resident. The Postal Service therefore proposes that U.S. postage be collected only on mail posted in UPU terminal dues countries by or on behalf of residents of cost-based terminal dues countries. It should be noted that a firm can be both a resident of the U.S. and a resident of a foreign country. In such cases, the definitions applicable to both will be applied. Thus, a firm might not be required to pay U.S. postage as a resident of a cost-based terminal dues country, but could be required to pay U.S. postage as a U.S. resident.

This amendment of International Mail Manual Part 790 is not intended to tell persons or firms how to do business or to penalize them for how they do business. However, the Postal Service is required to fairly apportion costs to the users of mail services. The proposed rule will apportion costs to those mailers using the mail services.

List of Subjects in 39 CFR Part 20

Foreign relations.

Although the Postal Service is exempt from the advance notice requirements of the Administrative Procedure Act regarding proposed rulemaking (5

U.S.C. 553(b), (c)) by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed revisions of the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

Stanley F. Mires,
Chief Counsel Legislative.

790 Items Mailed Abroad by or on Behalf of Senders in the U.S. and Certain Other Countries

791 Postage Payment Required

Payment of United States postage is required to secure delivery of mail described in 792 under the following circumstances:

- a. The mailing is by or on behalf of a person or firm that resides in the United States and the foreign rate of postage applied to such items is lower than the comparable United States domestic rate of postage, or 1000 or more such items are mailed in a 30 day period regardless of whether the foreign postage is lower than the comparable United States postage; or
- b. The mailing is by or on behalf of a person or firm that resides in a country listed in Exhibit 791.1, is posted in a country not listed in Exhibit 791.1, and 1000 or more items are mailed in a 30 day period.

792 Mailings Affected

792.1 *Special Conditions.* The special conditions apply to items of mail which are posted in foreign countries:

- a. By or on behalf of persons or firms who reside in the United States; or
- b. By or on behalf of persons or firms who reside in one of the countries listed in Exhibit 791.1.

792.2 Residency

792.21 *Criteria for U.S. Residency.* A firm is a resident of the United States if it meets the following criteria:

- a. It has a place of business in the United States; or
- b. It is incorporated or otherwise organized in the United States, its territories, or possessions; or
- c. It is twenty percent or more owned, directly or indirectly, by persons who reside in the United States, its territories, or possessions, or by firms incorporated or otherwise organized in the United States, its territories, or possessions; or
- d. It owns, either singly or in combination with other firms in which it has a twenty percent or more interest, twenty percent or more of a firm incorporated or otherwise organized in the United States, its territories, or possessions.

792.22 *Criteria for Countries Listed in Exhibit 791.1.* A firm is a resident of a country listed in Exhibit 791.1 if it meets the following criteria:

- a. It has its principal place of business in that country; or
- b. It is incorporated or otherwise organized in that country, its territories, or possessions; or
- c. It is fifty percent or more owned, directly or indirectly, by a person or persons who reside in that country, its territories, or possessions or by a firm or firms which are incorporated or otherwise organized in that country, its territories, or possessions.

792.3 By or on Behalf

792.31 *United States Resident.* A mailing is by or on behalf of a person or firm who resides in the United States if such a person or firm seeks or expects to derive economic benefit or advantage from that mailing.

792.32 *Resident of a Country Listed in Exhibit 791.1.* A mailing is by or on behalf of a person or firm who resides in a country listed in Exhibit 791.1 if such a person or firm seeks or expects to derive economic benefit or advantage from that mailing related to operations physically conducted in any of those countries. These operations include, but are not limited to, selling goods manufactured in those countries and selling services provided in those countries.

792.4 *Place of Business.* A place of business in the United States is any location in the United States, its territories, or possessions where a firm's employees or agents regularly have personal contact with other individuals for the purpose of conducting the firm's business. For the purposes of this section, a firm whose employees or agents have personal contact with others for the purpose of conducting the firm's business in different places in the United States for short periods of time, e.g., at hotels in different cities for one or two days at a time, has a place of business in the United States if the aggregate amount of time spent in the United States is 180 days or more during a one year period.

792.5 *Agents.* The use of non-exclusive agent in the United States for the sole purposes of accepting orders and remissions for transmission to a firm in another country or of distributing merchandise manufactured in another country and shipped to the United States in bulk does not by itself constitute establishment of a place of business in the United States.

793 Advance Payment Required

793.1 Sample of Envelope. Senders affected by 791 must submit a sample of the proposed mailing (envelope and contents) with (1) a statement as to the number of items to be mailed, (2) when and where the mailing will take place, and (3) a check, made payable to the U.S. Postal Service, to cover the amount of the applicable U.S. postage, to the: **MANAGER, BUSINESS MAIL ACCEPTANCE, CUSTOMER SERVICE SUPPORT, US POSTAL SERVICE, 475 L'ENFANT PLAZA SW., WASHINGTON, DC 20260-6808.**

793.2 Headquarters Notification. Notification of postage acceptance and approval of the mailing will be given by Headquarters to the sender and to the appropriate U.S. receiving exchange office. This will permit the items in the mailing to go forward to the addresses without delay when the items reach the United States.

794 Treatment if Advance Payment Not Made

794.1 Return or Disposal of Items. Items may be returned to origin or disposed of in accordance with postal regulations if U.S. postage is not paid.

794.2 Mailings Received Without Advance Payment. A mailing subject to 791 received without advance payment of U.S. domestic postage will be held at the receiving exchange office. The exchange office will report all such mailings to the: **MANAGER, BUSINESS MAIL ACCEPTANCE, CUSTOMER SERVICE SUPPORT, US POSTAL SERVICE, 475 L'ENFANT PLAZA SW., WASHINGTON, DC 20260-6808.**

Reports must contain (1) title and/or nature of the items, (2) identity of sender, (3) number of items detained, (4) weight of a single item, (5) foreign postage paid per item, and (6) office of mailing. The exchange office will be advised to release the mail when the applicable postage has been paid.

795 Report of Mailings

Any mail appearing to be subject to the conditions of this section must be reported to Business Mail Acceptance, at USPS Headquarters, by the U.S. receiving exchange office.

Exhibit 791.1

Canada
Denmark
Finland
France
Germany
Great Britain and Northern Ireland
Iceland
Ireland
Italy
Luxembourg
Netherlands

Norway
Spain
Sweden

[FR Doc. 93-9940 Filed 4-28-93; 8:45 am]

BILLING CODE 7710-12-M

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 22**

[CC Docket No. 93-116; FCC 93-188]

Power Limits for Paging Stations Operating in the 931 MHz Band in the Public Land Mobile Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission proposes to amend its regulations on Public Mobile Service. The proposed amendments are necessary to permit higher effective radiated power for facilities authorized in the 931 MHz band. The intent of this proposal is to allow 3500 watt operation of all stations in the 931 MHz frequency band without requiring existing surrounding transmitters. This will be in the public interest since it will afford the benefits of higher power operation without unduly increasing the risks of interference. A waiver was granted to Skytel Corporation to operate transmitters on frequency 931.4375 MHz at 3500 watts effective radiated power, without first constructing facilities limited to 100 watts effective radiated power.

DATES: Comments must be submitted on or before June 17, 1993. Reply comments must be submitted on or before July 2, 1993.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Carmen Borkowski or Jay Jackson, 202-632-6450.

SUPPLEMENTARY INFORMATION: The following is a summary of the Commission's Notice of Proposed Rule Making in CC Docket No. 93-116, adopted April 9, 1993 and released April 23, 1993. The full texts of all Commission decisions are 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 be purchased from the Commission's copy contractor, International Transcription Services, at (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Summary of the Notice of Proposed Rule Making

1. In this Notice, the Federal Communications Commission proposes to amend 47 CFR part 22. The rules in part 22 govern the Public Mobile Services. These amendments are proposed in order to allow 3500 watt operation of all stations in the 931 MHz frequency band without requiring existing surrounding transmitters operated at a lower power. This change is in the public interest since it will afford the benefits of higher power operation without unduly increasing the risks of interference because the potential for interference is not increased with the operation of fewer transmitters at higher power. Increased power limits will allow for greater flexibility for these paging systems since they could use fewer transmitters to cover the same geographic area with the concomitant result in efficiencies of scale, reduction in costs, and resulting benefits for consumers.

2. The proposal is to allow all stations in the 931 MHz band to be initially operated with any effective radiated power up to a maximum of 3500 watts. The height-power limits contained in 22.505(b) will be eliminated, 47 CFR 22.505(b). Carriers must maintain the geographic separation criteria for co-channel stations. 47 CFR 22.503(d). Stations in this band will continue to be classified according to antenna height above average terrain and maximum effective radiated power. 47 CFR 22.502(c). Reliable service area and interference area parameters established in the current rules are being maintained in the proposals. Additional transmitters can be built in accordance with § 22.117(b). 47 CFR 22.117(b).

3. Comments on these proposals are being sought, including the potential for adjacent channel interference resulting from these power increases. Furthermore, comment is being sought on whether the separation distances in our rules are adequate to protect future and existing stations from co-channel interference. This would include the co-channel interference potential to Canada and Mexico.

4. The Commission granted Skytel Corporation a waiver of various rules to operate transmitters on frequency 931.4375 MHz at 3500 watts effective radiated power. Skytel seeks to integrate its paging facilities on this frequency, with its nationwide paging network. The waiver is in the public interest because it will increase the capacity available for nationwide network paging service. During the pendency of this rule making other waiver requests to

increase power will be entertained. Requests must comply with the requirements of §§ 22.19, 22.502(c) and 22.504(b)(2) of the Rules and demonstrate the lack of interference to co-channel stations. A waiver request filed by American Paging Inc. was denied because it did not demonstrate that it would not cause interference to co-channel stations in proximity to its system.

Initial Regulatory Flexibility Analysis

5. Pursuant to the Regulatory Flexibility Act of 1980, the Commission's Initial Regulatory Flexibility Analysis follows:

6. Reason for action and objective. The Commission is proposing to amend Title 47, part 22 of the Code of Federal Regulations to reexamine the rules regarding effective radiated power for facilities authorized in the 931 MHz band. This rule making proceeding is initiated to obtain comment regarding changes in the power limit rules for Public Land Mobile paging station operated in the 931 MHz band. The objective of this proposal is to provide effective and adaptive regulation for communications. The proposed rules will enhance the efficiency of operations because fewer transmitters would be needed to cover the same geographic area. In addition, building penetration will be increased.

7. Legal Basis. Authority for this notice is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, 47 U.S.C. 154(i) and 303(r).

8. Reporting, Recordkeeping and Other Compliance Requirements. The proposed rules would retain existing reporting, recordkeeping and other compliance requirements.

9. Federal rules that overlap, duplicate or conflict with these rules. None.

10. Description, potential impact and number of small entities affected. There are approximately 8,600 licensees subject to the rules in Part 22. A substantial portion of these are small entities. There are also a number of small entities whose business is consulting or providing other services in connection with part 22. The rule change in this proceeding would benefit providers of paging services in the 931 MHz frequency band, by reducing costs. A number of these providers are small entities.

11. Significant alternatives minimizing impact on small entities and consistent with stated objectives. The proposals contained in this Notice are meant to simplify and ease the regulatory burden on all Public Mobile Services applicants and licensees consistent with the Commission's established public interest objectives. We have determined no specific alternatives that would allow for high power operation of paging stations in the 931 MHz frequency band.

12. The Chief Counsel for Advocacy of the Small Business Administration will be served with a copy of this Notice of Proposed Rule Making, including the Initial Regulatory Analysis, in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 603(a).

13. Accordingly, *It is Ordered*, That pursuant to the authority contained in sections 4 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 303, this Notice of Proposed Rule Making *Is Issued*.

14. *It is further ordered* That the waiver petition filed by Skytel Corporation *Is Granted* to the extent indicated in the Order Granting Petition for Waiver and the waiver petition filed by American Paging, Inc. *Is Denied*.

List of Subjects in 47 CFR Part 22

Communications common carriers.
Federal Communications Commission.
Donna R. Searcy,
Secretary.

Amendatory Text

Proposed Rules

Title 47 of the Code of Federal Regulations, part 22, is proposed to be amended as follows:

PART 22—PUBLIC MOBILE SERVICE

1. The authority citation for part 22 continues to read as follows:

Authority: Sections 4 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154 and 303.

2. Section 22.505 is amended by removing and reserving paragraphs (b) (including table) and (c)(2):

§ 22.505 Antenna height power limit.

* * * * *

(b) [Reserved].

(c) * * *

(2) [Reserved]

* * * * *

3. Section 22.506 is amended by removing and reserving paragraph (f)(2) and revising paragraph (e) to read as follows:

§ 22.506 Power.

* * * * *

(e) *931–932 MHz Band.* Base stations in the 931–932 MHz band must not exceed 3500 watts effective radiated power.

(f) * * *

(2) [Reserved].

* * * * *

[FR Doc. 93–9987 Filed 4–28–93; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register

Vol. 58, No. 81

Thursday, April 29, 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

Forms Under Review by Office of Management and Budget

April 23, 1993.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s); if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404-W Admin. Bldg., Washington, DC 20250, (202) 690-2118.

Revision

- National Agricultural Statistics Service
Agricultural Labor Survey
Quarterly
Farms; Businesses or other for-profit;
64,520 responses; 15,890 hours
Larry Gambrell, (202) 720-5778

Extension

- National Agricultural Statistics Service
Stocks Report
Quarterly
Farms; Businesses or other for-profit;
50,586 responses; 15,081 hours

Larry Gambrell, (202) 720-5778

- Food and Nutrition Service
Emergency Food Stamp Assistance for
Victims of Disasters

FNS-447

On Occasion

Individuals or households; State or local governments; 12,453 responses; 2,789 hours

Peggy Hickman, (703) 305-2496

Reinstatement

- Farmers Home Administration
7 CFR 1900-B, Adverse Decisions and
Administrative Appeals

FmHA 1900-1

On occasion

Individuals or households; State or local governments; Farms; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 10,863 responses; 3,241 hours

Jack Holston (202) 720-9736.

- Farmers Home Administration
7 CFR 1980-I, Community Programs
Guaranteed Loans

FmHA 1980-10

On occasion

State or local governments; Non-profit institutions; 1,355 responses; 22,012 hours

Jack Holston (202) 720-9736

- Farmers Home Administration
Application for FmHA Services
FmHA 410-10

On occasion

Individuals or households; Farms; Businesses or other for-profit; Small businesses or organizations; 29,444 responses; 29,444 hours

Jack Holston (202) 720-9736

Larry K. Roberson,

Deputy Department Clearance Officer.

[FR Doc. 93-10009 Filed 4-28-93; 8:45 am]

BILLING CODE 3410-01-M

Federal Grain Inspection Service

Designation of the Central Illinois (IL) and Plainview (TX) Agencies

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Notice.

SUMMARY: FGIS announces the designation of Central Illinois Grain Inspection, Inc. (Central Illinois), and Plainview Grain Inspection and Weighing Service, Inc. (Plainview), to

provide official inspection services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATE: June 1, 1993.

ADDRESSES: Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202-720-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the October 30, 1992, *Federal Register* (57 FR 49166), FGIS announced that the designations of Central Illinois and Plainview end on May 31, 1993, and asked persons interested in providing official services within the specified geographic areas to submit an application for designation. Applications were due by November 30, 1992.

Central Illinois and Plainview, the only applicants, each applied for the entire area currently assigned to them. FGIS named and requested comments on the applicants for designation in the January 28, 1993, *Federal Register* (58 FR 6383). Comments were due by March 1, 1993. FGIS received one comment from a grain firm asking to be served by Amarillo instead of Plainview to reduce costs.

FGIS evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act; and according to Section 7(f)(1)(B), determined that Central Illinois and Plainview are able to provide official services in the geographic areas for which they applied.

Effective June 1, 1993, and ending May 31, 1996, Central Illinois and Plainview are designated to provide official inspection services in the geographic areas specified in the October 30, 1992, *Federal Register*. Interested persons may obtain official services by contacting Central Illinois at 309-827-7121 and Plainview at 806-293-1364.

Authority: Public Law 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: April 20, 1993.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 93-9869 Filed 4-28-93; 8:45 am]

BILLING CODE 3410-EN-F

Request for Comments on the Applicants for Designation in the Geographic Areas Currently Assigned to the Central Iowa (IA) Agency and the States of Maine and Montana

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Notice.

SUMMARY: FGIS requests interested persons to submit comments on the applicants for designation to provide official services in the geographic areas currently assigned to Central Iowa Grain Inspection Service, Inc. (Central Iowa), the Maine Department of Agriculture, Food and Rural Resources (Maine), and the Montana Department of Agriculture (Montana).

DATES: Comments must be postmarked, or sent by telecopier (FAX) or electronic mail by May 31, 1993.

ADDRESSES: Comments must be submitted in writing to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454. SprintMail users may respond to [A:ATTMAIL,O:USDA,ID:A36HDUNN]. ATTMAIL and FTS2000MAIL users may respond to !A36HDUNN.

Telecopier (FAX) users may send comments to the automatic telecopier machine at 202-720-1015, attention: Homer E. Dunn. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Homer E. Dunn, telephone 202-720-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the March 2, 1993, *Federal Register* (58 FR 12022), FGIS asked persons interested in providing official services in the geographic areas assigned to Central Iowa, Maine, and Montana to submit an application for designation. Applications were due by March 31, 1993. There were four applicants. Central Iowa, Maine, and Montana each

applied for designation in the entire area currently assigned to them. The D. R. Schaal Agency, Inc. (Schaal), applied for designation to serve part of the Central Iowa area: Farmers Co-op Elevator Company, Chapin, Franklin County; Hampton Farmers Co-op Company, Hampton, Franklin County; and Farmers Community Co-op, Inc., Rockwell, Cerro Gordo County, Iowa, in addition to the area they are already designated to serve. Central Iowa and Schaal are contiguous official agencies.

FGIS is publishing this notice to provide interested persons the opportunity to present comments concerning the applicants. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of these applicants. All comments must be submitted to the Compliance Division at the above address.

Comments and other available information will be considered in making a final decision. FGIS will publish notice of the final decision in the *Federal Register*, and FGIS will send the applicants written notification of the decision.

Authority: Public Law 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: April 20, 1993.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 93-9871 Filed 4-28-93; 8:45 am]

BILLING CODE 3410-EN-F

Request for Applications from Persons Interested in Designation to Provide Official Services in the Geographic Areas Presently Assigned to the Hastings (NE) Agency and the State of New York

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations shall end not later than triennially and may be renewed. The designations of Hastings Grain Inspection, Inc. (Hastings), and the New York State Department of Agriculture and Markets (New York) will end October 31, 1993, according to the Act, and FGIS is asking persons interested in providing official services in the specified geographic areas to submit an application for designation.

DATES: Applications must be postmarked or sent by telecopier (FAX) on or before May 31, 1993.

ADDRESSES: Applications must be submitted to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454. Telecopier (FAX) users may send their application to the automatic telecopier machine at 202-720-1015, attention: Homer E. Dunn. If an application is submitted by telecopier, FGIS reserves the right to request an original application. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Homer E. Dunn, telephone 202-720-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes FGIS' Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

FGIS designated Hastings, main office located in Hastings, Nebraska, and New York, main office located in Albany, New York, to provide official grain inspection services under the Act on November 1, 1990.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in section 7(f) of the Act. The designations of Hastings and New York end on October 31, 1993.

The geographic area presently assigned to Hastings, in the State of Nebraska, pursuant to section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation is as follows:

Bounded on the North by the northern Nebraska State line from the western Sioux County line east to the eastern Knox County line;

Bounded on the East by the eastern and southern Knox County lines; the eastern Antelope County line; the northern Madison County line east to U.S. Route 81; U.S. Route 81 south to the southern Madison County line; the southern Madison County line; the eastern Boone, Nance, and Merrick County lines; the Platte River southwest; the eastern Hamilton County line; the

northern and eastern Fillmore County lines; the southern Fillmore County line west to U.S. Route 81; U.S. Route 81 south to State Highway 8; State Highway 8 west to the County Road 1 mile west of U.S. Route 81; the County Road south to southern Nebraska State line;

Bounded on the South by the southern Nebraska State line, from the County Road 1 mile west of U.S. Route 81, west to the western Dundy County line; and

Bounded on the West by the western Dundy, Chase, Perkins, and Keith County lines; the southern and western Garden County lines; the southern Morrill County line west to U.S. Route 385; U.S. Route 385 north to the southern Box Butte County line; the southern and western Sioux City County lines north to the northern Nebraska State line.

The following locations, outside of the above contiguous geographic area, are part of this geographic area assignment: Farmers Coop, and Big Springs Elevator, both in Big Springs, Deuel County (located inside Denver Grain Inspection's area); and Farmers Cooperative Grain Company, and Wagner Mills, Inc., both in Columbus, Platte County (located inside Fremont Grain Inspection Department, Inc.'s, area).

The geographic area presently assigned to New York, pursuant to section 7(f)(2) of the Act, which will be assigned to the applicant selected for designation, is the entire State of New York, except those export port locations within the State which are serviced by FGIS.

Interested persons, including Hastings and New York, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in the specified geographic areas is for the period beginning November 1, 1993, and ending October 31, 1996. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

Authority: Public Law 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: April 20, 1993.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 93-9870 Filed 4-28-93; 8:45 am]

BILLING CODE 3410-EN-F

Proposed Amendment of Amarillo's Geographic Area, Request for Comments on the Need for Official Services in the Fort Worth Region, and Request for Applications from Persons Interested in Designation to Provide Official Services in the Fort Worth (TX) Region

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Notice.

SUMMARY: The Amarillo Grain Exchange, Inc. (Amarillo), asked FGIS to amend its geographic area to delete the Fort Worth portion, due to the low volume of requests for official inspection services. FGIS proposes to amend Amarillo's assigned geographic area to delete the Fort Worth portion effective July 31, 1993, and is requesting comments on the need for official inspection services in the Fort Worth region. FGIS also is requesting persons interested in providing official services in the Fort Worth region to submit an application for designation.

DATES: Applications and comments must be postmarked on or sent by telecopier (FAX) by May 31, 1993.

ADDRESSES: Applications and comments must be submitted to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454. Telecopier (FAX) users may send applications and comments to the automatic telecopier machine at 202-720-1015, attention: Homer E. Dunn. If an application is submitted by telecopier, FGIS reserves the right to request an original application. All applications and comments will be made available for public inspection at this address at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202-720-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the United States Grain Standards Act, as amended (Act),

authorizes FGIS' Administrator, after determining that there is a need for official services, to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in section 7(f) of the Act.

FGIS designated Amarillo, headquartered in Amarillo, Texas, to provide official inspection services for the period beginning December 1, 1992, and ending November 30, 1995.

Amarillo subsequently asked FGIS to amend its assigned geographic area to delete the Fort Worth portion. Amarillo is requesting that the counties of Bell, Bosque, Brown, Coleman, Collin, Comanche, Cooke, Dallas, Denton, Eastland, Ellis, Erath, Falls, Fannin, Grayson, Hamilton, Hill, Hood, Hunt, Jack, Johnson, Lamar, Limestone, McLennan, Milam, Montague, Parker, Palo Pinto, Red River, Somervell, Stephens, Tarrant, Young, and Wise, Texas, be deleted from its geographic area. FGIS is proposing to amend Amarillo's designation accordingly effective July 31, 1993. Persons wishing to obtain official inspection services in these counties after July 31, 1993, should contact FGIS' Plainview Field Office at 806-293-4482 (FAX: 806-293-9365).

FGIS is requesting comments on the need for official inspection services in the counties listed above. At the same time FGIS is requesting persons interested in providing official services in the Fort Worth region to submit an application for designation.

FGIS will not designate an applicant unless it determines that there is a need for official services in the Fort Worth region.

The region currently assigned to Amarillo, in the State of Texas, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, if there is a need for official services, is as follows: Bell, Bosque, Brown, Coleman, Collin, Comanche, Cooke, Dallas, Denton, Eastland, Ellis, Erath, Falls, Fannin, Grayson, Hamilton, Hill, Hood, Hunt, Jack, Johnson, Lamar, Limestone, McLennan, Milam, Montague, Parker, Palo Pinto, Red River, Somervell, Stephens, Tarrant, Young, and Wise Counties, Texas.

Interested persons are hereby given an opportunity to submit comments on the need for official inspection services in the region specified above, and to apply

for designation under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in the Fort Worth, Texas, area is for a period not to exceed 3 years beginning about October 1, 1993. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated after the FGIS determines that there is a need for official services in the Fort Worth region.

Authority: Public Law 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: April 20, 1993

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 93-9867 Filed 4-28-93; 8:45 am]

BILLING CODE 3410-EN-F

Forest Service

Exemption of West Buffalo Salvage and Rehabilitation Project From Appeal

AGENCY: USDA Forest Service, Northern Region.

ACTION: Notification that a timber salvage and rehabilitation project designed to recover insect- and winter-killed timber is exempt from appeal under the provisions of 36 CFR part 217.

SUMMARY: In 1989, a severe winter following several years of drought led to mortality and weakening of coniferous trees in the West Buffalo and Clear Creek drainages. This condition led to an epidemic of Douglas-fir bark beetle, and the weakened trees have died. In 1993, the Lincoln District Ranger proposed a recovery of damaged sawtimber using a salvage timber sale and reforestation of harvested areas to rehabilitate affected lands.

The District Ranger has determined, through an environmental analysis documented in the West Buffalo Salvage and Rehabilitation Project file and Decision Memo, that there is good cause to expedite these actions in order to rehabilitate National Forest System lands and recover damaged resources. Salvage of commercial sawtimber within the area affected must be accomplished quickly to avoid further deterioration of sawtimber and reduce the risk of catastrophic wildfire or of a Douglas-fir bark beetle infestation in adjacent health timber stands.

EFFECTIVE DATE: Effective on April 29, 1993.

FOR FURTHER INFORMATION CONTACT: Joel Marshik; Lincoln District Ranger; Helena National Forest; P.O. Box 219; Lincoln, MT 59639.

SUPPLEMENTARY INFORMATION: During February of 1989, on unseasonably warm week was followed by a severe and rapid drop in temperature which caused foliage to freeze and desiccate (commonly referred to as "Red Belt") and stressed, severely damaged and/or killed coniferous trees on approximately 7,300 acres within the Lincoln Ranger District. The degree of damage varied from a few trees per acre to near total mortality to both the overstory and understory vegetation. Within the immediate area of the proposed West Buffalo Timber Sale an estimated 900 acres were affected. This damaged and/or killed timber is located within lands designated as suitable for timber management assigned to management areas T1, T2, T3, and T5 (Helena National Forest Plan, September 1987).

The Helena National Forest identified the need to quickly respond to the winter-kill situation. Stands were prioritized for salvage, and 1990 timber sale offerings were comprised almost entirely of the dead and damaged timber. Timber stands in the West Buffalo area did not appear to be as seriously affected as other areas and were not proposed for treatment in the 1990 salvage program. However, stand conditions continued to deteriorate, leading the Lincoln District Ranger to propose the Sheldon Gulch Timber Sale in 1991 to salvage 188 acres of dead timber in West Buffalo and harvest 92 acres of green timber in the adjacent Sheldon Gulch drainage. The decision was appealed and subsequently the decision was withdrawn.

Timber stand conditions have continued to deteriorate, and additional mortality has occurred within the last year. The Lincoln District Ranger proposed salvage and restoration of 220 acres of dead and dying timber in the West Buffalo area. This proposal is designed to meet the following needs: (1) Recover dead and dying timber before it loses its commercial value; (2) rehabilitate the affected timber stands through site preparation and planting, provide big game hiding cover, accelerate visual and hydrologic recovery; and (3) reduce the potential for wildfire by reducing fuel loading. Unless the material is salvaged soon, the opportunities for initiation of activities to promote long-term site recovery will be lost. The analysis of environmental effects conducted for this proposed action is based upon information developed for the 1991 Sheldon Gulch

timber sale proposal. Two alternatives were developed, and a no-action alternative was analyzed. This information is incorporated by reference in the project file and was the basis for the interdisciplinary team's analysis and recommendation to the District Ranger to proceed with the West Buffalo Salvage and Rehabilitation Project.

The selected alternative would salvage 600 MBF of dead, dying, and disease-infected timber from approximately 220 acres. No permanent road construction is required to implement this project. There will be approximately 3,200 feet of temporary roads required to access landings within harvest units.

The sale and accompanying work is designed to accomplish the objectives as quickly as possible to minimize the risk of catastrophic wildfire, to reforest productive timber growing sites, and to recover merchantable sawtimber before it becomes infeasible. To expedite implementation of the decision, the procedures outlined in 36 CFR 217.4(a)(11) are being followed. Under this Regulation the following may be exempt from appeal:

Decisions related to rehabilitation of National Forest System lands and recovery of forest resources resulting from natural disasters or other natural phenomena * * * when the Regional Forester * * * determines and gives notice in the *Federal Register* that good cause exists to exempt such decisions from review under this part.

Based upon the analysis documented in the West Buffalo Salvage and the Rehabilitation Project file and the District Ranger's Decision Memo for this project, I have determined that good cause exists to exempt this decision from administrative review. Therefore, upon publication of this notice, this project will not be subject to review under 36 CFR part 217.

Dated: April 21, 1993.

Christopher D. Risbrudt,

Deputy Regional Forester, Northern Region.

[FR Doc. 93-9897 Filed 4-28-93; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Intent To Prepare an Environmental Impact Statement; Creek Watershed, Kansas

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy

Act of 1969, the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Upper Delaware and Tributaries Watershed, Atchison, Brown, Jackson, and Nemaha Counties, Kansas.

FOR FURTHER INFORMATION CONTACT: James N. Habiger, State Conservationist, Soil Conservation Service, 760 South Broadway, Salina, Kansas 67401, telephone 913-823-4565.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project may cause local, regional, or national impacts on the environment. As a result of these findings, James N. Habiger, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

Water quality is impaired by suspended solids, phosphorus, fecal bacteria, and organic waste. Fish and wildlife assessments have been made at several potential floodwater retarding dam sites. Habitat losses have been identified as well as alternative mitigation measures.

The project concerns a plan for flood prevention and water quality improvement. Alternatives under consideration to reach these objectives include systems for conservation land treatment, riparian and other woodland treatment, treatment associated with livestock waste, floodwater retarding dams, and a multipurpose dam with water supply and recreational facilities.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. As a part of preparing this impact statement, scoping notices have been provided to state and federal agencies for comment. This scoping process provided a basis for identifying issues to be addressed and for determining the degree of significance of the issues.

The Soil Conservation Service invites the participation and consultation of those interested in the scoping and preparation of the draft impact statement. Further information on the proposed actions or preparation of the impact statement may be obtained from

James N. Habiger, State Conservationist, at the above address or telephone 913-823-4565.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Dated: April 19, 1993.

James N. Habiger,
State Conservationist.

[FR Doc. 93-10038 Filed 4-28-93; 8:45 am]

BILLING CODE 3410-10-M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Georgia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Georgia Advisory Committee to the Commission will convene at 3 p.m. and adjourn at 5 p.m. on Friday, May 14, 1993, at the NationsBank Tower, 600 Peachtree Street, 52nd Floor, Conference Room A, Atlanta, Georgia 30308. The purpose of this meeting is: (1) To discuss the status of the SACs and the Commission; (2) to hear a report on civil rights progress and/or problems in the State and Nation; and (3) to discuss the affirmative action and equal opportunity plans of the Atlanta Committee for the Olympic Games (ACOG) as they relate to minorities and women.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Dale M. Schwartz, 404-657-8097, or Bobby D. Doctor, Director of the Southern Regional Office, 404-730-2476 (TDD 404-730-2481). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

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

Dated at Washington, DC, April 20, 1993.

Carol-Lee Hurley,
Chief, Regional Programs Coordination Unit.

[FR Doc. 93-9962 Filed 4-28-93; 8:45 am]

BILLING CODE 6335-01-P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Eddie Haak and Haly BVDA and Haly Invest NV and S H C NV Also Known as Second Hand Computers

In the matter of: Eddie Haak, Bosstraat 74, 9111 Sint-Niklaas, Belgium¹ and Haly BVDA Bosstraat 66, 9111 Sint-Niklaas, Belgium, and Haly Invest NV, Bosstraat 74, 9111 Sint-Niklaas, Belgium, and S H C NV also known as Second Hand Computers, Bosstraat 74, 9111 Sint-Niklaas, Belgium.

Related Party Order

On September 25, 1991, Iain S. Baird, Director, Office of Export Licensing, issued an Order denying Eddie Haak (Haak) permission to apply for or use any export license until May 19, 1999, 56 FR 50847 (October 9, 1991). The Order was based on Haak's May 19, 1989 conviction for violating the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. 2401-2420 (1991, Supp. 1992, and Pub. L. 103-10)) (the Act).

Section 11(h) of the Act provides that any person related, through affiliation, ownership, control, or position of responsibility, to a person who has been denied export privileges because of his conviction for violating the Act may also be denied export privileges. On February 22, 1993, Haly BVDA, Haly Invest NV, and S H C NV, also known as Second Hand Computers, were notified that the Bureau of Export Administration, U.S. Department of Commerce, had information that they were related to Haak through affiliation, ownership, control, or position of responsibility. They were also advised that, after consulting with the Director, Office of Export Enforcement, I intended to deny them permission to apply for or use any export license, including any general license, because of their relationship with Haak, as provided by the Act and § 770.15(h) of the Export Administration Regulations (currently codified at 15 CFR parts 768-799 (1992)) (the Regulations).

The notification to the named companies also advised them of their right to request a hearing concerning their relationship with Haak within 20 days of their receipt of the notification letter. Although all three companies received the notification, none of them

¹ The initial order entered against Haak identified his address as "Bos Straat 74, 9180 (St. Niklaas) Belsel, Belgium." As a result of the information the Department obtained regarding the addresses for the related persons, the Department is amending the address for Haak to conform to the address for the related persons that are located at the same address as Haak.

requested a hearing concerning any of the matters set forth in the notice.

Accordingly, I hereby find that Haly BVDA, Bosstraat 66, 9111 Sint-Niklaas, Belgium, Haly Invest NV, Bosstraat 74, 9111 Sint-Niklaas, Belgium, and S H C NV, also known as Second Hand Computers, Bosstraat 74, 9111 Sint-Niklaas, Belgium, are related to Eddie Haak, a person denied all U.S. export privileges until May 19, 1999, through affiliation, ownership, control, or position of responsibility.

Accordingly, the Order of September 25, 1991 denying Eddie Haak permission to apply for or use any export license, including any general license, is hereby amended as follows:

Ordered

I. All outstanding individual validated licenses in which Eddie Haak or any of the related persons, Haly BVDA, Haly Invest NV, and S H C NV, also known as Second Hand Computers, appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Haak's, Haly BVDA's, Haly Invest NV's, and S H C NV's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. Until May 19, 1999, Eddie Haak, Bosstraat 74, 9111 Sint-Niklaas, Belgium, and the related persons, Haly BVDA, Bosstraat 66, 9111 Sint-Niklaas, Belgium; Haly Invest NV, Bosstraat 74, 9111 Sint-Niklaas, Belgium; and S H C NV, also known as Second Hand Computers, Bosstraat 74, 9111 Sint-Niklaas, Belgium, hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization, or other export control document; (iv) in carrying on

negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment as provided in § 770.15(h) of the Regulations, any person, firm, corporation, or business organization related to Haak, Haly BVDA, Haly Invest NV, or S H C NV, also known as Second Hand Computers, by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. As provided in § 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) In any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

V. This Order is effective immediately and shall remain in effect until May 19, 1999.

VI. A copy of this Order shall be delivered to Haak and each of the related persons, Haly BVDA, Haly Invest NV, and S H C NV, also known as Second Hand Computers. This Order shall be published in the **Federal Register**.

Dated: April 22, 1993.

Eileen Albanese,

Acting Director, Office of Export Licensing.

[FR Doc. 93-10058 Filed 4-28-93; 8:45 am]

BILLING CODE 3510-DT-M

Minority Business Development Agency

[Project I.D. No. 06-10-93007-01]

Business Development Center Applications: Laredo MBDC

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is estimated as \$165,000 in Federal funds. An audit fee of \$4,125 has been added to the Federal amount. The total funding breakdown is as follows: \$169,125 Federal and \$29,846 non-Federal for a total of \$198,971. The period of performance will be from September 1, 1993 to August 1, 1994. The MBDC will operate in the Laredo, Texas MSA geographic service area.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially by regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application

must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the MBDC Program. The application will then be forwarded to the Department for final processing and approval, if appropriate.

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

If the MBDC performs satisfactorily, it may continue to operate after the initial competitive year for up to 2 additional budget periods. An MBDC with year-to-date "commendable" and "excellent" performance ratings (28 consecutive months) may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal Laws and Department of Commerce policies, regulations, and procedures applicable to Federal assistance financial awards.

Consistent with OMB Circular A-129, "Policies for Federal Credit Programs and Non-tax Receivables," no award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, a negotiated repayment schedule is established and at least one payment is received, or other arrangements satisfactory to DoC are made.

Notification that a false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the

conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are unsatisfactory performance of MBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are currently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's managements honesty or financial integrity. Notification that if applicants incur any costs prior to an award being made they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that they may have received, there is no obligation on the part of DOC to cover pre-award costs.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Public Law 100-690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form be completed by each applicant as a precondition for receiving Federal grant or cooperative agreement awards.

"Certification for Contracts, Grants, Loans, and Cooperative Agreement" and CD-511, the "Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying" is required in accordance with section 319 of Public Law 101-121, which generally prohibits recipients of Federal contracts, grants, and loans from using Legislative Branches of the Federal Government in connection with a specific contract, grant or loan. Recipients shall require applicant/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD-512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered by Transactions and Lobbying".

CLOSING DATE: The closing date for applications is June 11, 1993. Applications must be postmarked on or before June 11, 1993. This solicitation may be cancelled based on satisfactory performance of current operator.

ADDRESSES: Please mail completed application to the following address:

Dallas Regional Office, 1100 Commerce St., room 7B23, Dallas, Texas 75242.

FOR ADDITIONAL INFORMATION REGARDING THIS SOLICITATION: Dallas Regional Office, 1100 Commerce Street, room 7B23, Dallas, Texas 75242, Attn: Yvonne Guevara, (214) 767-8001.

Requests for application kit must be in writing.

A pre-bid conference will be held on May 14, 1993 in the Earl Cabell Federal Building, room 7B23, on 1100 Commerce Street, Dallas, Texas at 10 a.m.

SUPPLEMENTARY INFORMATION:

Anticipated processing time of this award is 120 days. Executive Order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(Catalog of Federal Domestic Assistance 11.800 Minority Business Development)

Dated: April 23, 1993.

Melda Cabrera,

Regional Director, Dallas Regional Office.

[FR Doc. 93-10027 Filed 4-28-93; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of decision.

On March 5, 1993, the Secretary of Commerce (Secretary) issued a decision in the consistency appeal of Jorge L. Guerrero-Calderon (Appellant). The Appellant had applied to the U.S. Army Corps of Engineers (Corps) for a permit to construct a wooden pier with mooring pilings and buoys on Culebra Island, Puerto Rico. In conjunction with the Federal permit application, the Appellant submitted to the Corps a certification that the proposed activity is consistent with Puerto Rico's federally approved Coastal Management Program (CMP). The Puerto Rico Planning Board (PRPB), the Commonwealth of Puerto Rico's coastal management agency, reviewed the certification pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1456(c)(3)(A).

On February 9, 1989, the PRPB objected to the Appellant's consistency certification for the proposed project on

the ground that the proposed project is not in accordance with Puerto Rico's CMP policies that protect sea turtle habitat. Under CZMA section 307(c)(3)(A) and 15 CFR 930.131, the PRPB's consistency objection precludes the Corps from issuing a permit for the activity unless the Secretary finds that the activity is either consistent with the objectives or purposes of the CZMA (Ground I) or necessary in the interest of national security (Ground II). The Appellant based his appeal on Ground I.

Upon consideration of the information submitted by the Appellant, the PRPB and several Federal agencies, the Secretary made the following findings pursuant to 15 CFR 930.121(b): The proposed pier will cause adverse effects on the resources of the coastal zone, when performed separately or in conjunction with other activities, substantial enough to outweigh its contribution to the national interest. Because the second element of Ground I was therefore not met, it was unnecessary to examine the other three elements. Accordingly, the proposed project is not consistent with the objectives or purposes of the CZMA.

Because the Appellant's proposed project failed to satisfy all of the requirements of Ground I, the Secretary did not override the Commonwealth's objection to the Appellant's consistency certification. Consequently, the proposed project may not be permitted by Federal agencies. Copies of the decision may be obtained from the contact person listed below.

FOR ADDITIONAL INFORMATION CONTACT: Glenn E. Tallia, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, 1305 East-West Highway, suite 6110, Silver Spring, Maryland 20910; (301) 713-2967.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: April 22, 1993.

James W. Brennan,
Acting General Counsel.

[FR Doc. 93-9965 Filed 4-28-93; 8:45 am]

BILLING CODE 3510-09-M

Endangered and Threatened Species; Permits

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

ACTION: Notice of a revision to application P507B for a scientific research permit.

On September 22, 1992 notice was published (57 FR 43706) that an application has been filed by Washington Department of Fisheries (WDF) for a Permit to take adult listed Snake River fall chinook salmon (*Oncorhynchus tshawytscha*) for the purposes of scientific research, as authorized by the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing listed fish and wildlife (50 CFR parts 217-222).

Notice is hereby given that WDF has revised their application for a Permit as authorized by the ESA and the NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217-227).

WDF requests authorization for the following changes: (1) To radio tag an additional 35 listed adult Snake River fall chinook salmon at Ice Harbor Dam; and (2) to release all radio-tagged listed adult Snake River fall chinook salmon upstream of Ice Harbor Dam, instead releasing half upstream and half below the dam, as in 1992.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, room 8268, 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 the application and revision request summaries are those of the Applicant and do not necessarily reflect the views of NMFS.

Documents submitted in connection with the above application and revision 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 Avenue, room 620, Portland, OR 97232 (503/230-5400).

Dated: April 22, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources.

[FR Doc. 93-10036 Filed 4-28-93; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

NTIS Advisory Board; Meeting

AGENCY: National Technical Information Service, Technology Administration, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app 2, notice is hereby given that the National Technical Information Service Advisory Board will meet Thursday, May 27, 1993, from 9:30 a.m. to 4 p.m. and on Friday, May 28, 1993, from 9 a.m. to 3 p.m. The NTIS Advisory Board is composed of five members appointed by The Secretary of Commerce who are eminent in such fields as information resources management, information technology, and library and information services. The purpose of this meeting is to review and make recommendations regarding general policies and operations of NTIS, including policies in connection with fees and charges for its services. The agenda will include presentations on NTIS modernization, a review of fiscal data, an update on the proposed new facility, and a review of the progress with FedWorld. The NTIS Advisory Board was established by statute (Pub. L. 100-519) on October 24, 1988, and received its charter on September 15, 1989.

DATES: The meeting will convene May 27, 1993, at 9:30 a.m. and will adjourn at 3 p.m. on May 28, 1993.

ADDRESSES: The meeting will be held in room 1412, U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

PUBLIC PARTICIPATION: The meeting will be open to public participation. Approximately thirty minutes each day will be set aside for oral comments or questions as indicated in the agenda. Seats will be available for the public and for the media. Seats will be available on a first-come, first-served basis. Any member of the public may submit written comments concerning the Board's affairs at any time before and after the meeting. Copies of the minutes of the meeting will be available within thirty days from the address given below.

FOR FURTHER INFORMATION CONTACT:

Barbara Hull, NTIS Advisory Board Secretary, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. Telephone: 703-487-4612; by fax 703-487-4093.

Dated: April 23, 1993.

Ronald E. Lawson,
Acting Director.

[FR Doc. 93-9964 Filed 4-28-93; 8:45 am]

BILLING CODE 3610-04-M

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts' next meeting is scheduled for 20 May 1993 at 10 a.m. in the Commission's offices in the Pension Building, suite 312, Judiciary Square, 441 F Street NW., Washington, DC 20001 to discuss various projects affecting the appearance of Washington, DC, including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call (202) 504-2200.

Dated in Washington, DC, 23 April 1993.

Charles H. Atherton,
Secretary.

[FR Doc. 93-10024 Filed 4-28-93; 8:45 am]

BILLING CODE 6330-01-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 93-C0006]

Polly Gaz International Corp., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a settlement agreement under the Federal Hazardous Substances Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Federal Hazardous Substances Act in the Federal Register in accordance with the terms of 16 CFR 1118.20(e)-(h). Published below is a provisionally-accepted Settlement Agreement with Polly Gaz International Corp., a corporation.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by May 14, 1993.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 93-C0006, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Earl A. Gershenow, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0626.

SUPPLEMENTARY INFORMATION: (attached)

Settlement Agreement and Order

1. Polly Gaz International Corp. (hereinafter, "Polly Gaz"), a corporation, enters into this Settlement Agreement (hereinafter, "Agreement") with the staff of the Consumer Product Safety Commission, and agrees to the entry of the Order described herein. The purpose of the Agreement and Order is to settle the staff's allegations that Polly Gaz knowingly caused the introduction into

interstate commerce of certain banned hazardous toys, in violation of section 4(a) of the Federal Hazardous Substances Act, 15 U.S.C. 1263(a).

I. Jurisdiction

2. The Commission has jurisdiction over Polly Gaz and the subject matter of this Settlement Agreement pursuant to section 30(a) of the Consumer Product Safety Act (hereinafter, "CPSA"), 15 U.S.C. 2079(a), and sections 2(f)(1)(D), 4(a), and 5(c) of the Federal Hazardous Substances Act (hereinafter, "FHSA"), 15 U.S.C. 1261(f)(1)(d), 1263(a), and 1264(c).

II. The Parties

3. The "staff" is the staff on the Consumer Product Safety Commission, an independent regulatory commission of the United States established pursuant to section 4 of the CPSA, 15 U.S.C. 2053.

4. Polly Gaz is a corporation organized and existing under the laws of the State of Florida, with its principal corporate offices located at 230 Fifth Avenue, New York, New York 10001. Polly Gaz is engaged in the business of importing, exporting, and selling children's toys in the United States and Mexico.

III. Allegations of the Staff

15. Between February 25, 1991, and September 16, 1992, Polly Gaz caused the introduction into interstate commerce of approximately 16,422 toys intended for use by children under three years of age, which are identified and described below:

CPSC sample No. product ID	Description customs entry No.	CPSC collection/customs entry date	Quantity
M-800-3423, E20	Pretty Mate Tea Set, 0019416-6	02/25/91	150
M-800-3424, H-25-9	Infant cap, entry No. not available	09/12/91	240
M-800-3428, 1055	Baby on swimming ring, 0017830-0	09/12/91	5040
M-862-2550, ES-355	Turtle and blocks, 027-2107781-2	04/10/91	720
P-800-1464, 3060PH	Doll in a bag, H78-0025778-1	01/15/92	4320
P-800-1465, 3073A	Little Amy, H78-0025778-1	01/15/92	2592
P-800-1850, 72391	Doll set, H78-002334-5	09/29/91	1440
P-800-3125, 7005	Education funny train H780031036-6	09/16/92	1920

6. The toys identified in paragraph five above are subject to, but failed to comply with, the Commission's Small Parts Regulation, 16 CFR part 1501, in that when tested under the "use and abuse" test methods specified in 16 CFR 1500.51 and 1500.52, (a) one or more parts of each tested toy separated and

(b) one or more of the separated parts from each of the tested toys fit completely within the test cylinder, as set forth in 16 CFR 1501.4.

7. Because separated parts fit completely within the test cylinder as described in paragraph six above, each of the toys identified in paragraph five

presents a "mechanical hazard" within the meaning of section 2(s) of the FHSA, 15 U.S.C. 1261(s) (choking, aspiration and/or ingestion of small parts).

8. Each of the toys identified in paragraph five above is a "hazardous substance" pursuant to section 2(f)(1)(D) of the FHSA, 15 U.S.C. 1261(f)(1)(D).

9. Each of the toys identified in paragraph five above is a "banned hazardous substance" pursuant to (a) section 2(q)(1)(A) of the FHSA, 15 U.S.C. 1261(q)(1)(A) (any toy or other article intended for use by children which bears or contains a hazardous substance); and (b) 16 CFR 1500.18(a)(9).

10. Polly Gaz knowingly caused the introduction into interstate commerce of the aforesaid banned hazardous toys, in violation of section 4(a) of the FHSA, 15 U.S.C. 1263(a), for which a civil penalty may be imposed pursuant to section 5(c) of the FHSA, 15 U.S.C. 1264(c).

IV. Response of Polly Gaz

11. Polly Gaz denies the allegations of the staff set forth in paragraphs five through ten above that it has knowingly caused the introduction into commerce of the aforesaid banned hazardous toys, or that it has violated the FHSA as alleged by the staff.

V. Agreement of the Parties

12. The Consumer Product Safety Commission has jurisdiction over Polly Gaz and the subject matter of this Settlement Agreement and Order under the following acts: Consumer Product Safety Act, 15 U.S.C. 2051 *et seq.*, and the Federal Hazardous Substances Act, 15 U.S.C. 1261 *et seq.*

13. Polly Gaz agrees to pay to the Commission a civil penalty in the amount of Thirty Thousand and 00/100 Dollars (\$30,000.00), in twelve (12) consecutive monthly installment payments of Twenty-Five Hundred and 00/100 (\$2,500.00) commencing within thirty (30) days after service of the Final Order of the Commission accepting this Settlement Agreement. The date of the first payment shall constitute the anniversary date for all future monthly installment payments. Payment of the full amount of the civil penalty shall settle fully the staff's allegations set forth in paragraphs five through ten above that Polly Gaz violated the FHSA. Any late installment payment under thirty (30) days in duration shall be charged interest at the federal legal rate of interest in effect during the period that the payment is overdue. Any late payment over thirty (30) days duration shall make the entire outstanding balance due and payable with interest at the federal legal rate of interest in effect during the period that the outstanding balance is overdue.

14. The Commission does not make any determination that Polly Gaz knowingly violated the FHSA. The Commission and Polly Gaz agree that this Agreement is entered into for the purposes of settlement only.

15. Upon final acceptance of this Settlement Agreement by the Commission and issuance of the Final Order, Polly Gaz knowingly, voluntarily and completely, waives any rights it may have in this matter (1) to an administrative or judicial hearing, (2) to judicial review or other challenge or contest of the validity of the Commission's actions, (3) to a determination by the Commission as to whether Polly Gaz failed to comply with the FHSA as aforesaid, and (4) to a statement of findings of fact and conclusions of law.

16. For purposes of section 6(b) of the CPSA, 15 U.S.C. 2055(b), this matter shall be treated as if a complaint had issued; and, the Commission may publicize the terms of the Settlement Agreement and Order.

17. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1118.20(e)-(h). If the Commission does not receive any written request not to accept the Settlement Agreement and Order within 15 days, the Settlement Agreement and Order will be deemed finally accepted on the 16th day after the date it is published in the **Federal Register**.

18. The parties further agree that the Commission shall issue the attached Order incorporated here in by reference; and that a violation of the Order shall subject Polly Gaz to appropriate legal action.

19. No agreement, understanding, representation, or interpretation not contained in this Settlement Agreement and Order may be used to vary or to contradict its terms.

20. The provisions of the Settlement Agreement and Order shall apply to Polly Gaz and each of its successors and assigns.

Respondent Polly Gaz Trading Corporation.

Dated: November 24, 1992.

Morris Aboudi,

Vice-President, Polly Gaz International Corp.,
230 Fifth Avenue, New York, New York
10001.

Commission Staff.

David Schmeltzer,

Assistant Executive Director, Office of
Compliance and Enforcement.

Eric L. Stone,

Acting Director, Division of Administrative
Litigation, Office of Compliance and
Enforcement.

Dated: March 8, 1993.

Earl A. Gershenow,

Trial Attorney, Division of Administrative
Litigation, Office of Compliance and
Enforcement.

Dated: March 8, 1993.

Dennis C. Kacoyanis,

Trial Attorney, Division of Administrative
Litigation, Office of Compliance and
Enforcement.

Order

Upon consideration of the Settlement Agreement entered into between respondent Polly Gaz International Corp., a corporation, and the staff of the Consumer Product Safety Commission; and the Commission having jurisdiction over the subject matter and Polly Gaz International Corp.; and it appearing that the Settlement Agreement is in the public interest, it is

Ordered, That the Settlement Agreement be and hereby is accepted, as indicated below; and it is

Further Ordered, That upon final acceptance of the Settlement Agreement, Polly Gaz International Corp. shall pay to the Commission a civil penalty in the amount of Thirty Thousand and 00/100 dollars (\$30,000.00), in twelve (12) consecutive monthly installment payments of Twenty-Five Hundred and 00/100 (\$2,500.00) commencing within thirty (30) days after service of the Final Order of the Commission accepting this Settlement Agreement. The date of the first payment shall constitute the anniversary date for all future installment payments. Payment of the full amount of the civil penalty shall settle fully the staff's allegations set forth in paragraphs five through ten of the Settlement Agreement that Polly Gaz violated the FHSA. For any late installment payment under thirty (30) days in duration, Polly Gaz shall be charged interest, payable to the Commission, in accordance with the rate and method of calculation of interest set forth in 28 U.S.C. 1961 (a) and (b), during the period that the payment is overdue. Any late payment over thirty (30) days duration, shall make the entire outstanding balance due and payable with interest in accordance with 28 U.S.C. 1961 (a) and (b) as set forth above, during the period that the outstanding balance is overdue.

Provisionally accepted and Provisional
Order issued on the 22d day of April 1993.

By Order of the Commission.
Sheldon D. Butts,
Acting Secretary, Consumer Product Safety Commission.

Dated: April 22, 1993.
Sheldon D. Butts,
Acting Secretary.
[FR Doc. 93-10023 Filed 4-28-93; 8:45 am]
BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

Government-owned Inventions; Availability for Licensing

AGENCY: Department of the Navy, DoD.
ACTION: Notice of Availability of
Inventions for Licensing.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are made available for licensing by the Department of the Navy.

Copies of patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for \$3.00 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for \$6.95 each (\$10.95 outside North American Continent). Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the copies of patent applications sold to avoid premature disclosure.

DATES: April 29, 1993.

FOR FURTHER INFORMATION CONTACT:
Mr. R.J. Erickson, Staff Patent Attorney,
Office of Naval Research (Code
OCCIP), Arlington, Virginia 22217-
5660, telephone (703) 696-4001.

Patent 5,120,479: Method of preparing castable, insensitive energetic compositions; filed 15 January 1991; patented 9 June 1992.

Patent 5,123,616: High efficiency, low weight and volume energy absorbent seam; filed 9 September 1991; patented 23 June 1992.

Patent 5,124,481: Synthesis of unsymmetric allyl (alkyl) tellurides; filed 29 April 1991; patented 23 June 1992.

Patent 5,127,945: Effervescent cationic film forming corrosion inhibitor material for use in torpedo launcher tubes; filed 5 August 1991; patented 7 July 1992.

Patent 5,129,800: Single screw interrupted thread positive displacement mechanism; filed 17 July 1991; patented 14 July 1992.

Patent 5,130,890: Cable connector/adaptor support for multi-terminal data processors; filed 10 September 1991; patented 14 July 1992.

Patent 5,131,328: Safety and arming system for tube launched projectile; filed 13 December 1991; patented 21 July 1992.

Patent 5,132,396: Phthalonitrile monomers containing imide and/or phenoxy linkages, and polymers thereof; filed 30 April 1990; patented 21 July 1992.

Patent 5,132,586: Microchannel electron source; filed 8 February 1991; patented 21 July 1992.

Patent 5,137,776: Metal-coated, ordered void piezoelectric ceramic material; filed 27 September 1990; patented 11 August 1992.

Patent 5,138,325: Shipboard sensor exerciser apparatus; filed 1 April 1983; patented 11 August 1992.

Patent 5,140,559: Low flow noise conformal fiber optical hydrophone; filed 21 February 1991; patented 18 August 1992.

Patent 5,140,560: Pressure compensated transducer system with constrained diaphragm; filed 29 July 1988; patented 18 August 1992.

Patent 5,140,636: Interferometric optical fiber data link; filed 2 May 1985; patented 18 August 1992.

Patent 5,142,250: High power microwave generator; filed 14 January 1992; patented 25 August 1992.

Patent 5,142,645: Method and apparatus for generating fraunhofer line laser source using stimulated raman scattering; filed 16 May 1991; patented 25 August 1992.

Patent 5,142,651: Uninterrupted, enhanced-rate, event-line recorder with mixed-speed counter modules; filed 9 October 1991; patented 25 August 1992.

Patent 5,143,047: Material and method for fast generation of hydrogen gas and steam; filed 20 June 1991; patented 1 June 1992.

Patent 5,144,322: Large aperture sparse array antenna system of moderate bandwidth for multiple emitter location; filed 25 November 1988; patented 1 September 1992.

Patent 5,144,643: Improved visual aid for VLF MSK signals; filed 26 June 1990; patented 1 September 1992.

Patent 5,144,889: Apparatus for forming negatively buoyant high-density trash slugs; filed 25 June 1991; patented 8 September 1992.

Patent 5,145,320: Mass loaded composite for vibro-acoustic application; filed 28 August 1990; patented 8 September 1992.

Patent 5,145,435: Metal-glass composite field-emitting arrays; filed 1 November 1990; patented 8 September 1992.

Patent 5,145,506: Method of bonding metal carbides in non-magnetic alloy matrix; filed 5 July 1984; patented 8 September 1992.

Patent 5,145,755: Method of making tetrachloroaluminate + sulfur dioxide electrolytes in which hydrolysis products are removed; filed 29 August 1991; patented 8 September 1992.

Patent 5,146,541: Signal phase pattern sensitive neural network system and method; filed 19 June 1989; patented 8 September 1992.

Patent 5,146,863: Air cushion displacement hull water vehicle; filed 21 October 1991; patented 15 September 1992.

Patent 5,147,731: Stabilized zirconia/corally high temperature coating; filed 11 September 1991; patented 15 September 1992.

Patent 5,147,975: Remotely settable, multi-output, electronic time fuse and method of operation; filed 20 April 1981; patented 15 September 1992.

Patent 5,148,180: Method and apparatus for passive direction finding with sideband determination; filed 15 July 1991; patented 15 September 1992.

Patent 5,149,346: Apparatus for the reduction of vibration in liquid-injected gas compressor system; filed 13 June 1991; patented 22 September 1992.

Patent 5,149,818: Synthesis of aminonitrobenzodifuroxan; filed 1 October 1990; patented 22 September 1992.

Patent 5,149,908: Combustion instability suppression in regenerative liquid propellant gun; filed 19 August 1991; patented 22 September 1992.

Patent 5,149,911: Flexible sheet explosive; filed 6 February 1991; patented 22 September 1992.

Patent 5,150,043: An apparatus and method for non-contact surface voltage probing by scanning photoelectron emission; filed 11 February 1991; patented 22 September 1992.

Patent 5,150,336: Frequency disburse transmitting array; filed 3 September 1991; patented 22 September 1992.

Patent 5,150,450: Methods and circuits for neuron perturbation in artificial neural network modification; filed 1 October 1990; patented 22 September 1992.

Patent 5,151,262: Pyrite cathode material for a thermal battery; filed 7 February 1991; patented 29 September 1992.

Patent 5,151,407: Method of producing bi-sr-ca-cu-o superconducting materials in cast form; filed 28 February 1990; patented 29 September 1992.

Patent 5,151,746: Optical tracking of charged particle beams; filed 1 April 1991; patented 29 September 1992.

Patent 5,152,211: In-line hydraulic dashpot; filed 25 March 1991; patented 6 October 1992.

Patent 5,152,366: Sound absorbing muffler; filed 28 March 1991; patented 6 October 1992.

Patent 5,153,369: Safe and arm device with expansible element in liquid explosive; filed 28 August 1991; patented 6 October 1992.

Patent 5,153,370: Safe and arm device with variable arming delay by liquid explosive; filed 30 August 1991; patented 6 October 1992.

Patent 5,154,537: Barrier curtain; filed 28 May 1991; patented 13 October 1992.

Patent 5,155,281: Preparing dichloroformals; filed 1 June 1984; patented 13 October 1992.

Patent 5,155,288: Aircraft controlled launched container for multiple stores; filed 20 August 1991; patented 13 October 1992.

Patent 5,155,298: Thermally activated case venting safety apparatus; filed 30 September 1991; patented 13 October 1992.

Patent 5,155,322: Compact metallic bellows; filed 21 October 1991; patented 13 October 1992.

Patent 5,155,707: Omni-directional hydrophone; filed 26 November 1991; patented 13 October 1992.

Patent 5,156,357: Micro-T telemetry system; filed 2 August 1982; patented 20 October 1992.

Patent 5,157,225: Controlled fragmentation warhead; filed 19 April 1983; patented 20 October 1992.

Patent 5,157,154: Tetra(organyl) tellurium compounds and process for preparing same; filed 6 February 1990; patented 20 October 1992.

Patent 5,157,337: Dielectric constant measurement probe assembly and apparatus and method; filed 3 October 1990; patented 20 October 1992.

Patent 5,157,342: Precision digital phase lock loop circuit; filed 30 August 1991; patented 20 October 1992.

Patent 5,158,203: Segmented composite cylinder assembly; filed 21 February 1992; patented 27 October 1992.

Patent 5,158,251: Aerodynamic surface tip vortex attenuation system; filed 16 November 1990; patented 27 October 1992.

Patent 5,162,972: Liquid filled variable capacitor; filed 30 March 1982; patented 10 November 1992.

Patent 5,164,361: Method to produce ceramic superconducting filaments bonded to metals; filed 30 June 1989; patented 17 November 1992.

Patent 5,166,643: Remotely controlled C band signal generator; filed 25 February 1992; patented 24 November 1992.

Patent 5,168,749: Apparatus and methods for determining balance of cylindrical vehicle; filed 28 August 1991; patented 8 December 1992.

Patent 5,166,643: Remotely controlled C band signal generator; filed 25 February 1992; patented 24 January 1992.

Patent 5,173,871: Method for providing Emi-emp hardening and breakdown protection in composite materials; filed 20 June 1990; patented 22 December 1992.

Patent 5,174,235: Apparatus for pressurizing a submarine launch tube; filed 25 June 1992; patented 29 December 1992.

Patent 5,174,236: Submarine torpedo tube athwartship motion weapon restrainer; filed 29 June 1992; patented 29 December 1992.

Patent 5,177,997: Dynamic test apparatus for electro-phenological fluids; filed 16 September 1991; patented 12 January 1993.

Patent 5,178,559: Stress relief backshell assembly; filed 26 June 1992; patented 12 January 1993.

Patent Application 801,248: Plasma physics and transportation and use of positively charged particle beams; filed 13 December 1991.

Patent Application 850,370: Certain di-phthalonitrile resins; filed 12 March 1992.

Patent Application 867,862: Plasma reflectors for electronic beam steering in radar systems; filed 7 April 1992.

Patent Application 868,806: Color center laser with transverse auxiliary illumination; filed 15 April 1992.

Patent Application 875,955: Liquid flow reactor and method of using; filed 30 April 1992.

Patent Application 882,230: Method and system for electron beam lithography; filed 13 May 1992.

Patent Application 882,721: Booster explosive rings; filed 14 May 1992.

Patent Application 884,813: Damped linkage for torpedo steering actuator; filed 18 May 1992.

Patent Application 889,885: Method and apparatus for a high resolution, flat panel cathodoluminescent display screen; filed 29 May 1992.

Patent Application 891,027: Improved thrust expansion engine; filed 1 June 1992.

Patent Application 892,068: Underwater sound source with timed actuator; filed 3 June 1992.

Patent Application 892,914: Nonlinear optical composites of metal cluster laden polymers; filed 3 June 1992.

Patent Application 901,618: High melting amino aromatic nitrate esters; filed 15 June 1992.

Patent Application 902,262: Three position power cylinder; filed 22 June 1992.

Patent Application 906,649: Heterodyne array for measurement of target velocity; filed 30 June 1992.

Patent Application 908,986: Towed underwater acoustic speed sensor; filed 2 July 1992.

Patent Application 914,669: Multifilamentary superconducting cable and a method of manufacturing it; filed 7 July 1992.

Dated: April 20, 1993.

Michael P. Rummel,
LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93-9975 Filed 4-28-93; 8:45 am]

BILLING CODE 3810-AE-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting.

Name of Committee: Army Science Board (ASB).

Date of Meeting: 18-19 May 1993.

Time of Meeting: 0800-1700, each day.

Place: Pentagon, 3E385.

Agenda: The Army Science Board's 1993 Summer Study Panel on "Innovative Acquisition Strategies for the 90s" will meet to discuss future Army acquisition strategies and technology opportunities given probable funding constraints. This meeting will be closed to the public in accordance with section 552b. (c) of title 5, U.S.C., specifically subparagraph (1) thereof and title 5, U.S.C. Appendix 2, subsection 10(d). The classified and unclassified information to be discussed will be so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information (703) 695-0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 93-10035 Filed 4-28-93; 8:45 am]

BILLING CODE 3710-06-M

U.S. Court of Military Appeals Code Committee Meeting

AGENCY: Department of Defense.

ACTION: Notice of public hearing.

SUMMARY: This notice announces the forthcoming public meeting of the Code Committee established by Article 146(a), Uniform Code of Military Justice, 10 U.S.C. 946(a), to be held at 3:15 p.m. on May 14, 1993, in The Senate Caucus Room, Senate Russell Office Building, Delaware Avenue and First Street, Northeast, Washington, DC 20510. The agenda for this meeting will include

consideration of the proposed changes to the Manual for Courts-Martial, United States, 1984; as well as other matters relating to the operation of the Uniform Code of Military Justice throughout the Armed Services.

DATES: May 14, 1993.

FOR FURTHER INFORMATION CONTACT:

Thomas F. Granahan, Clerk of Court, United States Court of Military Appeals, 450 E Street, Northwest, Washington, DC 20442-0001, telephone (202) 272-1448.

Dated: April 26, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-10052 Filed 4-28-93; 8:45 am]

BILLING CODE 5000-04-M

Office of the Secretary

Telecommunications Service Priority (TSP) System Oversight Committee

AGENCY: National Communications System, DoD.

ACTION: Notice of meeting.

A meeting of the Telecommunications Service Priority (TSP) System Oversight Committee will convene Friday, June 4, 1993, from 9 a.m. to 4:30 p.m. The meeting will be held at the Sheraton Premiere at Tysons Corner, 8661 Leesburg Pike, Vienna, Virginia. The agenda is as follows:

- Opening/Administrative Remarks
- Review January 21-22, 1993 Meeting Summary and Status of Actions
- TSP Program Office Update
- TSP Ad Hoc Working Group Report
- Review of Action Items
- Old Business/New Business

Anyone interested in attending or presenting additional information to the Committee, please contact the National Communications System TSP Program Office, Bernard Farrell (703) 746-5375 or Susan Flint (703) 692-0040, by May 24, 1993.

Dated: April 26, 1993.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-10053 Filed 4-28-93; 8:45 am]

BILLING CODE 5000-04-M

**Department of the Army
Corps of Engineers**

**Intent To Prepare a Draft
Environmental Impact Statement
(DEIS) for the Proposed Lower Snake
River Juvenile Salmon Biological
Drawdown Test**

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The Corps of Engineers and the National Marine Fisheries Service (NMFS) as joint-lead agencies, intend to prepare an Environmental Impact Statement (EIS) to investigate conducting a biological test of reservoir drawdown. Alternatives will consider various test designs to evaluate the potential of increasing juvenile salmon survival by using pool elevations below normal minimum levels to increase flow velocities through the lower Snake River reservoirs. The lower Snake river reservoir projects, including Lower Granite, Little Goose, Lower Monumental, and Ice Harbor, are located between Lewiston, Idaho and Pasco, Washington.

There is regional interest for developing plans to alter the operations of Corps' water resources projects during the salmon migration period as a potential means of increasing salmon survival. The reservoir drawdown biological tests identified in this EIS are necessary to advance current level of understanding about biological effects of different operating regimes in the reservoirs and at the dams and to develop information that will support decisions on long-term actions. Data from the test may include travel time and survival for juvenile salmon, upstream passage and survival of adult salmon, and effects on resident fish, wildlife, bottom dwelling organisms and water quality. The joint-lead agencies are developing alternatives to assess the full range of biological impacts from reservoir drawdown. The alternatives will be comprised of numerous elements for biological reservoir drawdown testing, including a variety of options for methodology, location, timing, reservoir elevation, and duration. One or more of the alternatives may include reservoir drawdowns to prototype test equipment that will be used to bypass salmon through the dams during a drawdown operation. Alternatives will be limited to those that do not require major structural modifications to the dams on the lower Snake River. Alternatives currently considered include: No action; drawdown on one or more reservoirs on

the lower Snake River; and other alternatives identified during scoping.

The information obtained from a biological drawdown test may be used to modify ongoing, long-term studies such as the Snake River Salmon Recovery Plan to be issued by NMFS, Columbia River Salmon Mitigation Analysis System Configuration Study (CRSMA SCS), and the Columbia River System Operation Review (SOR). This action is being considered in response to a need to protect stocks of Snake River salmon that have been listed as threatened or endangered under the Endangered Species Act. The U.S. Army Corps of Engineers, Walla Walla District, and the U.S. Department of Commerce, National Marine Fisheries Service, Northwest Region, are joint-leaders in preparation of this EIS. Cooperating agencies may be identified during the scoping process.

FOR FURTHER INFORMATION CONTACT:

Questions about the proposed action and DEIS can be answered by: Mr. Peter F. Poolman, Department of the Army, Walla Walla District, Corps of Engineers, CENPW-PL-ER, Building 603, Walla Walla, Washington 99362-9265, (509) 522-6619.

SUPPLEMENTARY INFORMATION: The proposed action is being considered in response to the listing of the Snake River sockeye salmon as an endangered species, and the Snake River spring/summer and fall chinook as threatened under the Endangered Species Act. The NMFS identified hydropower development in the Columbia River Basin as one of the factors considered to be contributing to the decline of the salmon populations. The alternative actions are being considered under the authority of the Endangered Species Act, the Fish and Wildlife Coordination Act, section 216 of the 1970 Flood Control Act, sections 103, 105, and 905 of the 1986 Water Resources Development Act, and the authorizing legislation for the respective projects potentially involved in the proposed action.

The EIS will select a plan of action which is within the authority of the joint lead and cooperating agencies to perform and is implementable in the near future. Measures which require additional congressional authority, involve major construction activities requiring several years to complete, or require extended analysis of the effects on salmon and the environment, are being pursued in the SOR and CRSMA SCS. The SOR, which was initiated in July 1990, is a joint effort by the Corps, Bonneville Power Administration, and the Bureau of Reclamation to review the

multiple-purpose management of Federal projects in the Columbia River Basin, and develop a system operating strategy that considers river uses including the needs of salmon. The CRSMA SCS is evaluating structural modifications or additions to the existing projects which would be necessary to change system operation or which would improve migration conditions for salmon.

Based on preliminary consideration to date, the following have been identified as some of the significant issues requiring analysis in the EIS:

- a. Travel time and survival changes for downstream migrating salmonid juveniles;
- b. Changes in upstream passage, timing, and survival of adult salmon;
- c. Effects on resident fish, wildlife, bottom-dwelling organisms, water quality;
- d. Effects on recreation, navigation, cultural resources;
- e. Effects on dams, operating equipment, and reservoir structures.

The Corps and NMFS and any cooperating agencies will share responsibilities for determining and evaluating impacts within their respective areas of jurisdiction and expertise. The joint lead agencies welcome input to the EIS from affected Federal, State and local agencies, Indian Tribes, and other interested organizations and parties. Other agencies desiring status as cooperating parties should submit written requests to the Corps and/or NMFS.

The normal range of environmental review and consultation in accordance with other environmental statutes, rules, and regulations shall apply to the proposed action. Of primary importance will be compliance with the Endangered Species Act. Compliance may include preparation of one or more Biological Assessments and formal consultation with NMFS and U.S. Fish and Wildlife Service. The Corps and NMFS plan to conduct a series of public scoping meetings in May 1993, to present information on the proposed Environmental Impact Statement actions. Scoping meetings will be held in Lewiston, Idaho, Boise, Idaho, Pasco, Washington, and Portland, Oregon. Specific meeting dates, times, and locations will be provided to the public at a later time. The DEIS is tentatively scheduled for release to the public and agencies for review in September 1993.

Robert D. Volz,

LTC, EN, Commanding.

[FR Doc. 93-10044 Filed 4-28-93; 8:45 am]

BILLING CODE 3710-GC-M

Department of the Navy

CNO Executive Panel; Meeting

Notice was published Thursday, April 8, 1993, at 58 FR 18208, that the Chief of Naval Operations Executive Panel Future Naval Forces Task Force, was to meet on April 22-23, 1993, from 9 a.m. to 5 p.m., in Alexandria, Virginia. That meeting has been rescheduled and will be held on April 29, 1993. That session will be open to the public. The April 30, 1993 session will be closed to the public. All other information in the previous notice remains effective. In accordance with 5 U.S.C. 552b(e)(2), the meeting change is publicly announced at the earliest time.

For further information concerning this meeting contact: J. Kevin Mattonen, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue, room 601, Alexandria, Virginia 22302-0268, Phone (703) 756-1205.

Dated: April 20, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93-9976 Filed 4-28-93; 8:45 am]

BILLING CODE 3810-AE-F

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Stealth and Stealth Countermeasures Task Force will meet May 13, 1993, from 2 p.m. to 3 p.m. in the Pentagon, room 4E630. This session will be closed to the public.

The purpose of this meeting is to do the final out brief for the Task Force on Stealth and Stealth Countermeasures. Matters to be considered will consist of discussions of key issues related to stealth, stealth countermeasures, and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and, are in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: J. Kevin Mattonen, Executive Secretary to the CNO Executive Panel, 4401 Ford Avenue,

room 601, Alexandria, VA 22302-0268, Phone (703) 756-1205.

Dated: April 19, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93-9973 Filed 4-28-93; 8:45 am]

BILLING CODE 3810-AE-F

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Emerging Technologies Task Force will meet May 20-21, 1993, from 8 a.m. to 5 p.m., at Newport News Shipbuilding Corporation and at 4401 Ford Avenue, Alexandria, Virginia. This session will be closed to the public.

The purpose of this meeting is to address naval technological response to changes in military warfare. The entire agenda for the meeting will consist of discussion of key issues regarding direction of technology and technologies necessary for Naval Forces in the role envisioned for them by . . . From the Sea. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: J. Kevin Mattonen, Executive Secretary to the Executive Panel, 4401 Ford Avenue, room 601, Alexandria, VA 22302-0268, Phone (703) 756-1205.

Dated: April 19, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93-9972 Filed 4-28-93; 8:45 am]

BILLING CODE 3810-AE-F

Board of Advisors to the President Naval War College; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Board of Advisors to the President, Naval War College, will meet on May 26-27, 1993, in room 210, Conolly Hall, Naval War College, 686 Cushing Road, Newport, Rhode Island.

The meeting will commence at 8:30 a.m. on May 26, and terminate at approximately 12:30 p.m. on May 27. The purpose of the meeting is to elicit the advice of the Board of educational, doctrinal, and research policies and programs. The agenda will consist of presentations and discussions on the curriculum, programs and plans of the College, and is open to the public.

For further information concerning this meeting, contact: Mrs. Mary Estabrooks, Assistant to the Dean of Academics, Naval War College, 686 Cushing Road, Newport, RI 02841-1207, Telephone Number (401) 841-3589.

Dated: April 20, 1993.

Michael P. Rummel,
LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93-9974 Filed 4-28-93; 8:45 am]

BILLING CODE 3810-AE-F

Office of the Secretary of the Army

Record of Decision (ROD) for the Construction and Operation of Life Sciences Test Facility at U.S. Army Dugway Proving Ground, Utah

AGENCY: Department of Defense, United States Army.

ACTION: Notice of availability.

SUMMARY: The Department of the Army, as Executive Agent for the Department of Defense, is responsible for research, development, testing, and evaluation of equipment and procedures for biological defense. In a 1988 Draft Environmental Impact Statement (FR Vol. 53, No. 28, pp. 3768-3769, February 9, 1988), the Army initially proposed to construct a Biological Aerosol Test Facility (BATF) at Dugway Proving Ground, Utah, designed to biosafety level 4 (BL-4) standards. Following extensive evaluation and public comment, the Army concluded that the construction of a consolidated Life Sciences Test Facility (LSTF) with a BL-3 aerosol test capability would meet Army needs. This new alternative action was addressed in a November 1990 Supplement to the Draft Environmental Impact Statement (FR Vol. 55, No. 228, pp. 49328-49329, November 27, 1990). All comments submitted in writing or in public hearings in response to the Supplemental Draft were addressed in a March 1992 Final Environmental Impact Statement (FR Vol. 57, No. 84, pp. 18470-18471, April 30, 1992).

The Department of the Army announces the ROD for the construction and operation of Life Sciences Test Facility at U.S. Army Dugway Proving Ground, Utah, is available.

As part of the Biological Defense Research Program, the LSTF will support DOD activities in testing and evaluating protective equipment, detection devices, and decontamination techniques. The facility will also provide analytical and environmental support for tests on smoke and obscurants and chemical and biological simulants.

The proposed LSTF would be designed to accommodate administrative functions, general analytical test support activities, and microbiological operations requiring BL-1 through BL-3 containment. Technical support for the non-biological testing programs includes characterization, analysis, and monitoring of smoke, obscurant, and chemical simulants as an adjunct to field tests. Other activities under this program are non-biological protection factor testing, preparation of NEPA documentation for testing activities, and environmental monitoring. Biological defense testing support includes developmental testing of equipment, test methodology development, non-medical assessment of suspected biological threat agents and their impacts, and operational testing. Developmental testing includes the evaluation of biological hazard detectors, protective devices, and decontamination systems, and the ability of equipment to survive decontamination. Because the most realistic biological threat is the delivery of hazardous agents by aerosol, testing procedures focus on this route.

Once the LSTF is fully operational, 15 support buildings and 6 structures in the Baker area, which are neither economically repairable nor needed for future use, would be demolished. Any biological defense-related activity currently being conducted in these buildings and/or structures would be transferred to the LSTF. Use of the other area buildings, including Baker Test Facility, would cease upon completion of the LSTF.

Dated: April 23, 1993.

Lewis D. Walker,
Deputy Assistant Secretary of the Army,
(Environmental, Safety & Occupational Health) OASA (I, L&E).
[FR Doc. 93-9979 Filed 4-28-93; 8:45 am]
BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before June 1, 1993.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Cary Green, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202-4651.

FOR FURTHER INFORMATION CONTACT:

Cary Green (202) 708-5174. Individuals who are hearing impaired 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: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Cary Green at the address specified above.

Dated: April 23, 1993.

Cary Green,

Director, Information Resources Management Service.

Office of Postsecondary Education

Type of Review: Revision

Title: Fulbright-Hays Training Grants: Faculty Research Abroad and Doctoral Dissertation Research Abroad Programs

Frequency: Annually

Affected Public: Individuals or households; state or local governments; non-profit institutions

Reporting Burden:

Responses: 815

Burden Hours: 10,600

Recordkeeping Burden:

Recordkeepers: 0

Burden Hours: 0

Abstract: This form will be used by State Educational agencies to apply for grants under the Fulbright-Hays Faculty Research Abroad and Doctoral Dissertation Research Abroad Programs. The Department will use the information to make grant awards.

[FR Doc. 93-10006 Filed 4-28-93; 8:45 am]

BILLING CODE 4000-01-M

Advisory Council on Education Statistics; Meeting

AGENCY: Advisory Council on Education Statistics, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES AND TIMES: June 17, 1993, 9 a.m.-4 p.m. and June 18, 1993, 9 a.m.-Noon.

ADDRESSES: 555 New Jersey Avenue, NW., room 326, Washington, DC 20208.

FOR FURTHER INFORMATION CONTACT: Barbara Marenus, Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue, room 400A, Washington, DC 20208-7575, telephone: (202) 219-1839.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics (ACES) is established under section 406(c)(1) of the Education Amendments of 1974, Public Law 93-380. The Council is established to review general policies for the operation of the National Center for Education

Statistics (NCES) in the Office of Educational Research and Improvement and is responsible for advising on standards to insure that statistics and analyses disseminated by NCES are of high quality and are not subject to political influence. The meeting of the Council is open to the public.

The proposed agenda includes the following:

- Report on March 1993 ACES resolutions
- Ethics training for Council members
- NAEP 1992 mathematics release
- New approaches to data dissemination
- Options for linking technical review panels to ACES
- Council Business

Records are kept of all Council proceedings and are available for public inspection at the Office of the Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue NW., room 400A, Washington, DC 20208-7575.

Emerson Elliott,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 93-10008 Filed 4-28-93; 8:45 am]

BILLING CODE 4000-01-M

National Assessment Governing Board; Meetings

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of partially closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

Date: May 13-15, 1993.

Time: May 13, Design and Analysis Committee Meeting, 3 p.m.-6 p.m. (open); Subject Area committee #2, 4 p.m.-6 p.m. (open). May 14, Executive Committee Meeting, 7 a.m.-9 a.m. (open); Full Board, 9 a.m.-10:30 a.m. (open); Reporting and Dissemination Committee (open), Subject Area Committee #1 (open); Achievement Levels Committee (closed), 10:30 a.m.-12 noon; Full Board, 12 noon to 1:30 p.m. (closed), 1:30-4:45 p.m. (open). May 15, Full Board, 9 a.m. to 11:30 a.m. (open), 11:30 a.m. to 12 noon (closed).

Location: Madison Hotel, 15th and M Streets, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW., Washington, DC, 20002-4233, Telephone: (202) 357-6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), Title III-C of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100-297), (20 U.S.C. 1221e-1).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons.

On May 13, the Design and Analysis Committee will meet in open session from 3 p.m. to 6 p.m. to review policies on linking, sampling modifications for future state assessments, and to hear a report from the National Center for Education Statistics on compliance with the NAGB item review policy. The Subject Area Committee #2 will meet in open session from 4 to 6 p.m. to hear a presentation on the Dutch visual arts examination system. Also, the committee will be briefed on the NAEP arts education consensus project and the recently completed 1993 field tests in math and science.

On May 14, the Executive Committee will meet in open session from 7 a.m. to 9 a.m. The agenda items for this meeting include consideration of a request for a foreign language version of NAEP; revision of the NAGB by-laws; and, review of the 1994 budget request.

The full Board will convene in open session from 9 a.m. to 10:30 a.m.; the agenda will be reviewed; the Executive Director's report and a progress briefing on the NAEP project will be presented. The Board will recess at 10:30 a.m. for committee meetings.

From 10:30 a.m. to 12 noon, the Reporting and Dissemination Committee, the Subject Area Committee #1, and the Achievement Levels Committee will be in session.

Meeting in open session will be the Reporting and Dissemination Committee. The committee will review the NAGB policy on the reporting of assessment information, and, hear a report from the National Center for

Education Statistics on the plan for releasing the 1992 reading and writing assessment results. The Subject Area Committee #1, also will meet in open session. The committee will hear a presentation on the California integrated arts assessment, followed by an update on the national history standards project.

Meeting in closed session will be the Achievement Levels Committee. The Committee will discuss the 1992 reading achievement level results, and the 1992 writing achievement levels. The discussions will include references to specific items for the assessment, the disclosure of which might significantly frustrate implementation of the NAEP. This meeting must be closed to the public because reference may be made to data which may be misinterpreted, incorrect, or incomplete. Premature disclosure of this data might significantly frustrate implementation of a proposed agency action. Such matters are protected by exemption 9(B) of section 552b(c) of title 5 U.S.C.

At 12 noon, the full Board will reconvene. From 12 noon to 1:30 p.m., the board will meet in closed session to hear a briefing on the 1992 NAEP Reading Results by the NAEP contractor. The presentation and discussion will include references to specific items for the assessment, the disclosure of which might significantly frustrate implementation of the NAEP. This session must be closed to the public because reference may be made to data which may be misinterpreted, incorrect, or incomplete. Premature disclosure of this data might significantly frustrate implementation of a proposed agency action. Such matters are protected by exemption 9(B) of section 552b(c) of title 5 U.S.C.

From 1:30 p.m. to adjournment, 4:45 p.m., the full Board meeting will be open to the public. The agenda for the open portion includes a symposium on linking test results, and a presentation on the British Arts Assessment.

On May 15, the full Board will meet from 9 a.m. until 11:30 a.m., in open session, and 11:30 a.m. to 12 noon, in closed session.

During the open portion, the Board will hear a panel presentation on possible extensions of the NAEP project, and reports from the NAGB committees: Subject Area Committees #1, Subject Area Committee #2, Reporting and Dissemination Committee, Design and Analysis Committee, and the Executive Committee.

In the closed portion (11:30 a.m. to 12 noon), the Board will hear the Achievement Levels Committee report pertaining to the 1992 reading

achievement levels, and the 1992 writing achievement levels. The discussion will include references to specific items for the assessment, the disclosure of which may significantly frustrate implementation of the NAEP. This session must be closed to the public because reference may be made to data which may be misinterpreted, incorrect, or incomplete. Premature disclosure of this data might significantly frustrate implementation of a proposed agency action. Such matters are protected by exemption 9(B) of section 552b(c) of title 5 U.S.C.

A summary of the activities of the closed sessions and related matters, which are informative to the public and consistent with the policy of section 5 U.S.C. 552b, will be available to the public within 14 days after the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, suite 825, 800 North Capitol Street, NW., Washington, DC, from 8:30 a.m. to 5 p.m.

Dated: April 23, 1993.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 93-9978 Filed 4-28-93; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No.: 84.116F]

Fund for the Improvement of Postsecondary Education—Innovative Projects for Community Service Competition; Inviting Applications for New Awards for Fiscal Year (FY) 1993

Purpose of Program: Provides grants to encourage students to participate in community service activities.

Eligible Applicants: Institutions of higher education, combinations of those institutions, and other public and private, nonprofit institutions and agencies.

Deadline for Transmittal of Applications: June 15, 1993.

Deadline for Intergovernmental Review: August 15, 1993.

Applications Available: April 30, 1993.

Available Funds: \$1,436,416.

Estimated Range of Awards: \$10,000—\$70,000.

Estimated Average Size of Awards: \$50,000.

Estimated Number of New Awards: 20.

Note: The Department is not bound by any estimates in this notice.

Project Period: 12 to 24 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 85, and 86; and (b) the regulations for this program in CFR part 630. (Note: Paragraph (a)(1) of the selection criteria does not include a reference to 34 CFR 630.11, since that section, as it applies to the Innovative Projects for Community Service program, has been overridden by the 1992 statutory amendments to the Higher Education Act.)

Selection Criteria: In evaluating applications for grants under this program competition, the Secretary uses the following selection criteria chosen from those listed in 34 CFR 630.32.

(a) *Significance for Postsecondary Education.* The Secretary reviews each proposed project for its significance in improving postsecondary education by determining the extent to which it would—

(1) Achieve the purpose of the Innovative Projects for Community Service Program.

(2) Address an important problem or need;

(3) Represent an improvement upon, or important departure from, existing practice; and

(4) Achieve far-reaching impact through improvements that will be useful in a variety of ways and a variety of settings.

(b) *Feasibility.* The Secretary reviews each proposed project for its feasibility by determining the extent to which—

(1) The proposed project represents an appropriate response to the problem or need addressed;

(2) The applicant is capable of carrying out the proposed projects as evidenced by, for example—

(i) The applicant's understanding of the problem or need;

(ii) The quality of the project design, including objectives, approaches, and evaluation plan;

(iii) The adequacy of resources, including money, personnel, facilities, equipment, and supplies;

(iv) The qualifications of key personnel who would conduct the project; and

(v) The applicant's relevant prior experience;

(3) The applicant and any other participating organizations are committed to the success of the proposed project, as evidenced by, for example

(i) Contribution of resources by the applicant and by participating organizations;

(ii) Their prior work in the area; and

(iii) The potential for continuation of the proposed project beyond the period

of funding (unless the project would be self-terminating);

(4) The proposed project demonstrates potential for dissemination to or adaptation by other organizations, and shows evidence of interest by potential users.

(c) *Appropriateness of funding projects.* The Secretary reviews each application to determine whether support of the proposed project by the Secretary is appropriate in terms of the availability of other funding sources for the proposed activities.

The Secretary will give equal weight to each of the subcriteria. In applying the criteria the Secretary first analyzes an application in terms of each individual criterion. The Secretary then bases the final judgement of an application on an overall assessment of the degree to which the applicant addresses all selection criteria.

For Applications or Information Contact: Fund for the Improvement of Postsecondary Education (FIPSE), U.S. Department of Education, 400 Maryland Avenue SW., room 3100, ROB-3, Washington, DC 20202-5175. Telephone: (202) 205-0082 to order applications; or (202) 708-5750 for information. Individuals who are hearing-impaired may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1137-1137a.

Dated: April 23, 1993.

Maureen A. McLaughlin,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 93-10007 Filed 4-28-93; 8:45 am]

BILLING CODE 4000-01-U

DEPARTMENT OF ENERGY

Office of Fossil Energy

[Docket No. FE C&E 93-09; Certification Notice-119]

Filing Certification of Compliance: Coal Capability of New Electric Powerplant; Powerplant and Industrial Fuel Use Act

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Kamine/Besicorp Allegany L.P. has submitted a coal capability self-certification pursuant to section 201 of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

ADDRESSES: Copies of self-certification filings are available for public

inspection upon request in the Office of Fuels Programs, Fossil Energy, room 3F-056, FE-52, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell at (202) 586-9624.

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 et seq.), provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. In order to meet the requirement of coal capability, the owner or operator of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) on the day it is filed with the Secretary. The Secretary is required to publish a notice in the Federal Register that a certification has been filed. The following owner/operator of a proposed new baseload powerplant has filed a self-certification in accordance with section 201(d).

Owner: Kamine/Besicorp Allegany L.P.
Operator: Stewart & Stevenson Operations, Inc.

Location: Allegany County, New York
Plant Configuration: Combined cycle cogeneration

Capacity: 55 megawatts

Fuel: Natural gas

Purchasing Utilities: Rochester Gas and Electric Corporation

Expected In-Service Date: November 1, 1994.

Issued in Washington, DC, on April 21, 1993.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-10097 Filed 4-28-93; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project Nos. 233-047, et al.]

Hydroelectric Applications [Pacific Gas & Electric Co., et al.]; Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. *Type of Application:* Amendment of license.

b. *Project No:* 233-047.

c. *Date Filed:* March 10, 1993.

d. *Applicant:* Pacific Gas and Electric Company.

e. *Name of Project:* Pit 3, 4, and 5.

f. *Location:* Lake Britton on the Pit River in Shasta County, California.

g. *Filed Pursuant to:* Section 23(b) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Mr. Steve Christ, Pacific Gas and Electric Company, 201 Mission Street, Room 1011P, P.O. Box 770000, Mail P10A, San Francisco, CA 94177, (415) 973-2629.

i. *FERC Contact:* Mr. Steve Hocking, (202) 219-2656.

j. *Comment Date:* June 7, 1993.

k. *Description of Project:* Pacific Gas and Electric Company has filed a license amendment request to temporarily raise the normal maximum surface elevation of Lake Britton by 1 foot during the following dates: October 1, 1993 to March 1, 1994, and October 1, 1994 to March 1, 1995.

The purpose of this test is to evaluate the environmental effects of the increase for possible recommendation to make the increase permanent. All increases in lake levels, either temporary or permanent, must be approved by the Commission.

1. This notice also consists of the following standard paragraphs: B, C, and D2.

2 a. *Type of Application:* New Major License.

b. *Project No.:* 2376-001.

c. *Date filed:* December 13, 1991.

d. *Applicant:* Appalachian Power Company.

e. *Name of Project:* Reusens.

f. *Location:* On the James River in the City of Lynchburg, Virginia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. B. H. Bennett, Assistant Vice President, American Electric Power, Service Corporation, 1 Riverside Plaza, Columbus, Ohio 43215, (614) 223-2930.

i. *FERC Contact:* Mr. Hector Perez, (202) 219-2843

j. *Comment Date:* Sixty days from the date of issuance of this notice. June 1, 1993.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D9.

1. *Description of Project:* The peaking project consists of: (1) A 25-foot-high, 416-foot-long concrete dam and spillway section topped with eight 16 $\frac{3}{4}$ -foot-high flood gates; (2) a 25-foot-high, 125-foot-long curved auxiliary spillway section topped with 7 $\frac{1}{4}$ -foot-high

flashboards; (3) a 500-acre impoundment; (4) two powerhouses, one containing three generating units with a total installed capacity of 7,500 kW, and one containing two generating units with a total installed capacity of 5,000 kW; and (5) appurtenant facilities.

The Applicant is not proposing any changes to the existing project works as licensed. The average annual generation for the project is 37,280 MWh.

m. Purpose of Project: All energy generated by the project would be utilized by the customers of the Appalachian Power Company.

n. This notice also consists of the following standard paragraphs: D9.

o. Available Locations 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 the Appalachian Power Company, located at 40 Franklin Road, Roanoke, Virginia 24022, or by calling Mr. B. H. Bennett at (614) 223-2930.

3 a. Type of Application: New Major Licenses

b. Project Nos.: 2436-007, 2447-008, 2448-011, 2449-007, 2450-005, 2453-003.

c. Date Filed: December 19, 1991.

d. Applicant: Consumers Power Company.

e. Name of Project: Foote (Project No. 2436-007), Alcona (Project No. 2447-008), Milo (Project No. 2448-011), Loud (Project No. 2449-007), Cooke (Project No. 2450-005), Five Channels (Project No. 2453-003).

f. Location: On the Au Sable River within the Huron National Forest in Iosco, Alcona and Oscoda, Counties, Michigan

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Mr. Thomas W. Bowes, 330 Chestnut Street, Cadillac, MI 49601, (616) 775-0176.

i. FERC Contact: Ms. Julie Bernt, (202) 219-2814

j. Comment Date: See paragraph D9. June 1, 1993.

k. Status of Environmental Analysis: These applications are ready for environmental analysis at this time—see attached paragraph D9.

l. Description of Projects:

Foote—The licensed project would consist of: (1) A 3,800-foot-long earth embankment dam; (2) a reservoir with a surface area of 1,702 acres and a storage capacity of 32,380 acre-feet; and, (3) a total rated capacity of 9 MW.

Alcona—The licensed project would consist of: (1) A 4,820-foot-long earth embankment dam; (2) a reservoir with a surface area of 1,006 acres and a storage capacity of 12,547 acre-feet; and, (3) a total rated capacity of 8 MW.

Milo—The licensed project would consist of: (1) A 2,120-foot-long earth embankment dam; (2) a reservoir with a surface area of 661 acres and a storage capacity of 6,061 acre-feet; and, (3) a total rated capacity of 5 MW.

Loud—The licensed project would consist of: (1) A 2,000-foot-long earth embankment dam; (2) a reservoir with a surface area of 743 acres and a storage capacity of 6,987 acre-feet; and, (3) a total rated capacity of 4 MW.

Cooke—The licensed project would consist of: (1) A 700-foot-long earth embankment dam; (2) a reservoir with a surface area of 1,627 acres and a storage capacity of 26,749 acre-feet; and, (3) a total rated capacity of 9 MW.

Five Channels—The licensed project would consist of: (1) A 620-foot-long earth embankment dam; (2) a reservoir with a surface area of 212 acres and a storage capacity of 3,419 acre-feet; and, (3) a total rated capacity of 6 MW.

The existing projects would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

A joint Offer of Settlement among Consumers Power Company, the U.S. Forest Service, the U.S. Fish and Wildlife Service, the Michigan Department of Natural Resources, the National Park Service and the Michigan State Historic Preservation Officer was filed with the Commission on December 17, 1992, and was supplemented on March 25, 1993.

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: A4 and D9.

o. Available Location of Application: A copy of the application and the Offer of Settlement Agreement are 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. Copies are also available for inspection and reproduction at Consumers Power Company, 330 Chestnut Street, Cadillac, MI 49601, or by calling (616) 775-0176.

4. a. Type of Application: New Major Licenses.

b. Project Nos.: 2451-004, 2452-007, 2468-003.

c. Date filed: December 19, 1991.

d. Applicant: Consumers Power Company.

e. Name of Project: Rogers (Project No. 2451-004), Hardy (Project No. 2452-007), Croton (Project No. 2468-003).

f. Location: On the Muskegon River within the Mainstee National Forest in Mecosta and Newaygo Counties, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Applicant Contact: Mr. Thomas W. Bowes, 330 Chestnut Street, Cadillac, MI 49601, (616) 775-0176.

i. FERC Contact: Ms. Julie Bernt, (202) 219-2814.

j. Comment Date: See paragraph D9. June 1, 1993.

k. Status of Environmental Analysis: These applications are ready for environmental analysis at this time—see attached paragraph D9.

l. Description of Projects:

Rogers—The licensed project would consist of: (1) a 600-foot-long earth embankment dam; (2) a reservoir with a surface area of 449 acres and a storage capacity of 4,678 acre-feet; and, (3) a total rated capacity of 6.7 MW.

Hardy—The licensed project would consist of: (1) a 2,600-foot-long earth embankment dam; (2) a reservoir with a surface area of 3,902 acres and a storage capacity of 134,973 acre-feet; and, (3) a total rated capacity of 30 MW.

Croton—The licensed project would consist of: (1) a 370-foot-long earth embankment dam; (2) a reservoir with a surface area of 1,209 acres and a storage capacity of 21,932 acre-feet; and, (3) a total rated capacity of 8.8 MW.

The existing projects would also be subject to Federal takeover under Sections 14 and 15 of the Federal Power Act.

A joint Offer of Settlement among Consumers Power Company, the U.S. Forest Service, the U.S. Fish and Wildlife Service, the Michigan Department of Natural Resources, the National Park Service and the Michigan State Historic Preservation Officer was filed with the Commission on December 17, 1992, and was supplemented on March 25, 1993.

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: A4 and D9.

o. Available Location of Application: A copy of the application and the Offer of Settlement Agreement are 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. Copies are also available for inspection and reproduction at Consumers Power Company, 330 Chestnut Street, Cadillac, MI 49601, or by calling (616) 775-0176.

5 a. *Type of Application:* Material Amendment of License Application.

b. *Project No.:* 4715-006.

c. *Date Filed:* December 30, 1992.

d. *Applicant:* Felts Mills Energy Partners, L.P.

e. *Name of Project:* Felts Mills.

f. *Location:* On the Black River in Jefferson County, New York.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)-825(r).

h. *Applicant Contact:* Mary E. Leonard, 12 Groton Avenue, P.O. Box 787, Cortland, NY 13045, (607) 753-3551.

i. *FERC Contact:* Charles T. Raabe (tag) (202) 219-2811.

j. *Deadline Date:* June 1, 1993.

k. *Status of Environmental Analysis:* This application has previously been declared ready for environmental analysis.

l. *Description of Project:* The proposed project would consist of a Lower Dam development and an Upper Dam development. The two developments are about 1.1 miles apart. The existing Middle Dam, except the submerged wood crib dam, would be demolished. The existing abandoned mill at the Lower Dam would be demolished.

(A) The Lower Dam development would consist of: (1) an about 2,160-foot-long and 25.5-foot-high concrete gravity dam, consisting of a right bank section, a fuse plug dike section, an auxiliary gated spillway section, a powerhouse section, and a left bank retaining wall section; (2) a reservoir with water surface area of 142 acres, a gross storage capacity of 850 acre-feet, and a normal water surface elevation of 588.5 feet USGS; (3) a forebay approximately 70 feet long, 70 feet wide, and 36 feet deep; (4) a powerhouse containing two generating units with a total installed capacity of 8,133 kW; (5) a tailrace approximately 600 feet long and 70 feet wide; (6) a powerhouse yard with security fence; (7) an about 260-foot-long access road to the powerhouse; (8) a rockfill embankment on the south shore; (9) a 13.8-kV transmission line, approximately 1,600 feet long; and (10) appurtenant facilities.

(B) The Upper Dam development would consist of: (1) an about 510-foot-long and 26.5-foot-high concrete gravity dam, consisting of an existing modified spillway section with canoe chute, a new gated spillway section, an approach channel spillway section, a gated ice

sluice section, and a powerhouse section; (2) a reservoir with a water surface area of 220 acres, a gross storage capacity of 1,100 acre-feet, and a water surface elevation of 608.9 feet USGS; (3) an about 390-foot-long, 70-foot-wide, and 50-foot-deep power canal with trash boom and security fence; (4) a powerhouse containing two generating units with a total installed capacity of 5,030 kW; (5) a tailrace, approximately 100 feet long and 70 feet wide; (6) an about 140-foot-long access road to the powerhouse; (7) an about 90-foot span bridge across the power canal; (8) a 13.8-kV transmission line approximately 10,560 feet long; and (9) appurtenant facilities.

The project would have a total installed capacity of 13,163 kW. The applicant estimates that the average annual generation would be 62,570,000 kWh.

m. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

n. *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, and at the Office of Ruthig & Leonard, 12 Groton Avenue, Cortland, New York 13045.

6 a. *Type of Application:* Surrender of Exemption (5MW or Less).

b. *Project No.:* 6219-002.

c. *Date filed:* April 6, 1993.

d. *Applicant:* Warren Hydro Company.

e. *Name of Project:* Warren Hydro Project.

f. *Location:* On the Mad River near the town of Warren, in Washington County, Vermont.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C., 791(a)-825(r).

h. *Applicant Contact:* Mr. L. Macrae Rood, Warren Hydro Company, Box 142, Warren, VT 05674, (802) 496-5200.

i. *FERC Contact:* Etta Foster, (202) 219-2679.

j. *Comment Date:* June 7, 1993.

k. *Description of Proposed Action:* The existing project for which the exemption is being surrendered consists of: (1) An 80-foot-long, 18-foot-high crib dam with 24-inch-high flashboards; (2) a 2.5-acre pond at a surface elevation of 896 feet Mean Sea Level; (3) a 30-foot-long intake channel; (4) a 4-foot-diameter, 60-foot-long steel penstock; (5) a powerhouse containing two generating units with a total rated capacity of 80 kW; (6) a 15-foot-long

tailrace; (7) a 500-foot-long transmission line; and (8) appurtenant facilities.

The exemptee is requesting surrender of its exemption because the project is not economically feasible.

1. This notice also consists of the following standard paragraphs: B, C, and D2.

7 a. *Type of Application:* Changes to Project Design.

b. *Project No.:* 9088-017.

c. *Date Filed:* March 30, 1993.

d. *Applicant:* Southern N. H. Hydroelectric Development Corp.

e. *Name of Project:* Lower Village Water Power Project.

f. *Location:* On the Sugar River near the town of Claremont, in Sullivan County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. John Webster, President, Southern N. H. Hydroelectric Corp., P.O. Box 178, 293 Main Street, South Berwick, ME 03908, (207) 384-5334.

i. *FERC Contact:* Mohamad Fayyad, (202) 219-2665.

j. *Comment Date:* June 7, 1993.

k. *Description of Amendment:* Licensee proposes to modify project's design as follows: (1) Re-aligning the 250-foot-long concrete spillway wall; (2) removing the existing 95-foot-long concrete weir, and the 75-foot-long wing wall. Due to the spillway wall alignment the surface area of the impoundment would be about 0.68 acre, and its storage capacity would be about 5 acre-foot. The reservoir water surface elevation would remain at 423.1 feet msl.

1. This notice also consists of the following standard paragraphs: B, C, and D2.

8 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11366-000.

c. *Date filed:* December 14, 1992.

d. *Applicant:* French Creek Hydroelectric Company.

e. *Name of Project:* French Creek Hydroelectric Project.

f. *Location:* On French Creek in Marion County, Oregon, near the town of Detroit. T. 9S., R. 5E, sections 28, 27, 26, and 35. Willamette Meridian and Base.

The project would occupy lands within the Willamette National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:*

Mr. Mike Hayford, P.E., Consulting Engineer, 1201 S.W. 12th Avenue, Suite 415, Portland, OR 97205, (503) 222-0190

Steve P. Barrish, Project Engineer, 1004 SE 97th Avenue, Vancouver,

WA 98664, (206) 254-2423.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely (202) 219-2842.

j. *Comment Date:* June 3, 1993.

k. *Description of Project:* The proposed project would consist of: (1) An intake structure at elevation 2,320 feet msl; (2) a 48-inch-diameter, 17,400-foot-long penstock; (3) a powerhouse containing a single generating unit with an installed capacity of 2,800 kW, producing an estimated average annual energy output of 22.982 MWh; (4) a tailrace; and (5) a 1,400-foot-long, 69-kV transmission line tying into an existing line.

The applicant estimates the cost of the studies to be conducted under the preliminary permit at \$25,000. No new roads will be needed for the purpose of conducting these studies.

l. *Purpose of Project:* Project power would be sold to a local utility or a state municipality.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

9a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11387-000.

c. *Date filed:* February 23, 1993.

d. *Applicant:* Cascade Energy Limited Partnership.

e. *Name of Project:* Lewis River Pumped Storage Project.

f. *Location:* On the Lake Merwin section of the Lewis River, approximately 19 miles southeast of the city of Longview, in Cowlitz and Clark Counties, Washington. Sections 9, 10, 15, 16, 22, 33, and 34 in T6N, R3E; sections 3 and 4 in T5S, R3E.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Robert D. Looper, Cascade 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:* June 3, 1993.

k. *Description of Project:* The applicant is exploring two alternative schemes for the proposed pumped storage project. Both alternatives would utilize PacifiCorp's existing Lake Merwin (FERC Project No. 935) as a lower reservoir. The first alternative would also consist of: (1) A 240-foot-high dam and 105-acre upper reservoir; (2) a 26-foot-diameter, 6,800-foot-long penstock; (3) a powerhouse containing four generating units with a total installed capacity of 700 MW; (4) two 26-foot-diameter, 1,500-foot-long tailraces; and (5) appurtenant facilities.

The second alternative would also consist of: (1) a 150-foot-high dam, a

100-foot-high dam, and an 84-acre upper reservoir; (2) a 24-foot-diameter, 3,800-foot-long penstock; (3) a powerhouse containing three generating units with a total installed capacity of 500 MW; (4) two 24-foot-diameter, 1,350-foot-long tailraces; 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.

1. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

10 a. *Type of Application:* Minor License.

b. *Project No.:* 11402-000.

c. *Date filed:* April 2, 1993.

d. *Applicant:* City of Crystal Falls.

e. *Name of Project:* Crystal Falls.

f. *Location:* On the Paint River in the City of Crystal Falls, Iron County, Michigan.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* W.E. Hagglund, 401 Superior Avenue, Crystal Falls, MI 49920, (906) 875-3212.

i. *FERC Contact:* Charles T. Raabe (dt) (202) 219-2811.

j. *Comment Date:* Within 60 days of the date filed shown in paragraph (c). (June 1, 1993).

k. *Description of Project:* The existing, operating facility consists of a dam, a reservoir, and a powerhouse with an installed capacity of 1,000-kW.

l. With this notice, we are initiating consultation with the STATE HISTORIC PRESERVATION OFFICER (SHPO), as required by § 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

A3. *Development Application*—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the

competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A4. *Development Application*—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

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.

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.

D9. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (June 1, 1993 for Project Nos. 2371-001, 2436, *et al.*, and 2451-004, *et al.*). All reply comments must be filed with the Commission within 105 days from the date of this notice. (July 14, 1993 for Project Nos. 2371-001, 2436, *et al.*, and 2451-004, *et al.*).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (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 submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). 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, N.E., Washington, D.C. 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. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Dated: April 26, 1993, Washington, DC.
Lois D. Cashell,
Secretary.
[FR Doc. 93-10098 Filed 4-28-93; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER93-563-000]

Massachusetts Electric Co.; Filing

April 23, 1993.

Take notice that on April 14, 1993, Massachusetts Electric Company (MECo) tendered for filing a Notice of Partial Termination for the Service Agreement for Borderline Sales, dated July 9, 1992, between MECo and Western Massachusetts Electric Company.

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 May 7, 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. 93-10004 Filed 4-28-93; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER93-572-000]

Northern States Power Co. (Minnesota) and Northern States Power Co. (Wisconsin); Filing

April 23, 1993.

Take notice that on April 16, 1993, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (jointly "NSP Companies") tendered for filing certain Transmission Service Agreements entered into by the NSP Companies pursuant to the NSP Companies FERC Electric Tariff Original Volume No. 1.

The NSP Companies request acceptance for filing of one standard form Transmission Service Agreements under the Original Tariff with Interstate Power Company effective May 1, 1993. The NSP Companies request acceptance for filing of a standard form Transmission Service Agreements under the Settlement Tariff with Wisconsin

Public Service Corporation effective April 19, 1993. The NSP Companies request any waiver necessary to allow the agreements to be accepted for filing on the dates requested.

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 May 7, 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. 93-10005 Filed 4-28-93; 8:45 am]

BILLING CODE 5717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4619-4]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3502 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 1, 1993.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Notification of Episodic Releases of Oil and Hazardous Substances, EPA ICR # 1049.06. This ICR requests renewal of a currently approved collection (OMB #2050-0046).

Abstract: The Comprehensive Environmental Response,

Compensation, and Liability Act of 1980 (CERCLA) establishes broad Federal authority to respond to releases of hazardous substances from vessels and facilities. The term "hazardous substance" is defined in section 101(14) of CERCLA by reference to other environmental statutes, including Clean Water Act (CWA) sections 311 and 307; Clean Air Act (CAA) section 112; the Resource Conservation and Recovery Act (RCRA) section 3001; the Toxic Substances Control Act (TSCA) section 7; and CERCLA section 102(a). There are currently 793 CERCLA hazardous substances, approximately 1,500 radionuclides, and an unspecified number of unlisted RCRA hazardous wastes that are also considered CERCLA hazardous substances. The most recent addition to the CERCLA list of hazardous substances is the 51 hazardous air pollutants listed pursuant to CAA section 112.

Each CERCLA hazardous substance is assigned an 'RQ' which is the quantity of hazardous substance that, when released into the environment, triggers CERCLA section 103 reporting requirements. Section 103(a) requires the person in charge of a facility to immediately notify the National Response Center (NRC) of any hazardous substance release that equals or exceeds its RQ. The information that must be provided to the NRC in the notification includes general background information, such as the location of the incident and the name and address of the discharger, as well as more detailed information about the circumstances surrounding the release, including the type of material(s) released, environmental medium(a) affected, and cause(s) and source(s) of the release. Notification under CERCLA section 103(a) is intended to ensure that Federal authorities receive prompt notification of hazardous substance releases for which a timely response may be necessary to protect public health or welfare or the environment.

Burden Statement: The estimated annual public reporting burden for this collection of information is estimated to average 4.1 hours per release, including time for reviewing regulatory requirements, gathering the required release information, contacting the NRC about the release, and keeping a log.

Respondents: Anyone in charge of a facility or vessel from which a hazardous substance was spilled or released into the environment in quantities greater than its RQ.

Estimated No. of Respondents: 52,100 release reports.

Estimated Total Annual Burden on Respondents: 213,700 hours.

Frequency of Collection: On occasion—when a release above the RQ occurs.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, to: Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW., Washington, DC 20460; and Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530

Dated: April 23, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93-10064 Filed 4-28-93; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4619-6]

Effluent Guidelines Task Force; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The Effluent Guidelines Task Force, an EPA advisory committee, will hold a meeting to discuss improvements to the Agency's Effluent Guidelines Program. The meeting is open to the public.

DATES: The meeting will be held on May 18, 1993, from 8:30 a.m. to 5 p.m., and May 19, 1993, from 8:30 a.m. to 3 p.m.

ADDRESSES: The meeting will take place at the Sheraton National Hotel, Columbia Pike at South Orme Street, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Eric Strassler, Effluent Guidelines Task Force Staff Director, Office of Water (WH-552), 401 M Street SW., Washington, DC 20460; telephone 202-260-7150, fax 202-260-7185.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), the Environmental Protection Agency gives notice of a meeting of the Effluent Guidelines Task Force (EGTF). The EGTF is a subcommittee of the Technology Innovation and Economics Committee, under the National Advisory Council for Environmental Policy and Technology (NACEPT), the external policy advisory board to the Administrator of EPA.

The EGTF was established in July of 1992 to advise EPA on the Effluent Guidelines Program, which develops regulations for dischargers of industrial wastewater pursuant to title III of the Clean Water Act (33 U.S.C. 1251 *et seq.*).

The Task Force consists of members appointed by EPA from industry, citizen groups, state and local government, the academic and scientific communities, and EPA regional offices.

The meeting agenda will include reports from Task Force work groups on specific problem areas, including: selection criteria and methodology for preliminary industry studies, the role of non-water quality impacts and pollution prevention in effluent guidelines, and redesigning the data collection and/or rulemaking processes for effluent guidelines.

The meeting will be open to the public. Limited seating for the public is available on a first-come, first-served basis. The public may submit written comments for the Task Force to Eric Strassler at the above address. Comments submitted by May 11 will be considered by the Task Force at or subsequent to the meeting.

Dated: April 23, 1993.

Gordon Schisler,

Acting NACEPT Designated Federal Official.

[FR Doc. 93-10078 Filed 4-28-93; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4619-1]

Interim Report on TCDD Aquatic Risks; Availability

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: The U.S. Environmental Protection Agency (EPA) Office of Research and Development has prepared a report titled *Interim Report on Data and Methods for the Assessment of 2,3,7,8-Tetrachlorodibenzo-p-Dioxin (TCDD) Risks to Aquatic Organisms and Associated Wildlife* (EPA/600/R-932/055). The report is not a risk assessment. Rather, it provides data and describes exposure, bioaccumulation and toxic effects relationships for evaluating specific TCDD contamination problems.

ADDRESSES: To obtain a single copy of this report, interested parties should contact the U.S. EPA Office of Research and Development Publications Office, CERL, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, OH 45268, Telephone: (513) 569-7562. Please provide your name, mailing address, and EPA document number EPA/600/R-932/055. The document will be distributed from the Cincinnati office only.

The Interim report also will be available for public inspection at the

ORD Public Information Shelf, EPA Headquarters Library, Waterside Mall, 401 M Street, SW., Washington, DC 20460, between the hours of 10 a.m. and 4 p.m., Monday through Friday, except for Federal holidays.

FOR FURTHER INFORMATION CONTACT:

For further information on this Federal Register notice or technical aspects of the interim report, contact Philip M. Cook, U.S. Environmental Protection Agency, Environmental Research Laboratory, 6201 Congdon Boulevard, Duluth, MN 55804, Telephone: (218) 720-5553.

SUPPLEMENTARY INFORMATION: In April 1991, EPA Administrator William K. Reilly announced that the Agency would conduct a scientific reassessment of human health risks associated with exposure to 2,3,7,8-TCDD and similar chemicals present in the environment. The reassessment plan includes a component on the risks of TCDD to aquatic life and associated wildlife.

Research to provide needed exposure and effects information to better characterize these risks was initiated in September 1991. Because the results of this research effort will not be complete until June 1995, this interim report was prepared to critically review and evaluate existing data and models for analyzing TCDD exposure to, and effects on, aquatic wildlife, and to identify major uncertainties. The report addresses TCDD exposure to and bioaccumulation in aquatic organisms, TCDD toxic effects on aquatic life and wildlife, and comments on aspects of risk characterization to exemplify approaches and applicability of current information.

The report will serve as a background document for a peer panel meeting of scientists and risk assessment experts on use of the data and methods in the report to assess dioxin-related ecological risks. This meeting will be announced in the Federal Register later this year. Interested members of the public will be invited to attend as observers.

Dated: April 5, 1993.

Gary J. Foley,

Acting Assistant Administrator for Research and Development.

[FR Doc. 93-10063 Filed 4-28-93; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

April 22, 1993.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857-3800. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-0276. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0457.

Title: Amendment of Part 22 of the Commission's Rules to Establish Standards for Conducting Comparative Cellular Renewal Proceedings (CC Docket No. 90-358).

Action: Revision of a currently approved collection.

Respondents: Businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting.

Estimated Annual Burden: 70 responses; 18.43 hours average burden per response; 1,290 hours total annual burden.

Needs and Uses: The Federal Communications Commission has revised certain rules governing the conduct of comparative renewal proceedings in the cellular radio service. The proposed revisions are necessary to define the standards that a renewal applicant must meet in order to obtain a renewal expectancy, which is the most significant preference awarded in a comparative renewal proceeding, and to streamline hearing procedures for such proceedings. The intent of these revisions is to promote efficiency in licensing of the cellular radio service and to provide excellent service to the public in an uncomplicated, timely, and courteous manner. The information will be used by Commission staff to conduct comparative renewal proceedings pursuant to section 309 of the Commissions Act. The rules and requirements have been designed to

prevent possible abuses by speculative applicants who might file competing applications against renewal applications solely to extract payments from the existing licenses. With these rules we intend to deter the filing of speculative applications by thinly or noncapitalized entities having little interest in providing cellular service. These rules will also maximize the utilization of the Commission's resources.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93-9985 Filed 4-28-93; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

James Willis Covington, et al.; Change in Bank Control Notices; Acquisitions of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they 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 indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 19, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *James Willis Covington, McComb* Mississippi; to acquire up to 20.89 percent of the voting shares of First Southwest Corporation, McComb, Mississippi, and thereby indirectly acquire First Bank, McComb, Mississippi.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *William Hanford, II*, Geneseo, Illinois; to acquire 11.1 percent of the voting shares of Farmers National Bancorp, Inc., Geneseo, Illinois and thereby indirectly acquire Farmers National Bank of Geneseo, Geneseo, Illinois.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Dennis C. Romero*, Taos, New Mexico; to acquire an additional 7.0 percent of the voting shares of Centinel Bank Shares, Inc., Taos, New Mexico, for a total of 28.6 percent, and thereby indirectly acquire Centinel Bank of Taos, Taos, New Mexico.

2. *Floyd J. and Florence P. White*, Kanapolis, Kansas, to acquire 11.6 percent; *Everett White*, Kanapolis, Kansas, to acquire 11.6 percent; *Independent Salt Company*, Kanapolis, Kansas, to acquire 9.9 percent; *Donald J. and Ilene R. Kozisek*, Holyrood, Kansas, to acquire 11.6 percent; *Britton Bancshares, Inc., Employee Stock Ownership Plan*, Ellsworth, Kansas, *Lewis E. McAtee*, David W. Brownback and *Heather Y. Barta*, trustees, to acquire an additional 2.5 percent for a total of 24.6 percent; *Carol J. Heber*, Salina, Kansas, to acquire 9.2 percent; *Randy V. Mills*, Florence, Kansas, to acquire 5.8 percent; *Richard and Mabelle Connolly*, Ellsworth, Kansas, to acquire 2.2 percent; *James A. Pavlich*, Kansas City, Kansas, to acquire 3.7 percent; *John and Judy Sherman*, Ellsworth, Kansas, to acquire 1.2 percent; *Gregory and Nancy Hoffman*, Ellsworth, Kansas, to acquire 1.2 percent; *Ronnie and Patricia Svaty*, Ellsworth, Kansas, to acquire 1.2 percent; *David W. Brownback*, Ellsworth, Kansas, to acquire 1.1 percent; *Beverly J. Connolly*, Ellsworth, Kansas, to acquire 1.1 percent; *Lewis E. McAtee*, Ellsworth, Kansas, to acquire 1.5 percent; *Svaty, Sherman and Hoffman 401(k) Plan*, Ellsworth, Kansas, to acquire 0.9 percent; and *Heather Y. Barta*, Ellsworth, Kansas, to acquire 1.1 percent of the voting shares of Britton Bancshares, Inc., Ellsworth, Kansas, and thereby indirectly acquire Citizens State Bank and Trust Co., Ellsworth, Kansas, and First National Bank of Holcomb, Holcomb, Kansas.

Board of Governors of the Federal Reserve System, April 23, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-10059 Filed 4-28-93; 8:45 am]

BILLING CODE 6210-01-F

Fidelity Southern Corporation; Acquisition of Company Engaged In Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a) or (f) of the Board's Regulation Y (12 CFR 225.23(a) or (f)) 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 acquire or control voting securities or assets of a company engaged in a nonbanking activity. 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 May 19, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Fidelity Southern Corporation*, Decatur, Georgia; to engage *de novo* through its subsidiary, Fidelity National Capital Investors, Inc., Decatur, Georgia, in providing management consulting services to depository institutions pursuant to § 225.25(b)(11); and arranging commercial real estate equity financing pursuant to § 225.25(b)(14) of the Board's Regulation Y.

In addition, Applicant proposes to engage, through Fidelity National Capital Investors, Inc., in underwriting and dealing in bank ineligible debt securities (*J.P. Morgan & Co., Incorporated*, New York, New York, *et al.*, 75 Federal Reserve Bulletin 192 (1989); private placement and riskless principal transactions (*Bankers Trust New York Corporation*, 75 Federal Reserve Bulletin 829 (1989) and *J.P. Morgan & Co., Incorporated*, 76 Federal Reserve Bulletin 26 (1990); underwriting and dealing in equity securities (*J.P. Morgan & Co.,*

Incorporated, et al., 75 Federal Reserve Bulletin 192 (1989); and underwriting and dealing in municipal revenue bonds (*Citicorp, J.P. Morgan & Co., Incorporated, Bankers Trust New York Corporation*, 73 Federal Reserve Bulletin 473 (1987); *Citicorp, Morgan, Bankers Trust, aff'd sub nom., Securities Industry Association v. Board of Governors of the Federal Reserve System*, 839 F.2d 47 (2d Cir. 1988), cert. denied, 108 S. Ct. 2830 (1988); as modified by order *Approving Modifications to Section 20 Orders*, 75 Federal Reserve Bulletin 751 (1989). The proposed activities will be conducted throughout the State of Georgia.

Board of Governors of the Federal Reserve System, April 23, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-10061 Filed 4-28-93; 8:45 am]

BILLING CODE 3210-01-F

First Hawaiian, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) 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 acquire or control voting securities or assets of a company engaged 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 May 24, 1993.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. *First Hawaiian, Inc.*, Honolulu, Hawaii; to acquire Pioneer Fed Bancorp, Inc., Honolulu, Hawaii, and thereby engage in lending and deposit-taking activities of a federal savings bank pursuant to § 225.25(b)(9); the provision of certain services for such federal savings bank pursuant to § 225.25(a)(2), and certain credit-related insurance activities pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y. These activities will be conducted in the State of Hawaii.

Board of Governors of the Federal Reserve System, April 23, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-10062 Filed 4-28-93; 8:45 am]

BILLING CODE 3210-01-F

Susquehanna 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 May 24, 1993.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Susquehanna Bancshares, Inc.*, Lititz, Pennsylvania; to merge with Central Financial Corporation, Columbia, Pennsylvania, and thereby indirectly acquire Farmers First Savings Bank, Columbia, Pennsylvania, formerly known as Central Savings and Loan Association.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Nowata Bancshares, Inc.*, Nowata, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Nowata, Nowata, Oklahoma.

2. *Pinnacle Bancorp, Inc.*, Central City, Nebraska; to acquire 100 percent of the voting shares of Centennial Bancorporation, Inc., Thermopolis, Wyoming, and thereby indirectly acquire First National Bank at Thermopolis, Thermopolis, Wyoming.

3. *Pinnacle Bancorp, Inc.*, Central City, Nebraska; to acquire 100 percent of the voting shares of Colorado National Bank - Glenwood, Glenwood Springs, Colorado, and Colorado National Bank - Grand Junction, Grand Junction, Colorado.

Board of Governors of the Federal Reserve System, April 23, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-10060 Filed 4-28-93; 8:45 am]

BILLING CODE 3210-01-F

FEDERAL TRADE COMMISSION

[File No. 912-3369]

Griffin Bacal, 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 advertising agency from misrepresenting any performance characteristic of any toy it promotes. In addition, in any demonstrations or tests used in the

packaging or advertising for the toys, the respondent would be prohibited from falsely representing that the demonstration or test proves or confirms any material feature of the toy.

DATES: Comments must be received on or before June 28, 1993

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:

Rosemary Rosso or Toby Levin, FTC/S-4002, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580. (202) 326-2174 or 326-3156.

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

The Federal Trade Commission having initiated an investigation of certain acts and practices of Griffin Bacal, 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, By and between Griffin Bacal, Inc., by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Griffin Bacal, 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 130 Fifth Avenue, New York, New York 10011.

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 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 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

It is ordered, That respondent Griffin Bacal Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of any toy, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. In connection with any advertisement depicting a demonstration, experiment or test, making any representation, directly or by implication, that the demonstration, picture, experiment or test depicted in the advertisement proves, demonstrates or confirms any material quality, feature or merit of any toy when such demonstration, picture, experiment or test does not prove, demonstrate or confirm the representation for any reason, including but not limited to:

1. The undisclosed use or substitution of a material mock-up or prop;

2. The undisclosed material alteration in a material characteristic of the advertised toy or any other material prop or device depicted in the advertisement; or

3. The undisclosed use of a visual perspective or camera, film, audio or video technique;

That, in the context of the advertisement as a whole, materially misrepresents a material characteristic of the advertised toy or any other material aspect of the demonstration or depiction.

Provided, however, that notwithstanding the foregoing, nothing in this Order shall be deemed to otherwise preclude the use of fantasy segments or prototypes which use otherwise is not deceptive.

Provided further, however, that it shall be a defense hereunder that the respondent neither knew nor had reason to know that the demonstration, experiment or test did not prove, demonstrate or confirm the representation.

B. Misrepresenting, directly or by implication, any performance characteristic of any Battle Copter toy or any other toy.

II

It is further ordered, That respondent Griffin Bacal, Inc. shall distribute a copy of this Order to each of its operating divisions and to each officer, agent and personnel responsible for the preparation, review or placement of advertising, or other materials covered by this Order and shall secure from each such person a signed statement acknowledging receipt of this Order.

III

It is further ordered, That for three (3) years after the date of the last dissemination of any representation covered by this Order, respondent, its successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying the following records:

A. Any and all videotapes, in complete and unedited form, and any and all still photographs taken during the production of any advertisement depicting a demonstration, experiment, or test; and

B. Any and all affidavits or certifications submitted by an employee, agent or representative of respondent to a television network or to any other individual or entity, other than counsel for respondent, which affidavit or certification affirms the accuracy or integrity of a demonstration or demonstration techniques contained in an advertisement.

In addition, respondent, its successors and assigns, for three (3) years after the date of service of this Order, shall maintain and, within thirty (30) days of any written request, make available to the Federal Trade Commission for inspection and copying all signed statements obtained pursuant to section II, above.

IV

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to the effective date of any proposed change in the corporation which may affect compliance obligations arising out of this Order, including but not limited to any change in corporate name or address, dissolution, assignment or sale resulting in the emergence of a successor corporation, and the creation or dissolution of subsidiaries.

V

It is further ordered, That respondent shall, within sixty (60) days after service of this Order, and at such other time 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 Griffin Bacal, Inc. ("Griffin Bacal").

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.

The Commission's complaint in this matter charges Griffin Bacal with engaging in deceptive and unfair practices in connection with the advertising of the Battle Copter and Eco-Warrior toys, manufactured by Hasbro, Inc. According to the complaint, television advertisements for the Battle Copter toy represented that the demonstrations of these toys hovering and flying in the air were unaltered and the results shown accurately represent the performance of actual, unaltered Battle Copter toys under the depicted conditions. This representation is alleged to be false and misleading. According to the complaint, the Battle Copter toys depicted in the advertisement were suspended from monofilament wire attached to poles, which were moved by humans to create the flying and hovering effect, and battery-operated motors were installed into the Battle Copter toy to make their rotors spin around while they were being held in place or moved on the monofilament wire attached to poles.

The complaint also alleges that the advertisements for the Battle Copter toy represented that Battle Copter toys can hover and can fly in a sustained and directed manner. This representation is also alleged to be false and misleading.

The consent order contains provisions designed to remedy the violations charged and to prevent Griffin Bacal from engaging in similar deceptive and unfair acts and practices in the future.

Part I.A of the order prohibits Griffin Bacal from misrepresenting that a demonstration, picture, experiment or

test depicted in an advertisement proves, demonstrates or confirms a material quality, feature or merit of any toy when such demonstration, picture, experiment or test does not do so. Part I.A enumerates examples of such misrepresentations, including:

1. The undisclosed use or substitution of a material mock-up or prop;
2. The undisclosed material alteration in a material characteristic of the advertised toy or any other material prop or device depicted in the advertisement; or
3. The undisclosed use of a visual perspective or camera, film, audio or video technique;

That in the context of the advertisement as a whole, materially misrepresents a material characteristic of the advertised toy or any other material aspect of the demonstration or depiction.

Part I.A does not preclude the use of fantasy segments or prototypes which use is otherwise not deceptive. Part I.A provides Griffin Bacal with a defense to liability if it neither knew nor had reason to know that the demonstration, experiment or test did not prove, demonstrate or confirm the representation.

Part I.B prohibits Griffin Bacal from misrepresenting any performance characteristics of any Battle Copter toy or any other toy.

Part II requires Griffin Bacal to distribute copies of the order to certain company officials and employees and certain other representatives and agents of the company, and to secure from each such person a signed statement acknowledging receipt of the order.

Part III requires Griffin Bacal to maintain copies of certain materials relating to advertisements covered by this order and to make such documents available for FTC inspection.

Part IV requires Griffin Bacal to notify the Commission of any changes in the corporate structure that might affect compliance with the order.

Part V requires Griffin Bacal to file with the Commission one or more reports detailing compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify their terms in any way.

Donald S. Clark,

Secretary.

[FR Doc. 93-10033 Filed 4-28-93; 8:45 am]

BILLING CODE 6750-01-M

(File No. 912 3369)

Hasbro, 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 Rhode Island-based toy corporation from misrepresenting any performance characteristic of any toy it manufactures or promotes. In addition, in any demonstrations or tests used in the packaging or advertising for the toys, the respondent would be prohibited from falsely representing that the demonstration or test proves or confirms any material feature of the toy.

DATES: Comments must be received on or before June 28, 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: Rosemary Rosso or Toby Levin, FTC/S-4002, 6th St. & PA. Ave., NW., Washington, DC 20580, (202) 326-2174 or 326-3156.

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

The Federal Trade Commission having initiated an investigation of certain acts and practices of Hasbro, Inc., a corporation ("Hasbro" or "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, By and between Hasbro, by its duly authorized officer, and its attorney and counsel for the Federal Trade Commission that:

1. Proposed respondent Hasbro is a corporation organized, existing and doing business under and by virtue of the laws of the State of Rhode Island with its office and principal place of business located at 1027 Newport Avenue, Pawtucket, Rhode Island 02861.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft 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 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. 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 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 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.**

It is ordered, That respondent Hasbro, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labelling, advertising, promotion, offering for sale, sale, or distribution of any toy in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. In connection with any advertisement or package depicting a demonstration, experiment or test, making any representation, directly or by implication, that the demonstration, picture, experiment or test depicted in the advertisement or package proves, demonstrates or confirms any material quality, feature or merit of any toy when such demonstration, picture, experiment or test does not prove, demonstrate or confirm the representation for any reason, including but not limited to:

1. The undisclosed use or substitution of a material mock-up or prop;

2. The undisclosed material alteration in a material characteristic of the advertised toy or any other material prop or device depicted in the advertisement; or

3. The undisclosed use of a visual perspective or camera, film, audio or video technique; that, in the context of the advertisement as a whole, materially misrepresents a material characteristic of the advertised toy or any other material aspect of the demonstration or depiction.

Provided, however, that notwithstanding the foregoing, nothing in this Order shall be deemed to otherwise preclude the use of fantasy segments or prototypes which use otherwise is not deceptive.

B. Misrepresenting, directly or by implication, any performance characteristic of any Eco-Warriors action figure toy, Battle Copter toy or any other toy.

II.

It is further ordered, That respondent Hasbro, Inc. shall distribute a copy of this Order to each of its operating divisions and to each officer, agent and personnel responsible for the preparation, review or placement of advertising, packaging or other materials covered by this Order and shall secure from each such person a signed statement acknowledging receipt of this Order.

III.

It is further ordered, That for three (3) years after the last date of dissemination of any representation covered by this Order, respondent, or its successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation;

B. Any and all videotape, in complete as well as unedited form, and any and all still photographs taken during the production of any advertisement depicting a demonstration, experiment or test;

C. Any and all affidavits or certifications submitted by an employee, agent or representative of respondents to a television network or to any other individual or entity, which affidavit or certification affirms the accuracy or integrity of a demonstration or demonstration techniques contained in an advertisement; and

D. Any toy as well as the packaging for any toy involved in such representation.

In addition, for three (3) years after the date of service of this Order, respondent, or its successors and assigns, shall maintain and, within thirty (30) days of any written request, make available to the Federal Trade Commission for inspection and copying

all signed statements obtained pursuant to section II above.

IV.

It is further ordered, That respondent Hasbro, Inc., shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in its corporate structures, including but not limited to, dissolution, assignment, or sale resulting in the emergence of a successor corporation, 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.

V.

It is further ordered, That respondent Hasbro, Inc., shall, within sixty (60) days after service upon it of this Order, and at such other times as the Federal Trade 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 Hasbro, Inc. ("Hasbro"). In addition, the Federal Trade Commission has approved a district court consent decree from Hasbro settling allegations that Hasbro engaged in unfair or deceptive acts or practices with actual knowledge that the Commission, in a prior proceeding, had determined that such conduct is unfair or deceptive and is unlawful.

The proposed administrative 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 administrative order.

The Commission's complaint in this matter charges Hasbro with engaging in deceptive and unfair practices in connection with the advertising of its Battle Copter and Eco-Warrior toys. According to the complaint, Hasbro's television advertisements for the Battle Copter toy represented that the demonstrations of these toys hovering and flying in the air were unaltered and the results shown accurately represent the performance of actual, unaltered Battle Copter toys under the depicted conditions. This representation is

alleged to be false and misleading. According to the complaint, the Battle Copter toys depicted in the advertisements were suspended from monofilament wire attached to poles, which were moved by humans to create the flying and hovering effect, and battery-operated motors were installed into the Battle Copter toys in order to make their rotors spin around while they were being held in place or moved on the monofilament wire attached to poles.

The complaint also alleges that Hasbro's advertisements and packages for the Battle Copter toy represented that Battle Copter toys can hover and can fly in a sustained and directed manner. This representation is also alleged to be false and misleading.

The complaint also alleges that through statements and a depiction of the Toxo-Viper figure found on packaging for its Eco-Warrior action figures, Hasbro represented that the depiction on the packaging of the Toxo-Viper figure bearing a large patch of bright yellow color extending from the top of the figure's head, through the torso and belt and covering the upper legs is an unaltered depiction that accurately represents the color change that results when the Toxo-Viper figure is squirted with or dipped into water. This representation is alleged to be false and misleading. Among other things, the color change depicted was achieved by painting a photograph of the Toxo-Viper figure with yellow paint that is significantly different in color and extensiveness than the "battle damage" color change that occurs for the Toxo-Viper figure after it is squirted with or dipped into water.

The consent order contains provisions designed to remedy the violations charged and to prevent Hasbro from engaging in similar deceptive and unfair acts and practices in the future.

Part I.A of the order prohibits Hasbro from misrepresenting that a demonstration, picture, experiment or test depicted in an advertisement or package proves, demonstrates or confirms a material quality, feature or merit of any toy when such demonstration, picture, experiment or test does not do so. Part I.A enumerates examples of such misrepresentations, including:

1. The undisclosed use or substitution of a material mock-up or prop;
2. The undisclosed material alteration in a material characteristic of the advertised toy or any other material prop or device depicted in the advertisement; or

3. The undisclosed use of a visual perspective or camera, film, audio or video technique;

that in the context of the advertisement as a whole, materially misrepresents a material characteristic of the advertised toy or any other material aspect of the demonstration or depiction.

Part I.A does not preclude the use of fantasy segments or prototypes which use is otherwise not deceptive.

Part I.B of the order prohibits Hasbro from misrepresenting any performance characteristic of any Eco-Warriors action figure, any Battle Copter toy or any other toy.

Part II requires Hasbro to distribute copies of the order to certain company officials and employees and certain other representatives and agents of the company, and to secure from each such person a signed statement acknowledging receipt of the order.

Part III requires Hasbro to maintain copies of all materials relating to advertisements and packaging covered by this order and all documents relating to substantiation of advertising claims covered by this order, and to make those documents available for FTC inspection.

Part IV requires Hasbro to notify the Commission of any changes in the corporate structure that might affect compliance with the order.

Part V requires Hasbro to file with the Commission one or more reports detailing compliance with the order.

In addition to the administrative matter, the United States district court complaint charges that in 1976, Hasbro was notified that the Commission, in *Ideal Toy Corp.*, 64 F.T.C. 297 (1964), had determined that it is unfair or deceptive and unlawful under Section 5 of the FTC Act to misrepresent the performance of a toy. Hasbro also was notified of its potential liability for civil penalties if it engaged in acts or practices which the Commission had determined to be unfair or deceptive. In June 1978, the United States District Court for the District of Rhode Island entered a consent judgment ordering Hasbro to pay civil penalties for allegedly misrepresenting the performance of two toys with actual knowledge that the Commission, in a prior proceeding, had determined that such conduct was

This district court complaint here alleges that Hasbro misrepresented the performance of its Battle Copter and Eco Warrior toys with actual knowledge that the Commission, in a prior proceeding, had determined that such conduct was

unfair or deceptive and in violation of Section 5 of the FTC Act. In settlement of this complaint, Hasbro has agreed to pay a civil penalty in the amount of \$175,000.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify their terms in any way.

Donald S. Clark,

Secretary.

[FR Doc. 93-10032 Filed 4-28-93; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

CDC Advisory Committee on the Prevention of HIV Infection (CDC ACPHI): Subcommittee on Promoting Knowledge of Serostatus (Counseling, Testing, Referral, Partner Notification): Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following subcommittee meeting.

Name: CDC ACPHI Subcommittee on Promoting Knowledge of Serostatus (Counseling, Testing, Referral, Partner Notification).

Time and Dates: 8 a.m.-5 p.m., May 24-25, 1993.

Place: Holiday Inn Decatur Conference Plaza, 130 Clairemont Avenue, Decatur, Georgia 30030.

Status: Open to the public, limited only by the space available.

Purpose: This is the initial meeting of this subcommittee. The subcommittee and consultants will be provided an orientation on counseling, testing, referral, and partner notification policies, programs, and services. The meeting will also include a discussion of the purpose and process for the external review.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Connie Granoff, Committee Assistant, Office of the Associate Director for HIV/AIDS, CDC, 1600 Clifton Road, NE., Mailstop E-40, Atlanta, Georgia 30333, telephone 404/639-2918.

Dated: April 23, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93-10026 Filed 4-28-93; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 93D-0134]

Animal Drug User Fee Study; Request for Information and Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration's Center for Veterinary Medicine (CVM), as directed by the Prescription Drug User Fee Act of 1992, is conducting an animal drug user fee study. Information and comments are being solicited from drug manufacturers and other interested persons.

DATES: Written comments by June 15, 1993.

ADDRESSES: Submit written information and comments on the animal drug user fee study to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Information and comments should be identified with the docket number found in brackets in the heading of this document. A copy of received information and comments is available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: David Lynch, Center for Veterinary Medicine (HFV-11), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8743.

SUPPLEMENTARY INFORMATION: CVM is conducting a study on animal drug user fees as required by section 108 of the Prescription Drug User Fee Act of 1992 (Pub. L. 102-571). The statute provides for the study to evaluate whether, and under what conditions, to impose user fees to supplement appropriated funds in order to improve the process of reviewing applications (including abbreviated and supplemental applications) for new animal drugs (as provided by section 512 of the Federal Food, Drug, and Cosmetic Act). The study must include: (1) An assessment of the overall review process for animal drugs including the number of applications received and the average time for interim and final decisions on each type of application; (2) examination of the current allocation of funds to the review process; (3) recommendations for the goals for decisionmaking times on applications and for additional resources required to meet the goals; and (4) recommendations for supplementing the resources for the animal drug review process through user fees. The study

also will include means of making the overall review process for animal drugs more efficient.

The law directs the agency to consult with animal drug manufacturers and other interested persons on the study. CVM is providing this opportunity for interested persons to submit information and comments germane to the study. CVM also seeks suggestions for goals to improve the new animal drug application review process. Comments and information received will be used in developing a proposal regarding the assessment of user fees for animal drug applications. Pub. L. 102-571 requires that the results of the study be presented to specified congressional committees by January 4, 1994.

Interested persons may, on or before June 15, 1993, submit written comments on the animal drug user fee study to the Dockets Management Branch (address above). Comments should be submitted in duplicate (except that individuals may submit one copy), 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: April 23, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93-9991 Filed 4-28-93; 8:45 am]

BILLING CODE 4180-01-F

[Docket No. 93D-0119]

FIS Program User Reference Guide and Installation Manual; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a manual entitled "FIS Program User Reference Guide and Installation Manual." FIS stands for "File Interchange System." This manual is intended to enable new drug application sponsors and FDA to exchange biopharmaceutical data. This will aid in FDA's review of the biopharmaceutical data.

DATES: Written comments by July 28, 1993.

ADDRESSES: The "FIS Program User Reference Guide and Installation Manual" and the program disks may be ordered from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, VA 22161. Orders must reference NTIS order number PB 93-502649 and include

payment of \$140 for each copy of the document and the program disks. Payment may be made by check, money order, charge card (American Express, VISA, or MasterCard), or billing arrangements made with NTIS. Charge card orders must include the charge card account number and expiration date. For telephone orders or further information on placing an order, call NTIS at 703-487-4650. Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. Comments should be identified with the docket number found in brackets in the heading of this document. The "FIS Program User Reference Guide and Installation Manual" and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: See-Yan Lam, Center for Drug Evaluation and Research (HFD-426), 5600 Fishers Lane, Rockville, MD 20857, 301-443-1640.

SUPPLEMENTARY INFORMATION: A biopharmaceutics task force comprised of members of FDA and the Pharmaceutical Manufacturers Association has developed a system called FIS for exchanging and manipulating data. The first of its two components is the FIS file specifications. The second, also referred to as FIS, is the program that enables the firm to create an FIS file and the FDA reviewer to extract and manipulate the data.

Members of FDA's Division of Biopharmaceutics, Center for Drug Evaluation and Research, and the Pharmaceutical Manufacturers Association's Drug Metabolism subsection worked for 3 years to develop FIS. It was created to facilitate the use of FIS files as a conduit to exchange biopharmaceutics data between pharmaceutical companies and FDA reviewers using a standardized format. The FIS program copyright has been transferred to FDA with full privilege to use and distribute.

Currently, FIS is designed so that biopharmaceutic data can be developed by a sponsor or third party without considering interfacing or adapting to FDA's environment in which it will be used. In addition, FIS was created to be available, affordable, and usable to any company without regard to size, resources, or computer sophistication.

The task force was aware of the array of computer skills among the people who would be using the system and

designed it to be user-friendly, able to accept any data, hardware, software, and operating system. FIS can, therefore, accept any type of information contained in a file if the construction follows the specifications of the program.

The "FIS Program User Reference Guide and Installation Manual" defines specifically how to construct files. It also tells how to include comments in the file, which can provide further descriptive information. Therefore, a file conforming to FIS can be entirely self-documenting.

Interested persons may, on or before July 28, 1993, submit written comments to the Dockets Management Branch (address above) on the "FIS Program User Reference Guide and Installation Manual." FDA is requesting comments pertaining to the application and use of FIS files and the usability of the manual. FDA will consider these comments in determining whether further amendments to, or revisions of, the manual are warranted. Two copies of any comments are to be submitted, except that individuals may submit one copy.

Dated: April 22, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93-9992 Filed 4-28-93; 8:45 am]

BILLING CODE 4180-01-F

Conference on the FDA Medical Products Reporting Program; Notice of Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the Commissioner's Conference on MEDWatch: the FDA Medical Products Reporting Program. The Commissioner of Food and Drugs will announce FDA's new approach to reporting adverse events and product problems.

DATES: The conference will be held on Thursday, June 3, 1993, 10 a.m. to 5 p.m.

ADDRESSES: The conference will be held at the Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Peter H. Rheininstein, Office of Health Affairs (HFY-40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5470. Those persons interested in attending this conference, who have not already registered, should call the contact person listed above or fax their

registration, including firm name, address, and telephone number to 301-443-2446. It is suggested that interested persons register by May 21, 1993, because conference space is limited.

SUPPLEMENTARY INFORMATION: Reports from health professionals of adverse events or product quality problems are essential to ensuring the postmarketing safety of drugs, biologics, medical devices, and other products regulated by FDA. Because many health professionals may not appreciate how vital these reports are to protecting the public health, this is an area that warrants change. The purpose of the June 3, 1993, conference, will be for the Commissioner of Food and Drugs, in partnership with leaders of organizations representing health professionals and industry, to introduce MEDWatch, FDA's new reporting program. One component will be the use of a new single reporting form, a draft of which was published in the *Federal Register* of February 26, 1993 (58 FR 11768 at 11770 and 11771).

Dated: April 23, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93-10051 Filed 4-28-93; 8:45 am]

BILLING CODE 4190-01-F

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Kidney and Urologic Diseases Advisory Board, National Institute of Diabetes and Digestive and Kidney Diseases, May 3-5, 1993, Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland which was published in the *Federal Register* on April 12, 1993 (58 FR 19137).

This committee is extending their meeting dates to include May 2, 1993. On Sunday May 2, the Executive Committee of the Board will meet from 7 p.m. until approximately 9 p.m. to discuss the future direction of the Board. This portion of the meeting is open to the public and is limited to space available.

Dated: April 23, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93-10142 Filed 4-28-93; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration

[Social Security Acquiescence Ruling 93-1(4)]

Branham v. Heckler; Flowers v. U.S. Department of Health and Human Services; What Constitutes an Additional and Significant Work-Related Limitation of Function

AGENCY: Social Security Administration, HHS.

ACTION: Notice of revised Social Security Acquiescence Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(2) published January 11, 1990 (55 FR 1012), the Principal Deputy Commissioner of Social Security gives notice of a revision to Social Security Acquiescence Ruling 92-3(4) through the issuance of Social Security Acquiescence Ruling 93-1(4).

EFFECTIVE DATE: April 29, 1993.

FOR FURTHER INFORMATION: Darlynda K. Bogle, Esq., Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 965-4237.

SUPPLEMENTARY INFORMATION: We are publishing this revision to Social Security Acquiescence Ruling 92-3(4) in accordance with 20 CFR 422.406(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

On March 10, 1992, Acquiescence Ruling 92-3(4) was published in the *Federal Register* (57 FR 8463) to reflect the holdings in *Branham v. Heckler*, 775 F.2d 1271 (4th Cir. 1985) and *Flowers v. U.S. Department of Health and Human Services*, 904 F.2d 211 (4th Cir. 1990). The Acquiescence Ruling applied to claims involving allegations of mental impairment in which the claimant had a valid IQ score in the range of 60 through 69, where the claimant also had a physical or other mental impairment which prevented performance of past relevant work. Claimants meeting these conditions were considered under the Acquiescence Ruling to have established disability under section 12.05C of the Listing of Impairments.

On December 12, 1990, subsequent to the court's decisions, but before publication of Acquiescence Ruling 92-3(4), the Secretary revised his regulations at 20 CFR part 404, subpart P, appendix 1, Listing 12.05C, to extend

the IQ Listing range from "60 through 69" to "60 through 70." (55 FR 51230) Because the current Ruling, AR 92-3(4), specifies that it applies to claimants who have IQ scores of 60 to 69 inclusive, and thus did not apply to claimants who have an IQ score of 70, we are revising the current Ruling, AR 92-3(4) to reflect the regulatory change. We also have made several technical corrections in connection with this substantive revision.

We will apply the holding of the Court of Appeals decision as explained in this revised Social Security Acquiescence Ruling to claims at all levels of administrative adjudication within the Fourth Circuit. This revised Social Security Acquiescence Ruling will apply to all determinations and decisions made on or after April 29, 1993. If we made a determination or decision on your application for benefits between November 4, 1985, the date of the Court of Appeals' decision in *Branham* and April 29, 1993, the effective date of this Social Security Acquiescence Ruling, you may request application of the Social Security Acquiescence Ruling to your claim if you first demonstrate, pursuant to 20 CFR 404.985(b) or 416.1485(b), that application of the Ruling could change our prior determination or decision.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the *Federal Register* to that effect as provided for in 20 CFR 404.985(e), or 416.1485(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for by 20 CFR 404.985(c) or 416.1485(c), we will publish a notice in the *Federal Register* stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security - Disability Insurance; 93.803 Social Security - Retirement Insurance; 93.805 Social Security - Survivors Insurance; 93.806 - Special Benefits for Disabled Coal Miners; 93.807 - Supplemental Security Income.)

Louis D. Enoff

Principal Deputy Commissioner of Social Security.

Acquiescence Ruling 93-1(4)

Branham v. Heckler, 775 F.2d 1271 (4th Cir. 1985); *Flowers v. U.S. Department of Health and Human Services*, 904 F.2d 211 (4th Cir. 1990)—What constitutes an additional and significant work-related limitation of function—Titles II and XVI of the Social Security Act.

Issue

Whether a claimant for disability insurance benefits or for supplemental security income benefits based on disability who has an IQ score in the range covered by Listing 12.05C and who cannot perform his or her past relevant work because of a physical or other mental impairment has *per se* established the additional and significant work-related limitation of function requirement of Regulations 20 CFR part 404, subpart P, appendix 1, section 12.05C.

Statute/Regulation/Ruling Citation

Sections 223(d)(2)(A) and 1614(a)(3)(B) of the Social Security Act (42 U.S.C. 423(d)(2)(A) and 1382c(a)(3)(B)); 20 CFR part 404, subpart P, appendix 1, section 12.05C.

Circuit

Fourth (Maryland, North Carolina, South Carolina, Virginia, West Virginia); *Branham v. Heckler*, 775 F.2d 1271 (4th Cir. 1985); *Flowers v. U.S. Department of Health and Human Services*, 904 F.2d 211 (4th Cir. 1990).

Applicability of Ruling

This ruling applies to determinations or decisions at all administrative levels (i.e., initial, reconsideration, administrative law judge (ALJ) hearing and Appeals Council).

Description of Case

Branham

The plaintiff, Larry R. Branham, filed his claim for disability benefits following a work-related injury allegedly sustained in October 1979, for which he received Workers' Compensation benefits. Mr. Branham claimed great back, hip, and neck pain associated with the injury; and he also complained of chest pain, disorientation, and bronchitis. The plaintiff had also been diagnosed as having a generalized anxiety disorder. He was taking medication for all of his ailments.

Mr. Branham's claim for disability benefits was denied initially and on reconsideration. After a hearing, the ALJ found that although the plaintiff could not return to his past relevant work, he had the ability to engage in light work and thus was not disabled. The ALJ therefore denied his request for benefits and the Appeals Council upheld the denial.

Upon review by the district court, the plaintiff submitted and the court accepted additional evidence of his emotional problems and vocational abilities, including the results of a test

indicating an IQ of 63. The court remanded the case for further proceedings.

On remand, a second ALJ heard the plaintiff's claim and granted Mr. Branham benefits under section 12.05C of appendix 1 of 20 CFR part 404, subpart P. The ALJ found that Mr. Branham's IQ fit within this section, but referring to the finding of the first ALJ, held that the plaintiff's physical problems held no significant work-related limitation of function since Mr. Branham had the ability to do light work. The second ALJ did find, however, that Mr. Branham's psychotic disorder, agoraphobia, significantly limited his ability to work and was a mental impairment within section 12.05C. The ALJ consequently decided that the plaintiff was disabled as of January 15, 1983, the date the ALJ found the plaintiff's agoraphobia began. The Appeals Council adopted the decision of the second ALJ, awarding benefits on the basis of the plaintiff's IQ and mental impairment.

On review, the district court modified the Secretary's decision, changing the onset date of the plaintiff's disability from January 15, 1983 to December 17, 1982, the date the claimant took his first IQ test. The court found that Mr. Branham satisfied the physical impairment requirement of section 12.05C on account of the 1979 back injury which led to the termination of his employment and said that the claimant's inability to perform his past relevant work as a laborer constituted a significant work-related limitation of function. Mr. Branham appealed the onset date of disability set by the district court, alleging that he met the IQ requirement of section 12.05C prior to the time that he took his first IQ test.

Holding

The Court of Appeals held that the plaintiff's inability to do his past relevant work established the additional and significant work-related limitation of function required by the regulation and determined the onset of disability to be October 1979, the date of the injury to Mr. Branham's back.

The court stated that the additional and significant work-related limitation of function specified in section 12.05C need not be disabling in and of itself, reasoning that if the claimant's physical impairment were required to be independently disabling, section 12.05C would be rendered meaningless. The court affirmed the finding of the lower court that the plaintiff's back impairment was a significant work-related limitation of function and remanded the case for an award of

benefits. The court cited for support an earlier decision, *Rainey v. Heckler*, 770 F.2d 408 (4th Cir. 1985).

Flowers

The plaintiff, Stroun A. Flowers, Jr., was born August 4, 1944. He completed the seventh grade. From 1970 to 1971, he worked as a flag man for a construction company and for the next seven years was a timberjack driver. He had not worked since July 15, 1978. Mr. Flowers filed a claim for supplemental security income payments. He alleged that he was disabled due to seizures and a hip problem and that he met the requirements of section 12.05C. The plaintiff had a verbal IQ of 72, a performance IQ of 66, and a full scale IQ of 68. Following the denial of his claim at the initial and reconsideration levels, the plaintiff requested and received a hearing before an ALJ. The ALJ agreed that the plaintiff met the first part of Listing 12.05C, i.e., he had an IQ between 60 and 69;¹ but he found that the plaintiff's seizure disorder did not satisfy the "significant work-related limitation of function" element. The ALJ also found that the plaintiff's low IQ and seizure disorder did not prevent him from performing his former work and, therefore, denied the plaintiff's request for supplemental security income. The denial was upheld by the district court.

Holding

The Court of Appeals held that the ALJ's finding that the plaintiff's seizure disorder did not prevent him from performing his former work was not supported by substantial evidence. In its holding, the Court of Appeals stated that it was following the Fourth Circuit rule announced in *Branham* that if a claimant cannot return to his past relevant work, he has established a work-related limitation of function that meets the requirement of section 12.05C. Accordingly, the court vacated the decision of the district court and remanded the case for an award of benefits.

Statement as to How Branham and Flowers Differ From Social Security Policy

At issue in *Branham* and in *Flowers* is the meaning of the term "additional and significant work-related limitation of function," as contained in section 12.05C. What constitutes a significant work-related limitation of function is not defined in the Secretary's

¹At the time the ALJ issued his decision, Listing 12.05C was applicable to claimants with IQ scores of 60 to 69 inclusive.

regulations. Agency policy is that the adjudicator in each case decides whether an impairment constitutes a significant work-related limitation of function based on all evidence, including the requirements of a claimant's past work. The fact that a mentally retarded claimant has an IQ in the range specified in section 12.05C of the Listing of Impairments and is also unable to perform his or her past relevant work may or may not mean that the claimant is disabled. It depends upon the facts of the particular case. In the Fourth Circuit, the rule has evolved that an inability to do one's past relevant work due to the additional impairment meets the "additional and significant work-related limitation of function" requirement of section 12.05C of the regulations.

Explanation of How SSA Will Apply Branham and Flowers Within The Fourth Circuit

This ruling applies only where the claimant resides in Maryland, North Carolina, South Carolina, Virginia or West Virginia at the time of the determination or decision at any level of administrative review, i.e., initial, reconsideration, ALJ hearing or Appeals Council review. A claimant who is mentally retarded and has a valid verbal, performance, or full scale IQ in the range specified by section 12.05C of the Listing of Impairments and also has a physical or other mental impairment which prevents him or her from performing his or her past relevant work will be considered to have established the requirements of section 12.05C of the Listing of Impairments.

[FR Doc. 93-9980 Filed 4-28-93; 8:45 am]

BILLING CODE 4190-29-F

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Exxon Valdez Oil Spill; Amendment of Public Advisory Group Charter

AGENCY: Office of the Secretary, Department of the Interior.

ACTION: Notice of amendment to public advisory group charter—*Exxon Valdez Oil Spill*.

SUMMARY: This notice is published in accordance with 41 CFR part 101-6, § 101-6.1031, Amendments to advisory committee charters.

Following the recommendation of the Exxon Valdez Oil Spill Public Advisory Group (the Public Advisory Group), and as approved by the Exxon Valdez Oil Spill Trustee Council, the Secretary of

the Interior hereby amends the Public Advisory Group Charter to provide for the designation of an alternate to substitute for, and represent, a Public Advisory Group member at a meeting.

FOR FURTHER INFORMATION CONTACT:

Douglas Mutter, Department of the Interior, Office of Environmental Affairs, 1689 C Street, Suite 119, Anchorage, Alaska, (907) 271-5011.

SUPPLEMENTARY INFORMATION: On March 24, 1989, the T/V *Exxon Valdez* ran aground on Bligh Reef in Prince William Sound in Alaska spilling approximately 11 million gallons of North Slope crude oil. Oil moved into the Gulf of Alaska, along the Kenai coast to Kodiak Island and the Alaska Peninsula—some 600 miles from Bligh Reef. Massive clean-up and containment efforts were initiated and continued to 1992. On October 8, 1991, an agreement was approved by the United States District Court for the District of Alaska that settled claims of the United States and the State of Alaska against the Exxon Corporation and the Exxon Shipping Company for various criminal and civil violations. Under the civil settlement, Exxon companies agreed to pay to the governments \$900 million over a period of 10 years.

The Exxon Valdez Oil Spill Trustee Council was established to manage the funds obtained from the civil settlement of the *Exxon Valdez* Oil Spill. The Trustee Council is composed of three State of Alaska trustees (Attorney General; Commissioner, Department of Environmental Conservation; and Commissioner, Department of Fish and Game) and three Federal representatives appointed by the Federal Trustees (Secretary, U.S. Department of Agriculture; the Administrator of the National Oceanic and Atmospheric Administration; and the Secretary, U.S. Department of the Interior).

The Public Advisory Group was created by Paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America v. State of Alaska*, Civil Action No. A91-081 CV. The Public Advisory Group was chartered by the Secretary of the Interior in 1992 and functions solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. (1988)).

The Public Advisory Group was established to advise the Trustee Council, and began functioning in

October 1992. The Public Advisory Group consists of 17 members representing the following principal interests: sport hunting and fishing, environmental, public-at-large (5), recreation users, local government, science/academic, conservation, subsistence, commercial fishing, aquaculture, commercial tourism, forest products, and Native landowners. Members were appointed to serve a two-year term.

To carry out its advisory role, the Public Advisory Group makes recommendations to, and advises, the Trustee Council in Alaska on the following matters:

All decisions related to injury assessment, restoration activities, or other use of natural resource damage recovery monies obtained by the governments, including all decisions regarding:

- a. Planning, evaluation and allocation of available funds;
- b. Planning, evaluation and conduct of injury assessment; and
- c. Planning, evaluation and conduct of restoration activities.

Trustee Council intentions regarding the importance of obtaining a diversity of viewpoints is stated in the Public Advisory Group Background and Guidelines (March 1993): "The Trustee Council carefully selected the members of the Public Advisory Group so that a wide spectrum of views and interests are available for the Council to consider as it evaluates, develops, and implements restoration activities. It is the Council's intent that the diversity of interests and views held by the Public Advisory Group members contribute to wide ranging discussions that will be of benefit to the Trustee Council."

In order to ensure that a broad range of public viewpoints are represented at Public Advisory Group meetings, the number of members required for a quorum was set at 12 of 17. Many members live and work in communities without road access to the principal meeting place in Anchorage, and they are sometimes unable to reach Anchorage to attend a meeting. Sometimes members are unable to attend meetings due to personal or business reasons. In order to best meet the intentions of the Trustee Council for obtaining information about the range of public input on restoration issues, the Public Advisory Group believes that the official designation of alternate members will assist in ensuring achievement of this goal.

The Public Advisory Group Charter, as it is currently filed, does not provide for the designation of alternate members. This amended Charter

includes such a provision. The process for appointing alternates will follow that used for selection of the official members.

Certification

I hereby certify that the amendment to the Charter of the Public Advisory Group, an advisory committee to make recommendations to and advise the Exxon Valdez Oil Spill Trustee Council in Alaska, is necessary and in the public interest in connection with the performance of duties mandated by the settlement of *United States v. State of Alaska*, No. A91-081 CV, and is in accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended and supplemented.

Dated: April 22, 1993.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93-10039 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

[AZ-050-03-4333-01]

Arizona: Availability of the Ehrenberg-Cibola Recreation Area Management Plan and Environmental Assessment, Yuma District

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Ehrenberg-Cibola Recreation Area Management Plan and Environmental Assessment, Yuma District.

SUMMARY: In compliance with the Federal Land Policy and Management Act of 1976 and section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM) has prepared a Draft Recreation Area Management and Environmental Assessment for the Ehrenberg-Cibola Special Recreation Management Area. The plan describes the recreation management practices the BLM intends to implement in the Ehrenberg-Cibola Special Recreation Management Area.

DATES: The review period will begin on May 1, 1993, and will run until May 31, 1993. After the review period, the comments received will be incorporated into a final plan and environmental assessment. Comments may be offered in writing to the Yuma Resource Area Office.

ADDRESSES: Send Comments to: Area Manager, Yuma Resource Area Office, Bureau of Land Management, 3150 Winsor Avenue, Yuma, Arizona 85365.

FOR FURTHER INFORMATION CONTACT:

Outdoor Recreation Planner Todd Suess, Yuma Resource Area, Bureau of Land Management, 3150 Winsor Avenue, Yuma, Arizona 85365, telephone (602) 726-6300.

SUPPLEMENTARY INFORMATION: The Draft Ehrenberg-Cibola Recreation Area Management Plan involves approximately 209,400 acres of land along the Colorado River in southeastern Arizona and California. The land lies within Imperial and Riverside Counties, California, and La Paz County, Arizona.

Among the management actions prescribed in the draft plan are off-highway route designations and 12 BLM project plans for redevelopment of current facilities and development of new facilities. The new facilities include a campground, two boat ramps, hiking trail systems, a Back Country Byway, interpretive overlooks, and fishing access. The plan also recognizes the need for open space and wildlife habitat.

Dated: April 19, 1993.

Michael A. Taylor,

Acting District Manager.

[FR Doc. 93-10018 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-32-M

[NV-930-4210-05; Nev-065256]

Reconveyance and Opening Order; Nevada

April 16, 1993.

AGENCY: Bureau of land management, Interior.

ACTION: Notice.

SUMMARY: This notice identifies certain lands reconveyed to the United States and provides for opening the lands as specified below.

EFFECTIVE DATE: Upon publication of this notice in the *Federal Register*, a portion of the lands will be open only to disposal pursuant to secs. 203 and 209 of the Federal Land Policy and Management Act (43 U.S.C. 1713 and 1719). On June 1, 1993, the remainder of the reconveyed lands will be open to the operation of the public land laws and the mining laws.

FOR FURTHER INFORMATION CONTACT: Mary Clark, BLM Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, NV 89520, 702-785-6530.

SUPPLEMENTARY INFORMATION: The following described lands were conveyed to Washoe County for recreation purposes on July 23, 1965, pursuant to the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 to 869-4):

Mount Diablo Meridian, Nevada

T. 32 N., R. 23 E.,
sec. 15, lot 2;
sec. 16, lot 1, NE $\frac{1}{4}$ NE $\frac{1}{4}$.

The area described contains 103.06 acres in Washoe County, Nevada. The lands are no longer needed for recreation purposes and they have been reconveyed to the United States. The Gerlach General Improvement District has expressed an interest in acquiring a portion of the reconveyed land pursuant to secs. 203 and 209 of the Federal Land Policy and Management Act (43 U.S.C. 1713 and 1719). That land, comprising 5 acres, is described as follows:

Mount Diablo Meridian, Nevada

T. 32 N., R. 23 E.,
sec. 16, S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$.

At 10 a.m. on April 29, 1993, the above described land will be open only to disposal pursuant to secs. 203 and 209 of the Federal Land Policy and Management Act (43 U.S.C. 1713 and 1719), subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

At 10 a.m. on June 1, 1993, the remainder of the reconveyed lands will be open to the 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 applications received at or prior to 10 a.m. on June 1, 1993, shall be considered as simultaneously filed at that time.

Those received thereafter shall be considered in the order of filing. At 10 a.m. on June 1, 1993, the remainder of the reconveyed lands will also be open to location under the United States mining laws. Appropriation of the lands 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. Sec. 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.

All of the reconveyed lands described above have been and will remain open to the mineral leasing and material sale laws.

Billy R. Templeton,

State Director, Nevada.

[FR Doc. 93-9981 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-HC-M

[AK-832-4210-06-P; A-059041; AA-76684]

Transfer of Administrative Jurisdiction; Alaska**AGENCY:** Bureau of Land Management, Interior.**ACTION:** Notice.

SUMMARY: This Notice provides official publication of the transfer of administrative jurisdiction of a parcel of land known as the Indian Point Rescue Station, near Auke Bay, Alaska, from the United States Coast Guard to the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA).

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-5477.

SUPPLEMENTARY INFORMATION: Subject to valid existing rights, the administrative jurisdiction of the following described parcel of land withdrawn by Public Land Order No. 3850, dated October 11, 1965, was transferred from the United States Coast Guard to NOAA, pursuant to Public Law 102-241, dated December 19, 1991. The transfer of land was accepted by NOAA and became effective on February 10, 1993.

Copper River Meridian

U.S. Survey No. 3811, Lot 2.

The area described contains 28.16 acres.

The terms and conditions of Public Land Order No. 3850 remain otherwise unchanged. The land described above remains withdrawn from all forms of appropriation under the public land laws, including the mining laws, but not from leasing under the mineral leasing laws.

Dated: April 9, 1993.

Sue A. Wolf

Chief, Branch of Land Resources

[FR Doc. 93-9983 Filed 4-28-93; 8:45 am]

BILLING CODE 4210-JA-P

[MT-030-4210-05]

Realty Action, Sale of Public Land in North Dakota**AGENCY:** Bureau of Land Management, Interior.**ACTION:** Notice of realty action, sale of public land in North Dakota.

SUMMARY: The following lands have been found suitable for sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at not less than the estimated Minimum Bid Price.

DATES: June 30, 1993.**ADDRESSES:** 2933 Third Avenue West; Dickinson, North Dakota 58601.**FOR FURTHER INFORMATION CONTACT:**

William C. Monahan, Dickinson District Office, 701-225-9148.

SUPPLEMENTARY INFORMATION:

Parcel	Legal description fifth principal meridian
NDM82057	T. 154 N., R. 75 W., sec. 18: Lot 4, 38.22 acres, McHenry County, Minimum Bid Price \$1,340.
NDM82058	T. 154 N., R. 75 W., sec. 18: SESW, 40.0 acres, McHenry County, Minimum Bid Price \$1,400.
NDM82059	T. 154 N., R. 76 W., sec. 25: S2NE, 80.0 acres, McHenry County, Minimum Bid Price \$2,800.
NDM82060	T. 154 N., R. 76 W., sec. 25: N2SE, 80.0 acres, McHenry County, Minimum Bid Price \$2,800.
NDM82061	T. 155 N., R. 76 W., sec. 23: N2NE, 80.0 acres, McHenry County, Minimum Bid Price \$2,800.
NDM82062	T. 155 N., R. 76 W., sec. 23: SENW, 40.0 acres, McHenry County, Minimum Bid Price \$1,400.
NDM82063	T. 155 N., R. 76 W., sec. 23: NESW, 40.0 acres, McHenry County, Minimum Bid Price \$1,400.
NDM82064	T. 155 N., R. 76 W., sec. 23: NWSE, 40.0 acres, McHenry County, Minimum Bid Price \$1,400.
NDM82065	T. 155 N., R. 77 W., sec. 5: Lot 2, 40.42 acres, McHenry County, Minimum Bid Price \$1,400.
NDM82066	T. 155 N., R. 77 W., sec. 5: SWNE, 40.0 acres, McHenry County, Minimum Bid Price \$1,400.
NDM82067	T. 156 N., R. 77 W., sec. 28: NESW, 40.0 acres, McHenry County, Minimum Bid Price \$1,400.
NDM82068	T. 156 N., R. 77 W., sec. 28: SWSW, 40.0 acres, McHenry County, Minimum Bid Price \$1,400.
NDM82069	T. 156 N., R. 77 W., sec. 28: NWSE, 40.0 acres, McHenry County, Minimum Bid Price \$1,400.

The lands described are hereby segregated from appropriation under the public land laws, including the mining laws, but not from sale, pending disposition of this section or 270 days from the date of publication of this Notice, whichever occurs first.

The lands will be offered for sale at public auction beginning at 10 a.m.,

MDT, on Wednesday, June 30, 1993, at 2933 Third Avenue West, Dickinson, North Dakota 58601. The sale will be by modified competitive procedures. Tract lessees or adjoining land owners must submit a bid the day of sale to retain preference rights. The sale will be by sealed bid only.

All sealed bids must be submitted to the BLM's Dickinson District Office at 2933 Third Avenue West, Dickinson, North Dakota 58601, no later than 4:30 p.m., MDT, on Tuesday, June 29, 1993. Bid envelopes must be marked on the left front corner with the parcel number and the sale date. Bids must be for not less than the appraised Minimum Bid Price specified in this Notice. Each sealed bid shall be accompanied by a certified check, postal money order, bank draft or cashier's check made payable to the United States Department of the Interior, BLM, for not less than 10 percent or more than 30 percent of the amount of the bid. Applicants should submit a Statement of Eligibility form with the bid.

Bids on unsold parcels will be opened each Wednesday after the date of the sale at 10 a.m., MDT, until the parcels are sold. The terms and conditions applicable to the sale are:

1. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this office.

2. A right-of-way is reserved for ditches and canals constructed by the authority of the United States under the authority of the Act of August 30, 1890, (26 Stat. 291; 43 U.S.C. 945).

3. The patents will be subject to all valid existing rights including rights-of-way.

Federal law requires that all bidders must be U.S. citizens 18 years old or older, or in the case of corporations, be subject to the laws of any State of the U.S. Proof of these requirements must accompany the bid.

Under modified competitive sale procedures, an apparent high bid will be declared at the public auction. The apparent high bidder, lessees and adjoining land owners will be notified. Lessees and adjoining land owners will have five (5) working days from the date of the sale to exercise the preference consideration given to meet the high bid. Refusal or failure to meet the highest bid shall constitute a waiver of such bidding provisions. Once the qualified high bidder is determined, the balance of the purchase price shall be paid within 180 days of the date of the

sale. Failure to submit the full bid price prior to, but not including the 180th day following the day of sale, shall result in cancellation of the sale of the specific parcel and the deposit shall be forfeited and disposed of as other receipts of sale.

Detailed information concerning the sale, including the reservations, procedures for conditions of sale, and planning and environmental documents, is available at the Dickinson District Office, Bureau of Land Management, 2933 Third Avenue West, Dickinson, North Dakota 58601.

Comments

For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Dickinson District, at the above address. In the absence of objections, this proposal will become the final determination of the Department of the Interior.

Dated: April 16, 1993.

Douglas J. Burger,
District Manager.

[FR Doc. 93-10014 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-04-M

[UT-942-03-5700-11; UTU-70117]

Notice of Realty Action, Recreation and Public Purposes; Lease or Sale of Public Land in San Juan County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice to Realty Action, UTU-70117, proposed recreation and public purposes lease or sale of public land in San Juan County, Utah; segregation of land from appropriation and operation under the public land laws, including the mining laws, excepting the mineral leasing laws.

SUMMARY: The following land is being evaluated for lease or sale under the Recreation and Public Purposes Act of June 14, 1926, as amended (44 Stat. 741; 43 U.S.C. 869 et. seq.):

Salt Lake Meridian, Utah

T. 39 S., R. 22 E.,

Sec. 3, S2N2, S2.

Sec. 4, S2SE.

Sec. 9, NE, S2SE, E2SW, N2SE, SWSE, N2SESE, SWSESE.

Sec. 10, NW.

The above described land aggregates 1050 acres.

The land described is hereby segregated from appropriation and operation of the public land laws and the mining laws, excepting the mineral leasing laws, pending disposition of this action, or two hundred seventy (270) days from the date of publication of this

notice in the Federal Register, whichever occurs first.

FOR FURTHER INFORMATION CONTACT:

David L. Krouskop, Area Realty Specialist, San Juan Resource Area, 435 North Main, P.O. Box 7, Monticello, Utah 84535, (801) 587-2141, or Brad Groesbeck, District Realty Specialist, Moab District Office, 82 East Dogwood Drive, P.O. Box 970, Moab, Utah 84532, (801) 259-6111.

Dated: April 23, 1993.

William C. Stringer,

Acting District Manager.

[FR Doc. 93-10077 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-02-M

[OR-943-4210-06; GP3-200; OR-45434 (WASH)]

Conveyance of Public Lands; Order Providing for Opening of Lands; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 366.75 acres of public land out of Federal ownership. This action will also open 560 acres of reconveyed lands to surface entry and mining, and 700.40 acres to mineral leasing. The minerals in 640 acres are not in Federal ownership and will not be opened to mining and mineral leasing, and 140.40 acres are within a proposed withdrawal and will remain closed to surface entry and mining.

EFFECTIVE DATE: June 1, 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 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 366.75 acres in King, Okanogan, San Juan, and Skagit Counties, Washington, from Federal ownership to private ownership.

2. In the exchange, the following described lands have been reconveyed to the United States:

Willamette Meridian

T. 22 N., R. 32 E.,

Sec. 16;

Sec. 36, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, and S $\frac{1}{2}$.

T. 34 N., R. 1 W.,

Sec. 16, NE $\frac{1}{4}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$.

T. 34 N., R. 2 W.,

Sec. 25, lots 1 and 2.

The areas described aggregate 1,340.40 acres in Lincoln and San Juan Counties.

3. At 8:30 a.m., on June 1, 1993, the W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, and S $\frac{1}{2}$, Sec. 36, T. 22 N., R. 32 E., W.M., 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 June 1, 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 June 1, 1993, the land described in paragraph 3 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 June 1, 1993, the following described lands will be opened to applications and offers under the mineral leasing laws:

Willamette Meridian

T. 22 N., R. 32 E.,

Sec. 36, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, and S $\frac{1}{2}$.

T. 34 N., R. 1 W.,

Sec. 16, NE $\frac{1}{4}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$.

T. 34 N., R. 2 W.,

Sec. 25, lots 1 and 2.

Dated: April 16, 1993.

Champ C. Vaughan,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 93-9967 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-33-M

[AZ-942-03-4730-02]

Arizona; Notice of Filing of Plats of Survey

April 20, 1993.

1. The plats of survey of the following described lands were officially filed in the Arizona State Office, Phoenix, Arizona on the dates indicated:

A plat representing a dependent resurvey of a portion of the east boundary, Townships 14 and 15 North, Range 11 East, and a portion of the subdivisional lines; and the subdivision of section 6, and metes-and-bounds surveys in Township 14 North, Range 12 East, Gila and Salt River Meridian,

Arizona, was accepted February 5, 1993, and was officially filed February 18, 1993.

This plat was prepared at the request of the United States Forest Service, Coconino National Forest.

A supplemental plat showing amended lotting in the SE $\frac{1}{4}$ of section 32, Township 12 North, Range 18 East, Gila and Salt River Meridian, Arizona, was accepted February 24, 1993, and was officially filed March 4, 1993.

This plat was prepared at the request of the United States Forest Service, Apache-Sitgreaves National Forest.

A plat representing a dependent resurvey of a portion of the south boundary; and a survey of portions of the west and north boundaries and a portion of the subdivisional lines in Township 6 North, Range 23 East, Gila and Salt River Meridian, Arizona, was accepted January 26, 1993, and was officially filed February 4, 1993.

This plat was prepared at the request of the Bureau of Indian Affairs, Phoenix Area Office.

A plat representing a survey of the east and north boundaries, and the subdivisional lines of Township 30 North, Range 26 East, Gila and Salt River Meridian, Arizona, was accepted February 22, 1993, and was officially filed March 4, 1993.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Area Office.

A plat, in 2 sheets, representing a dependent resurvey of a portion of the Fifth Standard Parallel North through Range 17 West, a portion of the subdivisional lines and a portion of Mineral Survey 2750; and the subdivision of section 4 in Township 20 North, Range 17 West, Gila and Salt River Meridian, Arizona, was accepted March 2, 1993, and was officially filed March 11, 1993.

This plat was prepared at the request of the Bureau of Land Management, Phoenix District Office.

A supplemental plat showing amended lotting created by the segregation of the right-of-way of U.S. Interstate Highway No. 40 in section 18, Township 16 North, Range 20 West, Gila and Salt River Meridian, Arizona, was accepted March 8, 1993, and was officially filed March 18, 1993.

A supplemental plat showing amended lotting created by the segregation of the right-of-way of U.S. Interstate Highway No. 40 in sections 15, 17, and 18, Township 16 North, Range 20 West, Gila and Salt River Meridian, Arizona, was accepted March 8, 1993, and was officially filed March 18, 1993.

A supplemental plat showing amended lotting created by the segregation of the right-of-way of U.S. Interstate Highway No. 40 in section 13, Township 16 North, Range 20 $\frac{1}{2}$ West, Gila and Salt River Meridian, Arizona, was accepted March 8, 1993, and was officially filed March 18, 1993.

These plats were prepared at the request of the Bureau of Land Management, Kingman Resource Area, to facilitate a land exchange.

A plat representing a dependent resurvey of a portion of the subdivisional lines; and the subdivision and a metes-and-bounds survey in section 17, Township 22 South, Range 8 East, Gila and Salt River Meridian, Arizona, was accepted March 29, 1993, and was officially filed April 8, 1993.

This plat was prepared at the request of the United States Department of the Interior, Fish and Wildlife Service.

2. These plats will immediately become the basic records for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

3. All inquiries relating to these lands should be sent to the Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

Lanny K. Talbot,
Acting Chief Cadastral Surveyor of Arizona.
[FR Doc. 93-10019 Filed 4-28-93; 8:45 am]
BILLING CODE 4310-32-M

[CA-940-4210-06; CACA 29698]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes to withdraw 359.19 acres of public land for protection of the Coachella Canal and appurtenant structures of the All-American Canal System, Boulder Canyon Project, near North Shore, California. This notice closes the land for up to 2 years from surface entry and mining. The land will remain open to mineral leasing.

DATES: Comments and requests for a public meeting must be received by July 28, 1993.

ADDRESSES: Comments and meeting requests should be sent to the California State Director, BLM, Federal Office Building, 2800 Cottage Way, room E-2845, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT:
Viola Andrade, BLM California State Office, 916-978-4820.

SUPPLEMENTARY INFORMATION: On April 14, 1993, a petition was approved allowing the Bureau of Reclamation to file an application to withdraw the following described public land from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

San Bernardino Meridian

T. 7 S., R. 10 E.,
Sec. 18, lots 1 and 2 of NW $\frac{1}{4}$, N $\frac{1}{2}$ lot 2 of SW $\frac{1}{4}$ and NE $\frac{1}{4}$.

The area described contains 359.19 acres in Riverside County.

The purpose of the proposed withdrawal is to protect the Coachella Canal and appurtenant structures of the All-American Canal System, Boulder Canyon Project.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the California State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the California State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the *Federal Register* at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the *Federal Register*, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which will be permitted during this segregative period are licenses, permits, cooperative agreements, or other discretionary land use authorizations of a temporary nature.

The temporary segregation of the land in connection with a withdrawal application or proposal shall not affect administrative jurisdiction over the land, and the segregation shall not have

the effect of authorizing any use of the land by the Bureau of Reclamation.

Dated: April 16, 1993.
Nancy J. Alex,
Chief, Lands Section.
[FR Doc. 93-9966 Filed 4-28-93; 8:45 am]
BILLING CODE 4310-40-M

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.):

Applicant: Rodney Graybill, Newark, NY, PRT-777253.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive-herd maintained by Mr. J.M. Mullins, Grahamstown, South Africa, for the purpose of enhancement of survival of the species.

Applicant: Philadelphia Zoological Garden, Philadelphia, PA, PRT-777503.

The applicant requests a permit to import three male and three female bicolored tamarins (*Leontideus rosalia*) which were captive-born at Rio de Janeiro Primate Center, Rio de Janeiro, Brazil, for enhancement of propagation.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358-2104); FAX: (703/358-2281).

Dated: April 23, 1993.
Susan Jacobson,
Acting Chief, Branch of Permits, Office of Management Authority.
[FR Doc. 93-9993 Filed 4-28-93; 8:45 am]
BILLING CODE 4310-55-M

Notice of Availability of a Draft Recovery Plan for the Greenback Cutthroat Trout (*Oncorhynchus clarki stomias*) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the greenback cutthroat trout (*Oncorhynchus clarki stomias*). This species occurs in the headwaters of the South Platte and Arkansas Rivers in central and north-central Colorado and a small segment of the South Platte River drainage in southern Wyoming. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before June 28, 1993.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the U.S. Fish and Wildlife Service, Ecological Services, 730 Simms Street, room 290, Golden, Colorado 80401. Written comments and materials regarding this draft recovery plan should be sent to the address given above. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Bruce Rosenland at the Golden, Colorado, Fish and Wildlife Service Office (see ADDRESSES above), telephone (303) 231-5280.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Fish and Wildlife Service's (Service) endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.), requires the development of recovery plans for listed species unless such a plan would not promote the

conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal Agencies also will take these comments into account in the course of implementing approved recovery plans.

The greenback cutthroat trout is the only trout endemic to the headwaters of both the South Platte and the Arkansas Rivers in central and north-central Colorado and southern Wyoming. It is one of the most colorful subspecies of cutthroat trout.

The greenback cutthroat trout was listed as endangered on March 11, 1967, and as threatened on April 18, 1978. In 1973, only two small historic populations were known to exist. Since then, seven additional historic populations have been identified, and the fish has been reintroduced into numerous other locations within its historic range. Threats to this fish primarily occur from hybridization with or competition from nonnative trout species (brook, rainbow, and brown trout) that have been introduced into its habitat. Recovery efforts will include propagation and reintroduction of additional greenback cutthroat trout populations, control of nonnatives, and preparation of a long-term management plan to protect the species and its habitat after delisting.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified in the DATES section above will be considered prior to approval of the recovery plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: April 16, 1993.
Robert D. Jacobsen,
Acting Regional Director.
[FR Doc. 93-10020 Filed 4-28-93; 8:45 am]
BILLING CODE 4310-55-M

Geological Survey

Interagency Advisory Committee on Water Data; Intergovernmental Task Force on Monitoring Water Quality

AGENCY: Geological Survey, Department of the Interior.

ACTION: Notice of an open meeting of the Intergovernmental Task Force on Monitoring Water Quality in Fair Oaks, VA, and of the availability of a report on ambient water-quality monitoring for public review and comment.

SUMMARY: Notice is hereby given of a meeting of the Intergovernmental Task Force on Monitoring Water Quality (ITFM). This meeting is open to the public. The ITFM is chaired by the U.S. Environmental Protection Agency, and it includes representatives of Federal and non-Federal government agencies that are operational partners in water-quality monitoring. Its principal responsibility is to evaluate water-quality monitoring activities and to identify and initiate needed improvements. The ITFM is part of the implementation of the Water Information Coordination Program (WICP) of the Federal Government as required by Office of Management and Budget Memorandum No. 92-01. The U.S. Department of the Interior, through the U.S. Geological Survey, has lead responsibility for working with other Federal and non-Federal organizations to implement the WICP.

DATES: May 11, 1993.

ADDRESSES: Fair Oaks Holiday Inn, 11787 Lee Jackson Memorial Highway, Fairfax, Virginia 22033.

FOR FURTHER INFORMATION CONTACT: Nancy Lopez, Chief, Office of Water Data Coordination, 417 National Center, Reston, Virginia 22092, Telephone: (703) 648-5014 and Fax: (703) 648-6802.

SUPPLEMENTARY INFORMATION: The agenda includes presentations by representatives of the following water-quality monitoring communities: volunteers, industry and utilities, municipalities, and environmental organizations. These participants will provide information to the ITFM about the water-quality monitoring activities of their organizations. The information will include relationships to other water-quality monitoring efforts and decisionmaking. Discussions also will include comments on the first year report of the ITFM. It is entitled "Ambient Water-Quality Monitoring in the United States: First Year Review, Evaluation and Recommendations." The report is available for public review, and it can be obtained by writing or telephoning the Office of Water Data Coordination. The telephone number for requesting the report is (703) 648-5023. Comments on the report are requested by July 31, 1993. This is the first in a series of WICP meetings intended to facilitate outreach to public and private

organizations interested in the efforts of the ITFM and water-quality monitoring. At the end of the day, some time will be available for public comments, and individual speakers may have up to 5 minutes. Those wishing to be placed on the agenda must provide a written request with a description of the general subject area to Nancy Lopez by noon May 10, 1993. Any member of the public may submit written information and/or comments on the report to Nancy Lopez for distribution to the ITFM.

Philip Cohen,
Chief Hydrologist.

[FR Doc. 93-10042 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-31-M

Minerals Management Service

Outer Continental Shelf, Central and Western Gulf of Mexico, Proposed Gas and Oil Lease Sales 147, 150; Notice of Availability Proposed Notices of Sale

Gulf of Mexico Outer Continental Shelf (OCS); Notice of Availability of Proposed Notices of Sale for proposed Gas and Oil Lease Sale 147, Central Gulf of Mexico, and proposed Gas and Oil Lease Sale 150, Western Gulf of Mexico. This Notice of Availability is published, pursuant to 30 CFR 256.29(c), as a matter of information to the public.

With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, as amended, provides the affected States the opportunity to review the proposed Notices of Sale. The proposed Notices of Sale for proposed Sales 147 and 150 may be obtained by written request to the Public Information Unit, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123-2394, or by telephone (504) 736-2519.

A study is underway to examine raising the rental rate on new leases from the current \$3 as stated in the above referenced proposed Notices of Sale. The costs of administering the leasing programs have increased, but the rental rate has remained constant. The increase would be used to fund the Technical Information Management System (TIMS) which will improve the efficiency with which lease data are handled. If a decision is reached to increase the rate prior to the issuance of the final Notices of Sale, those Notices will reflect the new rental rate.

The final Notice of Sale will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening for proposed Sale 147 is scheduled for March 1994, and

for proposed Sale 150 bid opening is scheduled for August 1994.

Dated: April 23, 1993.

Thomas Gernhofer,
Acting Director, Minerals Management Service.

[FR Doc. 93-10029 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-MR-M

Royalty Obligations on Contract Settlement Proceeds

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of meetings.

SUMMARY: The Royalty Management Program of the Minerals Management Service (MMS) hereby gives notice that it will hold informal meetings at the location and on the dates identified below, to discuss settlements reached by producers and pipeline companies to rescind, terminate, limit, or otherwise modify gas sales contracts under dispute. The purpose of the meetings is to discuss MMS policy on royalty obligations of proceeds paid in contract settlements.

Interested parties are invited to attend and participate at these meetings.

DATES: See Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Ms. Virginia Renfrow of the Houston Area Audit Office, Houston, Texas, telephone (713) 987-6800.

SUPPLEMENTARY INFORMATION: The meeting will be held at the following address: Room No. 104, 4141 North Sam Houston Parkway, East, Houston, Texas; on the following dates and times: May 6, 1993—2 p.m.; May 7, 1993—9 a.m.

Dated: April 23, 1993.

Donald T. Sant,
Acting Associate Director for Royalty Management.

[FR Doc. 93-10028 Filed 4-28-93; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-337]

Commission Decision To Review Certain Limited Portions of an Initial Determination, and Schedule for the Filing of Written Submissions on the Issues Under Review, and on Remedy, the Public Interest, and Bonding

In the Matter of Certain Integrated Circuit Telecommunication Chips and Products Containing Same, Including Dialing Apparatus.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review certain limited portions of the initial determination (ID) issued on March 9, 1993, by the presiding administrative law judge (ALJ) in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT:

Matthew T. Bailey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3108.

SUPPLEMENTARY INFORMATION: SGS-Thomson Microelectronics Corporation (ST) filed a complaint March 5, 1992, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) alleging that Winbond Electronics Corp., Winbond North America Corp., United Microelectronics Corp. (UMC), Hualon Microelectronics Corp. (Taiwan and U.S.) (HMC), Kingtel Telecommunication Corp., North American Foreign Trade, A&A Int'l, Inc., Conair Corp., Lonestar Technologies, Ltd., Spectra Merchandising Int'l, and Columbia Telecommunication Group, Inc. had sold for importation, imported into the United States, or sold in the United States after importation, certain telecommunication chips. The telecommunication chips were alleged to infringe various claims of U.S. Letters Patent Nos. 4,061,886, 4,315,108, and 4,446,436 owned by ST. The Commission instituted the subject investigation by notice published in the *Federal Register* on April 8, 1992, at 57 FR 11966-67. The Commission added additional respondents SMC Microtronic Co. Ltd. by notice published on July 29, 1992, at 57 FR 33520-21, and Tranbon by notice published on August 27, 1992, at 57 FR 38855-56.

On March 9, 1993, the presiding ALJ issued his final ID finding that there was a violation of section 337. The ALJ found that claims 2, 3, and 4 of U.S. Letters Patent 4,446,436 were valid, enforceable, and infringed and that a domestic industry exists with respect to that patent. The ALJ also found that the asserted claims of U.S. Letters Patent 4,315,108 were invalid under 35 U.S.C. 112 and not infringed, that the asserted claims of U.S. Letters Patent 4,061,886 were not infringed, and that no domestic industry exists with respect to either patent because complainant does not practice the asserted claims.

Complainant ST and respondents UMC and HMC filed petitions for review of the ID, as well as responses to those petitions for review. The

Commission investigative attorney filed responses to both petitions for review.

Having examined the record in this investigation, including the ID, the Commission has determined not to review most issues relevant to the ALJ's findings and initial determination. However, the Commission has decided to review the issues of: (1) Whether the '108 patent is valid under the enablement and best mode provisions of 35 U.S.C. 112, first paragraph; (2) whether the ALJ properly construed the claims at issue of the '886 patent; (3) whether claims 1 and/or 6 of the '436 patent are invalid as obvious under 35 U.S.C. 103 and, if so, does a violation of section 337 exist as to those claims. With regard to the portions of the ID that will be reviewed, the Commission is interested only in the following issues:

1. Whether the ALJ properly defined the level of ordinary skill in the art with regard to the '108 patent in view of *In re Naquin*, 398 F.2d 863 (C.C.P.A. 1968). To what extent have the parties consented to the ALJ's definition of ordinary skill in the art? What effect does such consent, if any, have on the Commission's review of the level of ordinary skill with regard to the '108 patent?

2. Whether the ALJ properly construed independent claims 6 and 13 of the '886 patent with regard to the utility requirement under 35 U.S.C. § 101. Are the factual findings of the ALJ consistent with his claim interpretation of claims 6 and 13?

3. Whether the ALJ properly construed claims 1 and 6 of the '436 patent, especially in view of 35 U.S.C. § 112, ¶ 6 and *Valmont Indus., Inc. v. Reinke Mfg. Co.*, 983 F.2d 1039 (Fed. Cir. 1993). Did the ALJ properly determine that an equivalent structure for each of three means-plus-function elements recited in claim 1 of the '436 patent is present in the prior art? What is an appropriate range of equivalents for each of these three means-plus-function elements in claim 1 of the '436 patent?

In connection with final disposition of this investigation, the Commission may issue: (1) An order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) cease and desist orders that could result in respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered.

If the Commission contemplates some form of remedy, it must consider the

effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on: (1) The public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

The submissions requested above should be concise and thoroughly referenced to the record in this investigation, including references to specific exhibits and testimony. Initial submissions are limited to 20 pages on the issue of remedy, the public interest, and bonding, and 25 pages with respect to the patent issues. Response submissions are limited to 10 pages on the issues of remedy, the public interest, and bonding, and 15 pages with respect to the patent issues.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

WRITTEN SUBMISSIONS: The parties to the investigation are requested to file written submissions on the issues under review. Additionally, the parties to the investigation, interested government agencies, and any other interested persons are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Comments regarding remedy, the public interest, and bonding are particularly requested with respect to respondent Kingtel, which was found in default on January 13, 1993. See 58 FR 4181.

Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. The written submissions and proposed remedial orders must be filed no later than the close of business on Thursday, May 6, 1993. Reply submissions must be filed no later than the close of business on Wednesday, May 12, 1993. No further submissions will be permitted unless otherwise ordered by the Commissions.

Persons filing written submissions must file with the Office of the Secretary the original document and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already had been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment is granted by the Commission will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and §§ 210.54–55 of the Commission's Interim Rules of Practice and Procedure (19 CFR §§ 210.54–55 (1989)).

Copies of the public version of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: April 27, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–10239 Filed 4–28–93; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

To obtain copies of these environmental assessments contact Ms. Johnnie Davis or Ms. Tawanna Glover-Sanders, Interstate Commerce

Commission, Section of Energy and Environment, room 3219, Washington, DC 20423, (202) 927–5750 or (202) 927–6245.

Comments on the following assessment are due 15 days after the date of availability: AB–55 (Sub-No. 462X), CSX Transportation, Inc.—Notice of Exemption—Abandonment in New Hanover County, NC. EA available 4/20/93.

Comments on the following assessment are due 30 days after the date of availability.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–10076 Filed 4–28–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Wage and Hour Division

[Administrative Order No. 661]

Special Industry Committee for All Industries in American Samoa; Appointment; Convention; Hearing

1. Pursuant to sections 5 and 6(a)(3) of the Fair Labor Standards Act (FLSA) of 1938, as amended (29 U.S.C. 205, 206(a)(3)), and Reorganization Plan No. 6 of 1950 (3 CFR, 1949–53 Comp., p. 1004) and 29 CFR part 511, I hereby appoint special Industry Committee No. 20 for American Samoa.

2. Pursuant to section 5, 6(a)(3) and 8 of FLSA, as amended (29 U.S.C. 205, 206(a)(3), and 208), reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and 29 CFR part 511, I hereby:

(a) Convene the above-appointed industry committee;

(b) Refer to the industry committee the question of the minimum rate or rates for all industries in American Samoa to be paid under section 6(a)(3) of FLSA, as amended; and,

(c) Give notice of the hearing to be held by the committee at the time and place indicated.

The industry committee shall investigate conditions in such industries, and the committee, or any authorized subcommittee thereof, shall hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and function under FLSA.

The committee shall meet in executive session to commence its investigation at 9 a.m. and begin its public hearing at 11 a.m. on June 7, 1993, in Pago Pago, American Samoa.

3. The rate or rates recommended by the committee shall not exceed the rate

prescribed by section 6(a) or 6(b) of FLSA, as amended by the Fair Labor Standards Amendments of 1989, of \$4.25 an hour effective April 1, 1991.

The Committee shall recommend to the Administrator of the Wage and Hour Division of the Department of Labor the highest minimum rate or rates of wages for such industries that it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in such industries, and will not give any industry in American Samoa a competitive advantage over any industry in the United States outside of American Samoa.

4. Where the committee finds that a higher minimum wage may be determined for employees engaged in certain activities or in the manufacture of certain products in the industry than may be determined for other employees in the industry, the committee shall recommend such reasonable classifications within the industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set forth herein and in 29 CFR 511.10, that will not substantially curtail employment in such classification and will not give a competitive advantage to any group in the industry. No classification shall be made, however, and no minimum wage rate shall be fixed solely on a regional basis or on the basis of age or sex. In determining whether there should be classifications within an industry, in making such classifications, and in determining the minimum wage rates for such classifications, the committee shall consider, among other relevant factors, the following:

(a) Competitive conditions as affected by transportation, living, and production costs;

(b) Wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and,

(c) Wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

5. Prior to the hearing, the Administrator of the Wage and Hour Division, U.S. Department of Labor, shall prepare an economic report containing the information that has been assembled pertinent to the matters referred to the committee. Copies of this report may be obtained at the Office of the Governor, Pago Pago, American Samoa, and the National Office of the

Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. Upon request, the Wage and Hour Division will mail copies to interested persons who make written request to the Wage and Hour Division. The committee will take official notice of the facts stated in this report. Parties, however, shall be afforded an opportunity to refute such facts by evidence received at the hearing.

6. The procedure of this industry committee will be governed by the provisions of title 29, Code of Federal Regulations, part 511. Copies of this part of the regulations will be available at the Office of the Governor, Pago Pago, American Samoa, and at the National Office of the Wage and Hour Division. The proceedings will be conducted in English but in the event a witness should wish to testify in Samoan, an interpreter will be provided. As a prerequisite to participation as a party, interested persons shall file six copies of a prehearing statement at the aforementioned Office of the Governor of American Samoa and six copies at the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. Each prehearing statement shall contain the data specified in 29 CFR 511.8 of the regulations and shall be filed not later than May 28, 1993. If such statements are sent by airmail between American Samoa and the mainland, such filing shall be deemed timely if postmarked within the time provided.

Signed at Washington, DC, this 23d day of April 1993.

Robert B. Reich,
Secretary of Labor.

[FR Doc. 93-10093 Filed 4-28-93; 8:45 am]
BILLING CODE 4510-27-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Electrical and Communications Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Electrical and Communications Systems.

Date and Time: May 21, 1993; 8:30 a.m. to 5 p.m.

Place: Room 1133, 1800 G Street, NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Linton G. Salmon, Program Director, Division of Electrical and Communications Systems, rm.

1151, National Science Foundation, 1800 G St., NW., Washington, DC 20550. Telephone: (202) 357-9618.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Solid State and Microstructures research proposals as part of the selection process for awards.

Reason for Closing: The proposals 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 proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 26, 1993.

M. Rebecca Winkler,
Committee Management Officer.

[FR Doc. 93-10067 Filed 4-28-93; 8:45 am]
BILLING CODE 7555-01-M

Special Emphasis Panel in Experimental Programs To Stimulate Competitive Research (EPSCoR); Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Experimental Programs To Stimulate Competitive Research (EPSCoR).

Date and Time: May 20-21, 1993; 2-9 p.m. and 8:30 a.m. to noon.

Place: The Latham Hotel, 3000 M St., NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Richard J. Anderson, Senior Project Director, EPSCoR, rm. 638, NSF, Washington, DC 20550, (202) 357-7560.

Purpose of Meeting: To provide advice and recommendations concerning support proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted from states participating in the EPSCoR. Proposals requesting one-year Experimental Systemic Initiative grants are submitted in response to NSF EPSCoR solicitation 92-67.

Reason for Closing: The proposals 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 proposals. These matters are exempt

under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: April 26, 1993.

M. Rebecca Winkler,
Committee Management Officer.

[FR Doc. 93-10069 Filed 4-28-93; 8:45 am]
BILLING CODE 7555-01-M

Advisory Panel for Genetics and Nucleic Acids; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting: Advisory Panel for Genetics (Panel B).

Date and Time: May 17-19, 1993 from 8:30 a.m. to 5 p.m.

Place: National Science Foundation, 1800 G Street, room 1242, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. DeLill Nasser, Program Director for Genetics, Division of Molecular and Cellular Biosciences, room 325, National Science Foundation, 1800 G St., NW., Washington, DC 20550. Telephone: (202) 357-0112.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Genetics Program in the Division of Molecular & Cellular Biosciences at NSF as part of the selection process for awards.

Reason for Closing: The proposals 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 proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 26, 1993.

M. Rebecca Winkler,
Committee Management Officer.

[FR Doc. 93-10065 Filed 4-28-93; 8:45 am]
BILLING CODE 7555-01-M

Special Emphasis Panel in Human Resource Development; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Human Resource Development.

Date and Time: May 17, 1993: 8:30 a.m. to 5:30 p.m.; May 18, 1993: 8:30 a.m. to 4:30 p.m.

Place: 1110 Vermont Ave., NW., rooms 500D and E, Washington, DC 20005.

Type of Meeting: Closed.

Contact Person: Lola E. Rogers, Program Director, National Science Foundation, 1800

G St. NW., Washington, DC 20550.
Telephone: (202) 357-7734.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate unsolicited proposals as part of the selection process for awards.

Reason for Closing: The proposals 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 proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 26, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93-10071 Filed 4-28-93; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Materials Research; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Date and Time: May 20, 1993, 8:15 a.m.—5:30 p.m.

Place: NSF Conference & Training Center, 1110 Vermont Avenue, NW., rooms 500 A, B, and C, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: John C. Hurt, National Science Foundation, 1800 G St. NW., room 408, Washington, DC 20550. Telephone: (202) 357-9791.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support by the Materials Research Groups Program.

Agenda: To review and evaluate Structural Materials proposals as part of the selection process for awards.

Reason for Closing: The proposals 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 proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 26, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93-10068 Filed 4-28-93; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Ocean Sciences (ACOS); Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Ocean Sciences (ACOS).

Date and Time: May 20, 1993—8:30 a.m. to 5 p.m.

Place: Conference Center, One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.

Type of Meeting: Partially closed.

Contact Person: Dr. M. Grant Gross, Director, Division of Ocean Sciences, room 609, National Science Foundation, Washington, DC—Telephone: 202/357-9639.

Summary Minutes: May be obtained from the contact person.

Purpose of Committee: To provide advice and recommendations concerning oceanographic research and its support by the NSF Division of Ocean Sciences.

Agenda:

Open—8:30—1:30 p.m.

- Subcommittee Reports
- Planning for future oversight reviews
- Strategic Planning for Ocean Science
- Future ACOS activities

Closed 5/20—1:30 p.m. to 3:30 p.m.

To review and evaluate research proposals as part of the selection process for awards.

Open 4 p.m. to 5 p.m.

- Future advisory committee activities (continued)

Resume Discussions

Reason for Closing: The proposals 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 proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b (c), Government in the Sunshine Act.

Dated: April 26, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93-10066 Filed 4-28-93; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Physics; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Date and Time: Friday, May 21, 1993; 8:30 a.m. to 5 p.m.

Place: Room 340, National Science Foundation, 1800 G Street NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Rolf M. Sinclair, Program Director for Cross Directorate Activities, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357-7996.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate NSF Young Investigator proposals as part of the selection process for awards.

Reason for Closing: The proposals 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 proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 26, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93-10070 Filed 4-28-93; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* 10 CFR Part 9: Public Records.

3. *The form number, if applicable:* Not applicable.

4. *How often the collection is required:* On occasion.

5. *Who will be required or asked to report:* Individuals requesting access to records under the Freedom of Information or Privacy Acts.

6. *An estimate of the number of responses annually:* 2,464.

7. *An estimate of the number of hours needed annually to complete the requirement or request:* 694 hours (an average of .3 hours per response).

8. *An indication of whether section 3504(h), Public Law 96-511 applies:* Not Applicable.

9. *Abstract:* 10 CFR part 9 establishes information collection requirements for individuals making requests for records under the Freedom of Information or Privacy Acts. It also contains requests to waive or reduce fees for searching for and reproducing records in response to FOIA requests. The information required from the public is necessary to identify the records they are requesting or to justify requests for waivers or reductions in searching or copying fees.

Copies of the submittal may be inspected or obtained for a fee from the

NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC.

Comments and questions can be directed by mail to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs (3150-0043), Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395-3084.

The NRC Clearance Officer is Brenda Jo Shelton, (301) 492-8132.

Dated at Bethesda this 21st day of April 1993.

For the Nuclear Regulatory Commission.
Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 93-10050 Filed 4-28-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-285]

Exemption

In the Matter of Omaha Public Power District (Fort Calhoun Station, Unit No. 1).

I

The Omaha Public Power District (OPPD/the licensee) is the holder of Facility Operating License No. DPR-40, which authorizes operation of the Fort Calhoun Station, Unit No. 1 (the facility), at steady state reactor core power levels not in excess of 1500 megawatts thermal. This facility is a pressurized water reactor located in Washington County, Nebraska. The licensee provides, among other things, that Fort Calhoun Station, Unit No. 1, is subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

II

Section 26.21(b) of title 10 of the Code of Federal Regulations requires that Fitness-For-Duty (FFD) refresher training be completed on a nominal 12-month frequency or more frequently where the need is indicated.

By letter dated February 12, 1993, the licensee of Fort Calhoun Station, Unit No. 1, requested a one-time exemption from the requirements of 10 CFR 26.21(b) to allow the licensee to consolidate its response to several training requirements by extending the time requirement for providing FFD refresher training to approximately 18 months.

III

The Commission has reviewed the licensee's rationale for a one-time exemption from 10 CFR 26.21(b) in

order not to separate FFD refresher training from general employee requalification training (GERT).

Based on its review, the Commission finds the licensee has shown good cause for the requested exemption from 10 CFR 26.21(b). Therefore, the exemption to extend the time requirement for completing FFD refresher training is acceptable.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 26.6, the exemption is authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest and hereby grants an exemption from the time requirements of 10 CFR 26.21(b).

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the Exemption will have no significant impact on the environment (58 FR 21480).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 22nd day of April 1993.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Director, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93-10049 Filed 4-28-93; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-32196; File No. SR-Amex-93-05]

Self-Regulatory Organizations; Filing of Proposed Rule Changes by the American Stock Exchange, Inc.; Relating to Flexible Exchange Options ("FLEX Options")

April 22, 1993.

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 February 4, 1993, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule changes as described in Items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The Amex has filed proposed rule changes to amend its rules to permit the listing and trading on the Exchange of large-size, customized index options, referred to as Flexible Exchange Options ("FLEX Options").

The text of the proposed rule changes is available at the Office of the Secretary, Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The Amex 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 the Statutory Basis for, the Proposed Rule Changes

(1) Purpose

When standardized options commenced trading in 1973, many of the risks associated with the over-the-counter ("OTC") options market were eliminated by the creation of a centralized clearing entity, the Options Clearing Corporation ("OCC"). Organized to be the sole issuer and financial guarantor of option contracts traded on all U.S. exchanges, OCC's existence virtually eliminated counterparty risk while standardization of contract specifications for exchange-traded options eliminated the ability to customize options contract specifications.

In recent years, a substantial OTC market in index and equity options has developed primarily by institutional investors seeking the flexibility to customize basic option features, including size, expiration date, exercise style and exercise price. In order to meet the increasing needs of these investors, the Exchange proposes to provide for the trading of large-size customized index options ("FLEX Options"). These options would have the benefit of OCC issuance, clearance and guarantees not available in the OTC market. Recently, the Commission approved a Chicago Board Options Exchange, Inc. ("CBOE")

proposal to list and trade FLEX Options based on the Standard & Poor's Corporation ("S&P") 100 and 500 stock indexes.¹

FLEX Options will differ from existing exchange-traded options both in terms of customization and size. Specifically, parties to a FLEX Option trade would establish through the negotiation process outlined below in proposed Rules 903G and 904G, the expiration date, exercise style (American, European or capped), exercise price, the cap interval (for capped-style FLEX Options) and the methodology for establishing a settlement value (i.e., based on opening or closing component prices on any given day or as an average over a period of time).

Initially, the Amex plans to introduce FLEX Options on the following indexes presently traded at the Exchange: (1) Major Market ("XMI"), (2) Institutional ("XII"), (3) Japan ("JPN"), and (4) S&P MidCap ("MID"). FLEX Option multipliers will be the same as non-FLEX Options while quotes for FLEX Options may be expressed in standard terms, or as a percentage of the underlying index value. Transactions in FLEX Options will be subject to many of the same rules that currently apply to options traded on the Exchange. However, to provide investors with the flexibility to designate certain terms and to accommodate other special features of FLEX Options and the way in which they are traded, several new rules are necessary.

The principal rules proposed by the Amex that are uniquely applicable to the FLEX market include a rule containing new definitions (Rule 900G), a rule regarding hours of trading FLEX Options (Rule 901G), a rule regarding trading rotations (Rule 902G), rules setting forth the special terms of FLEX contracts and certain special pieces of information that must be included in FLEX Requests for Quotes and responsive quotes (Rule 903G), rules prescribing the mechanics of initiating a FLEX Request for Quotes and bidding and offering in response thereto, rules setting forth the principles applicable to the formation of binding FLEX contracts, rules defining the applicable priority principles (Rule 904G), and special position limit and exercise limit rules (Rules 906G and 907G). Discussion of each of these new rules follows.

Proposed Rule 900G adopts nomenclature uniquely tailored to fit the special characteristics of FLEX Options and the FLEX market. For

example, the term "Request Response Time" refers to the time interval, set by the Submitting Member in its Request for Quotes, during which responsive bidding and offering is to take place. Similarly, the term "FLEX Quote" has both its usual connotation—market-maker bids and offers—and a new connotation—brokers' orders to purchase and orders to sell—that is necessary in view of the unique mechanics of the FLEX exchange auction.

Proposed Rule 901G provides that FLEX trading will commence at 10 a.m. and close at 4:15 p.m. (New York time), although the Exchange may, from time to time, determine to amend the trading hours set for FLEX Options. The Amex believes that this one-half hour delay will promote smooth, liquid openings for both FLEX and non-FLEX Options and limit various burdens associated with the opening of trading each day during the initial phases of this program. As a complementary rule uniquely applicable to FLEX Options, Proposed Rule 902G specifies that there will be no trading rotations in FLEX Options, either at the opening or at the close of trading.

Proposed Rule 903G specifies the term elements and other informational ingredients that must be included in Requests for Quotes, FLEX Quotes submitted in response to such requests, and, ultimately, FLEX contracts that are the product of FLEX trading. As paragraph (b) of this proposed rule indicates, the content of certain terms of each FLEX contract is to be determined by the parties to the contract. Other terms, such as the level of the index multiplier and the nature of the rights and obligations of FLEX Option purchasers and sellers, are the same for FLEX as for non-FLEX index options.

More specifically, paragraph (b) of Proposed Rule 903G specifies the term elements that a Submitting Member must include in its Request for Quotes and indicates the content alternatives available for each term. Under this paragraph a Submitting Member must designate, among other terms, the day, month and year of the FLEX Option's expiration, subject to certain limitations designed to avoid the overlap of FLEX expirations with expirations of non-FLEX index options. To further ensure against any adverse market impact, expirations for FLEX Options may not fall within three business days (before or after) of conventional options expirations (generally the third Friday of the month). Similarly, a Submitting Member must identify the exercise price and the exercise settlement value of the FLEX Option, within stated parameters.

Paragraph (c) of this proposed rule lists certain additional categories of information that must be addressed by the Submitting Member in its Request for Quotes. In particular, a Submitting Member must indicate the type and form of quote sought, the Submitting Member's intention, if any, to cross a customer order or act as principal with respect to any part of the FLEX trade, and the length of the Request Response Time (i.e., the time interval during which FLEX-participating members may enter quotes responsive to the request).

Finally, paragraph (d) of this proposed rule specifies the maximum term and the minimum value size of any FLEX contract and provides that the term and size may be set, within the stated limits, at the discretion of the Submitting Member or the quoting party, as applicable. Under this paragraph, the maximum term of any FLEX Option is five years; the minimum value size (i.e., the aggregate underlying dollar value that is the subject of the option) for a FLEX Request for Quotes is \$10 million in an opening transaction in a new FLEX option series and \$1 million in an opening or closing transaction in any currently-opened FLEX series (or less in a closing transaction where the remaining underlying value is less than \$1 million); and the minimum value size for quotes of Market-Makers in response to a Request for Quotes is \$1 million or any lesser amount reflected in a Request for Quotes.

Proposed Rule 904G prescribes in some detail the mechanics of submitting Requests for Quotes and entering responsive bids and offers. These mechanics, described below, are designed to create a modified auction that takes into account the relatively small number of transactions that are likely to occur in this institutional, large-size market, while at the same time providing the FLEX market with the price improvement and transparency benefits of competitive Exchange floor bidding and offering, as compared with the OTC market. Proposed Rule 904G establishes time and price priority principles and contains special rules respecting the bidding and offering process and the method of allocating trades in instances in which the Submitting Member expresses an intention to cross or act as principal on a Request for Quotes. These proposed rules are designed to promote active bidding and offering that will generate the best price available, while also providing incentives to market-makers appointed to FLEX Options, floor participants, and upstairs firms alike to participate in the FLEX market.

¹ See Securities Exchange Act Release No. 31920 (February 24, 1993), 58 FR 12280.

In particular, paragraphs (a) and (b) of proposed Rule 904G indicate that the FLEX bidding and offering process is initiated once a Submitting Member has supplied a Request for Quotes in proper form and the FLEX Post Official has disseminated the terms of that request at the post and over FLEX communications facilities yet to be developed. Thereafter, FLEX Quotes in proper form must be entered, but may be modified or withdrawn (subject to special limitations imposed on appointed market-makers) by public outcry at any time during the Request Response Time. The length of the Request Response Time, which must fall within time parameters to be set by the Exchange, is to be specified in the Request for Quotes. At the expiration of the Request Response Time, the FLEX Post Official will determine the best bid and/or offer (the "BBO").

Proposed paragraphs (c)(i)-(ii) of Rule 904G provide that the BBO will be displayed at the post and over communication facilities and, at that point, or after further bidding and offering that occurs in certain specified circumstances, the Submitting Member will have the opportunity to accept or reject the BBO. The Submitting Member, however, has no obligation to accept the BBO. Thus, whenever the BBO is rejected the Request for Quotes expires, although FLEX-participating members other than the Submitting Member may accept the unfilled balance of the BBO. Similarly, whenever the BBO is accepted, the transaction (or transactions) will be executed in accordance with the crossing principles and priority principles set forth in paragraph (c)(ii), although, again FLEX-participating members may accept any unfilled balance of the BBO.

Proposed Rule 905G would permit a floor broker to purchase or sell an unspecified number of FLEX Options based on such floor broker's discretion. This rule would require discretionary authority to be granted by the customer in a manner approved by the Amex and reflected in a contemporaneously-prepared, time-stamped document prepared by the floor broker. A copy of this approving document would be promptly sent to the customer with an additional copy maintained by the floor broker for the full duration of the FLEX Option contract or the time required by the Commission under Rule 17a-4 of the Act, whichever is longer.

Proposed Rule 906G states position limits that will be unique to FLEX Options.² The Amex is proposing that

FLEX Options shall be subject to position limits that in the aggregate do not exceed 200,000 contracts on the same side of the market in a given index.³ The rule proposes that FLEX Options not be aggregated with option contracts in non-FLEX index options or with options on any stocks included in the index underlying FLEX Options. However, at the close of trading two business days prior to the last day of trading of the calendar quarter, positions in P.M.-settled FLEX Options (i.e., options having a settlement value that is determined by the level of the index at the close of trading on the last trading day before expiration), are to be aggregated with positions in quarterly index options ("QIXs") on the same index and subject to the position limits set forth in Rule 905C.

The Amex in proposed Rule 908G has required that registered options traders and floor brokers that effect transactions in FLEX Options satisfy the fidelity bond requirements set forth in Amex Rule 330.

(2) Basis

The Exchange believes that the proposed rule changes are consistent with section 6(b) of the Act, in general, and section 6(b)(5), in particular, in that they are designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex believes that the proposed rule changes will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such

proposal for the purpose of revising its position and exercise limits for compliance with the existing framework used by the Chicago Board Options Exchange, Inc. and approved by the Commission. See letter from Ellen T. Kander, Special Counsel, Derivative Securities, Amex, to Richard Zack, Branch Chief, Branch of Options Regulation, SEC, dated April 12, 1993.

³ Proposed Rule 907G establishes exercise limit provisions that correspond to the position limits prescribed in proposed Rule 906G.

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 such proposed rule changes, or

(b) Institute proceedings to determine whether the proposed rule changes 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 changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the file number in the caption above and should be submitted by May 20, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 93-10001 Filed 4-28-93; 8:45am]
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[Release No. 34-32197; File No. SR-BSE-93-9]

Self-Regulatory Organizations; Filing of Proposed Rule Change by Boston Stock Exchange, Inc. Relating to the Annual Meeting and the Annual Election

April 23, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 22, 1993, the Boston Stock Exchange, Incorporated ("BSE" or "Exchange") filed with the Securities and Exchange

² On April 12, 1993, the Amex submitted to the Commission an amendment to the FLEX Option

⁴ 17 CFR 200.30-3(a) (12) (1992).

Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. On April 13, 1993 the BSE submitted to the Commission Amendment No. 1 to the proposal.¹ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE seeks to amend its Constitution to change the date of the Annual Meeting and the Annual Election.

II. Self-Regulatory Organization's Statement for 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 purpose of the proposed rule change is to amend the BSE Constitution changing the date of the annual meeting and the annual election from the last Monday in September to the last Monday in November in order to provide for the review of the complete fiscal year picture,² as well as to provide additional time for Nominating Committee deliberations.³

¹ See letter from Karen A. Aluise, Staff Attorney, BSE, to Diana Luka-Hopson, Branch Chief, Commission, dated April 12, 1993. Amendment No. 1 clarified certain language in the proposal.

² The Exchange's fiscal year runs from October 1 through September 30.

³ The Nominating Committee currently is required to hold at least one meeting in the month of July for the purpose of suggesting nominees for the offices and positions that are to be filled at the annual election, and for members of the Nominating Committee for the ensuing fiscal year. See Article VI, Section 4 of the BSE Constitution. The proposed rule change would require the Nominating Committee to hold at least one meeting in the month of June to select a Chairman of the Committee, and to designate a meeting date in the month of July for the purpose of suggesting nominees for offices and positions to be filled at the

2. Statutory Basis

The basis under the Act for the proposed rule change is section 6(b)(3) in that the rule is designed to assure a fair representation of members in the selection of directors, the selection process, and the administrative affairs of the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition 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 proposed rule change was approved by the Board of Governors ("Board") of the Exchange on February 23, 1993. Notice of the proposed rule change was published to the membership as provided for in the Constitution on March 9, 1993. No protests were received nor objections raised.⁴

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

annual election including members of the Nominating Committee for the ensuing calendar year.

⁴ Article XX, Section 1 of the BSE Constitution provides that any amendment to the Constitution which is adopted by the Board shall be submitted to Exchange members. If the amendment is not protested by fifteen Exchange members prior to the expiration of the seventh business day after the date of delivery or mailing of the proposed amendments, then the amendment is deemed approved.

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-93-9 and should be submitted by May 20, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 93-9999 Filed 4-28-93; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Incorporated

April 23, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Paragon Trade Brands, Inc.
Common Stock, \$.01 Par Value (File No. 7-10583)
Starter Corp.
Common Stock, \$.01 Par Value (File No. 7-10584)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 14, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that

the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 93-10087 Filed 4-28-93; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-32198; File No. SR-CBOE-93-15]

**Self-Regulatory Organizations;
Chicago Board Options Exchange,
Inc.; Filing of Proposed Rule Change
Relating to the Listing and Trading of
Options on the Russell 2000 Index
Expiring at the End of Each Calendar
Quarter**

April 23, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 9, 1993, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's
Statement of the Terms of Substance of
the Proposed Rule Change**

The CBOE proposes to list for trading quarterly index expiration options ("QIXs") on the Russell 2000 Index. The Commission has approved the listing and trading of QIX options on the Standard & Poor's Corporation ("S&P") 100 and 500 Stock Indexes ("OEX" and "SPX" respectively)¹ and stock index options based on the Russell 200 Index ("Russell 2000").²

The text of the proposed rule change is available at the Office of the Secretary, CBOE, and at the Commission.

**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 CBOE 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 those 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 the
Statutory Basis for, the Proposed Rule
Change**

The purpose of the proposed rule change is to permit the trading of QIXs based on the Russell 2000 index. Like CBOE's QIXs on the OEX and SPX indexes, QIXs on the Russell 2000 are proposed to be P.M.-settled.³ Like regular Russell 2000 options, Russell 2000 QIXs will be European-style.

The Exchange is proposing to amend Rule 24.4 to provide that Russell 2000 QIXs will be subject to the 50,000 contract limit currently specified in the Rule for Russell 2000 index options, but without the 30,000 contract limit or "telescoping requirement" for the series with the nearest expiration date that applies to regular Russell 2000 options. This treatment is parallel to the treatment given in the Rule to QIXs on the S&P 100 index. For the purpose of this test, regular Russell 2000 options would be aggregated with the Russell 2000 QIXs. Regular Russell 2000 options would continue to be subject to a separate 50,000 contract limit with a 30,000 contract telescoping requirement.⁴

The proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5), in particular, in that it makes a QIX option on an additional broad-based index available for trading. As a result, the proposed rule change offers an additional method of tailoring portfolio hedges that expire on the last day of the calendar quarter. The filing thereby removes an impediment to a free and open market, while applying the Exchange's existing programs and procedures to protect investors and the public interest.

³ "P.M." or closing price settlement is a manner of index options settlement whereby the exercise settlement value is based upon the index value derived from the closing prices of component securities on the last day of trading prior to expiration.

⁴ The Committee notes that regular Russell 2000 options would be aggregated with QIX Options on the Russell 2000 for purposes of the position limit requirements noted above.

**B. Self-Regulatory Organization's
Statement on Burden on Competition**

The CBOE believes that the proposed rule change will not impose any burden on competition.

**C. Self-Regulatory Organization's
Statement on Comments on the
Proposed Rule Change Received From
Members, Participants or Others**

Comments were neither solicited nor received.

**III. Date of Effectiveness of the
Proposed Rule Change and Timing for
Commission Action**

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 20, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

⁵ 17 CFR 200.30-3(a)(12)(1992).

¹ See Securities Exchange Release No. 31800 (February 1, 1993), 58 FR 7274.

² See Securities Exchange Act Release No. 31382 (October 30, 1992), 57 FR 52802.

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-32199; File No. SR-CBOE-93-16]

Self-Regulatory Organizations; Filing of Proposed Rule Change By Chicago Board Options Exchange, Inc. Relating to Flexible Exchange Options ("FLEX Options") on the Russell 2000 Index

April 23, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 9, 1993, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend its rules to provide for the listing and trading of Flexible Exchange Options ("FLEX Options") on the Russell 2000 Index ("Russell 2000" or "Index").

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for Proposed Rule Change

In its filing with the Commission, the CBOE 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 CBOE 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 Proposed Rule Change

The purpose of the proposed rule change is to enable the CBOE to expand the FLEX Option program to include

FLEX Options on the Russell 2000.¹ Currently, FLEX Options can be listed and traded only on the Standard & Poor's Corporation ("S&P") 100 and 500 Stock Indexes ("OEX" and "SPX" respectively). The component stocks of the OEX and SPX consist of 100 and 500 high-capitalization companies. The component stocks of the Russell 2000 index, however, consists of 2,000 small-capitalization companies. Accordingly, through this rule change, CBOE member firms and their customers would have the opportunity to create and trade customized FLEX Options on a small capitalization stock index.

The proposed rule change includes an amendment to FLEX Option position limits.² The proposed amendment is designed to create a relationship between position limits in FLEX Options on the Russell 2000 versus position limits in FLEX Options on the OEX that is the same as the relationship that exists for the corresponding position limits in non-FLEX index options for these particular indexes. Under CBOE Rule 24.4 the position limits for non-FLEX options on the Russell 2000 are twice the size of the position limits for options on the OEX, reflecting the fact that the S&P 100 Index levels generally are reported at twice the level of the Russell 2000. Accordingly, it is proposed that position limits for FLEX Options on the Russell 2000 be set at 400,000 contracts on the same side of the market, with the limits for FLEX Options on the OEX remaining at 200,000 contracts. In addition, the special aggregation provisions in CBOE Rule 24A.7 for P.M.-settled FLEX Options and "comparable" quarterly expiration index options ("QIXs") would be extended to P.M.-settled FLEX Options on the Russell 2000 and comparable QIX options.³ The position limits would be set at 50,000 contracts on the same side of the market—twice the level applicable to FLEX Options and comparable QIX options on the OEX.

The Exchange believes that the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act in that it is designed to include FLEX Options on the Russell 2000 in CBOE's existing FLEX Options

program in a manner that promotes just and equitable principles of trade and protects investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the 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 such proposed rule change, or
- (b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to the file number in the caption above and should be submitted by May 20, 1993.

¹ The Commission approved the CBOE's FLEX Option framework on February 24, 1993 permitting the Exchange at that time to trade FLEX Options based on the OEX and SPX Indexes. See Securities Exchange Act Release No. 31920 (February 24, 1993), 58 FR 12280.

² Exercise limits for FLEX Options are equivalent to the FLEX position limits outlined in CBOE Rule 24A.7.

³ The CBOE recently proposed to trade QIXs on the Russell 2000 index. See File No. SR-CBOE-93-15.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.*

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 93-10091 Filed 4-28-93; 8:45 am]

BILLING CODE 8010-01-M

**Self-Regulatory Organizations;
Applications for Unlisted Trading
Privileges and of Opportunity for
Hearing; Midwest Stock Exchange,
Incorporated**

April 23, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following security:

Allmerica Property & Casualty Companies, Inc.
Common Stock, \$1.00 Par Value (File No. 7-10581)

This security is listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 14, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 93-10086 Filed 4-28-93; 8:45 am]

BILLING CODE 8010-01-M

**Self-Regulatory Organizations;
Applications for Unlisted Trading
Privileges and of Opportunity for
Hearing; Philadelphia Stock Exchange,
Inc.**

April 23, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Allmerica Property & Casualty Companies, Inc.
Common Stock, \$1.00 Par Value (File No. 7-10573)
Styles On Video
Common Stock, \$.001 Par Value (File No. 7-10574)
Columbus Energy Corporation
Common Stock, \$.20 Par Value (File No. 7-10575)
Snyder Oil Corporation
Depository Shares, Conv. Pfd Stock, \$.01 Par Value (File No. 7-10576)
Van Kampen Merritt Value Municipal Income Trust
Common Shares of Beneficial Interest, \$.01 Par Value (File No. 7-10577)
General Growth Properties, Inc.
Common Stock, \$.10 Par Value (File No. 7-10578)
Provident Life and Accident Insurance Company of America
Depository Shares, Cum. Pfd Stock (File No. 7-10579)
TIG Holding, Inc.
Common Stock, \$.01 Par Value (File No. 7-10580)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 14, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 93-10089 Filed 4-28-93; 8:45 am]

BILLING CODE 8010-01-M

**Self-Regulatory Organizations;
Applications for Unlisted Trading
Privileges and of Opportunity for
Hearing; Pacific Stock Exchange, Inc.**

April 23, 1993.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following security:

TIG Holdings, Inc.
Common Stock, \$.01 Par Value (File No. 7-10582)

This security is listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 14, 1993, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 93-10088 Filed 4-28-93; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-19429; 812-8196]

**Stagecoach Funds, Inc., et al.;
Application for Exemption**

April 22, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

* 17 CFR 200.30(a)(12) (1992).

APPLICANTS: Stagecoach Funds, Inc. ("Stagecoach"); Overland Express Funds, Inc. ("Overland"); WellsFunds Inc. ("WellsFunds"); and all other investment companies for which Wells Fargo Bank, N.A. acts in the future as investment adviser or Stephens Inc. acts in the future as principal underwriter (the "Funds"); Wells Fargo Bank, N.A. ("Wells Fargo"); and Stephens Inc. (the "Distributor").

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions of sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d) of the Act and rule 22c-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order that would permit the Funds to issue an unlimited number of classes of shares representing interests in the same portfolio of securities, assess a contingent deferred sales charge ("CDSC") on certain redemptions of shares, and waive the CDSC in certain instances.

FILING DATE: The application was filed on December 1, 1992 and amended on March 11, 1993 and April 21, 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 May 17, 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 notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants: Stagecoach Funds, Inc., Overland Express Funds, Inc., WellsFunds Inc., and Stephens Inc., 111 Center Street, Little Rock, Arkansas 72201; Wells Fargo Bank, N.A., 525 Market Street, 12th floor, San Francisco, California 94104.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Staff Attorney, (202) 272-2511, or C. David Messman, Branch Chief, (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Stagecoach, Overland, and WellsFunds are Maryland corporations registered under the Act as open-end management investment companies. Each Fund is a series company with each series (a "Portfolio") having separate investment objectives and policies. Stagecoach presently consists of eleven Portfolios, Overland consists of fourteen Portfolios, and WellsFunds consists of seven Portfolios.

2. Shares of Stagecoach are sold primarily, but not exclusively, through Wells Fargo and its affiliates. Shares of Overland are sold primarily, but not exclusively, through broker-dealers and other financial institutions. WellsFunds has not yet commenced operations, but its shares will be sold primarily, but not exclusively, through Wells Fargo and its affiliates.

3. Wells Fargo, a national bank with its main office in San Francisco, California, serves as investment advisor to the Funds. Wells Fargo also serves as the transfer and dividend disbursing agent, and performs internal accounting functions for the Funds.

4. The Distributor, a full-service broker-dealer registered under the Securities Exchange Act of 1934, serves as the sponsor, distributor, and administrator to the Funds. The Distributor has entered into a distribution agreement with each Fund pursuant to which it has responsibility for distributing shares of the Funds. The Funds also have adopted distribution plans under rule 12b-1 of the Act.

5. Applicants propose to establish a multiple distribution system (the "Multi-Class System"). Under the Multi-Class System, the Funds intend to offer three classes of shares in some or all of the Portfolios: (a) A class offered in connection with a plan adopted pursuant to rule 12b-1 under the Act (the "12b-1 Class"), (b) a class offered in connection with a non-rule 12b-1 services plan (the "Non-12b-1 Class"), and (c) a trust class (the "Trust Class"). In addition, the Funds may create additional 12b-1 Class, Non-12b-1 Class, and Trust Class shares in each Portfolio that differ according to the characteristics described below.

6. The 12b-1 Class shares will be offered pursuant to a plan of distribution (the "12b-1 Plan") approved by the directors of a Fund in accordance with rule 12b-1 under the Act. Shares of the 12b-1 Class will be sold to investors purchasing directly from a Fund's distributor, or to clients of certain financial institutions that have entered into agreements with the Fund or the Fund's distributor to

provide necessary distribution and administrative services with respect to the 12b-1 Class. Distribution activities financed in accordance with a 12b-1 Plan may include advertising and marketing expenses, printing costs for new prospectuses and sales literature, and payments to broker/dealers and others for distribution assistance.

7. The Non-12b-1 Class will be offered pursuant to a non-rule 12b-1 servicing plan (the "Services Plan," and together with the 12b-1 Plans, the "Plans") approved by the board of directors of a Fund under which a Fund will enter into servicing agreements with qualified banks and other financial institutions ("Organizations") to provide necessary administrative support services to customers of Organizations who are the beneficial owners of Non-12b-1 Class shares. Services provided pursuant to a Services Plan may include subaccounting; establishing and maintaining accounts and records; aggregating and processing purchase and redemption orders; investing customers assets in shares of the Non-12b-1 Class; providing periodic statements; arranging for bank wires processing dividend payments; answering routine inquiries; assisting customers in changing dividend options, account designations, and addresses; forwarding shareholder communications; and other similar services.

8. The Trust Class will be sold primarily to financial institutions in their capacity as fiduciaries for certain accounts, such as living trusts, irrevocable trusts, foundations, endowments, retirement plans, and agency or custodial accounts. The financial institutions provide services for the beneficial owners of Trust Class shares, such as determining the appropriateness of investments, working with attorneys or accountants under the terms of a fiduciary relationship, providing tax information, preparing and sending account statements, responding to inquiries, forwarding shareholder communications, and establishing and maintaining account records. Trust Class shares will not be subject to 12b-1 Plans or Services Plans.

9. The services provided under the Plans will not duplicate the services provided by Wells Fargo, the Distributor, or the custodians. Applicants will comply with the recent amendments to Article III, Section 26, of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. (the "NASD") regarding asset-based sales charges and service fees. See

Securities Exchange Act Release No. 30897 (July 7, 1992).

10. The Funds may in the future create one or more classes of shares that would bear higher ongoing distribution charges and/or services fees ("Class B shares") and that would automatically convert into shares of another class that bears lower ongoing distribution charges and/or services fees ("Class A shares") up to five years after the purchase of Class B shares. Shares purchased through the reinvestment of dividends and other distributions paid in respect of Class B shares also would be Class B shares. Such Class B shares, however, would convert, if convertible, to Class A shares on the earlier of: (i) Five years (or a shorter specified conversion period) from the date of such reinvestment purchase, or (ii) the conversion date of the most recently purchased Class B shares that were not acquired through the reinvestment of dividends or distributions.

11. The conversion of Class B shares into Class A shares would be subject to the availability of an opinion of counsel or Internal Revenue Service private letter ruling to the effect that the conversion of Class B shares does not constitute a taxable event under federal income tax law. The conversion may be suspended if such a ruling or opinion is not available. In that event, no further conversions would occur and Class B shares might be subject to a higher level of ongoing Class Expenses for an indefinite period.

12. In addition to expenses incurred under a 12b-1 Plan or Services Plan, each class of shares will bear certain expenses specifically attributable to the particular class as set forth in Condition 1 ("Class Expenses"). The determination of which Class Expenses will be allocated to a particular class and any subsequent changes thereto will be determined by a Fund's director in the manner described in Condition 3.

13. Each Portfolio of a Fund will be charged with the direct liabilities of that Portfolio and with a portion of the general liabilities of the Fund in the same proportion that the assets of the Portfolio bear to the assets of the Fund. In addition, all outstanding shares representing interests in the same Portfolio will bear the Portfolio expenses, which would first be allocated *pro rata* to each class on the basis of the relative net asset value of the respective class, and then further allocated on a per share basis within the class, except that each class will bear the Class Expenses applicable to such class.

14. Applicants also propose that the Funds be permitted to impose a CDSC

on certain redemptions of shares and waive the CDSC in certain instances. The amount of the CDSC and timing of its imposition may vary.

15. No CDSC will be imposed with respect to redemptions attributable to increases in the value of an account above the net cost of the investment due to increases in the net asset value per share. No CDSC will be imposed on shares acquired through reinvestment of income dividends or capital gain distributions, or shares purchased a specified period of time prior to the redemptions. In determining whether a CDSC is payable, it will be assumed that shares, or amounts representing shares, that are not subject to a CDSC are redeemed first and that other shares or amounts are then redeemed in the order purchased. No CDSC will be imposed on any shares purchased prior to the effective date of the order.

16. Applicants intend to waive the CDSC on redemptions of shares in one or more of the following categories: (a) Following the death or disability (as defined in the Internal Revenue Code of 1986, as amended) of a shareholder; (b) representing a minimum required distribution from an IRA or other retirement plan to a shareholder who has reached age 70½; (c) incurred by current employees of Wells Fargo or by current or former directors of the Funds; or (d) resulting from a Fund's right to liquidate a shareholder's account if the aggregate net asset value of shares held in the account is less than the effective minimum account size. Applicants may waive the CDSC in the case of some, but not all, of these categories, provided that the selected waiver categories will be provided on a Portfolio-wide basis. Applicants' prospectuses will list all available waiver categories.

Applicants' Legal Analysis

1. Applicants request an exemptive order to the extent that the proposed Multi-Class System might be deemed to result in a "senior security" within the meaning of section 18(g) of the Act, and thus be prohibited by section 18(f)(1), and violate the equal voting provisions of section 18(i) of the Act.

2. Section 18 is intended to prevent investment companies from issuing excessive amounts of senior securities and thereby increasing unduly the speculative character of their junior securities, or from operating without adequate assets or reserves. The proposed Multi-Class System does not involve borrowings and does not affect the Funds' existing assets or reserves. Nor will the Multi-Class System increase the speculative character of the shares of a Fund, since all shares will

participate *pro rata* in all of a Fund's income and expenses (with the exception of Class Expenses).

3. Applicants assert that the Multi-Class System will preserve mutuality of risk with respect to all shares of a Portfolio. Further, since all shares will be redeemable at all times, since no class of shares will have any preference or priority over any other class in a Portfolio in the usual sense (that is, no class will have distribution or liquidation preferences with respect to particular assets and no class will be protected by any reserve or other account), and since the similarities (and, with respect to Class Expenses and associated voting rights, dissimilarities) of the shares will be fully disclosed in the prospectuses for each class of a Portfolio, investors will not be given misleading impressions as to the safety or risk of the shares and the nature of the shares will not be rendered speculative.

4. Applicants also request an exemption from the provisions of sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act and rule 22c-1 thereunder to the extent necessary to permit the funds to assess a CDSC on certain redemptions of shares and waive the CDSC in certain instances. Applicants believe that the implementation of the CDSC in the manner and under the circumstances described above would be fair, in the public interest and the interest of the shareholders of the Funds, and would be consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Conditions

Applicants agree that the following conditions may be imposed in any order of the SEC granting the requested relief:

A. Conditions Relating to the Proposed Multi-Class System

1. Each class of shares representing interests in the same Portfolio of a Fund will be identical in all respects, except for differences related to: (a) The method of financing certain Class Expenses, which are limited to (i) transfer agent fees identified by the transfer agent as being attributable to a specific class of shares; (ii) printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses, reports, and proxies to current shareholders of a specific class or to regulatory agencies with respect to a specific class of shares; (iii) blue sky registration or qualification fees incurred by a class of shares; (iv) SEC

registration fees incurred by a class of shares; (v) the expense of administrative personnel and services as required to support the shareholders of a specific class of shares; (vi) different levels of 12b-1 Plan and/or Services Plan fees and expenses ("Plan Payments") incurred by a class of shares; (vii) litigation or other legal expenses relating solely to one class of shares; and (viii) directors' fees incurred as a result of issues relating to one class of shares; (b) priorities with respect to the payment of dividends and distributions and such priorities would reflect only the impact of Class Expenses properly allocated to one class; (c) the net asset values of the various classes of shares in a Portfolio that may differ as a result of the allocation of Class Expenses; (d) voting rights of the classes with respect to the Plans; (e) the different exchange privileges, if any, of such classes as described in the prospectuses (and statements of additional information) of the Portfolios and consistent with any order granted pursuant to this application; (f) class designation differences; and (g) the conversion of shares of one class to shares of a second class up to five years after the purchase of the shares of the first class, which classes differ with respect to the distribution services and administrative support fees payable by such classes of shares. Any additional incremental expenses not specifically identified above which are subsequently identified and determined to be properly allocated to one class of shares shall not be so allocated until approved by the SEC pursuant to an amended order.

2. The directors of a Fund, including a majority of the independent directors, will approve the creation of additional classes of shares from time to time by an affirmative vote prior to the creation of any such class. The minutes of the meetings of the directors regarding the deliberations of the directors with respect to the approvals necessary to create any additional class of shares will reflect in detail the reasons for the directors' determination that the creation is in the best interests of both the Fund involved and its shareholders.

3. The initial determination of the Class Expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the directors of a Fund, including a majority of the directors who are not interested persons of the Fund. Any person authorized to direct the allocation and disposition of monies paid or payable by the Fund to meet Class Expenses shall provide to the directors, and the directors shall review, at least quarterly, a written report of the

amounts so expended and the purposes for which such expenditures were made.

4. On an ongoing basis, the directors of a Fund, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor the Portfolios for the existence of any material conflicts between the interests of the classes of shares. The directors, including a majority of the independent directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Distributor and Wells Fargo will be responsible for reporting any potential or existing conflicts to the directors. If a conflict arises, the Distributor and Wells Fargo, at their own cost, will remedy such conflict up to and including establishing a new registered management investment company.

5. Any Services Plan will be adopted and operated in accordance with the procedures set forth in rule 12b-1 (b) through (f) as if the expenditures made thereunder were subject to rule 12b-1, except that shareholders of the Non-12b-1 class will not receive the voting rights specified in rule 12b-1.

6. The directors of a Fund will receive quarterly and annual statements concerning Plan Payments (including, in the case 12b-1 Plans, expenditures relating to distribution) complying with paragraph (b)(3)(ii) of rule 12b-1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale (in the case of 12b-1 shares) or servicing of a particular class of shares will be used to justify any distribution (in the case of 12b-1 shares) or servicing fee charged to that class. Expenditures not related to a particular class will not be presented to the directors to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent directors in the exercise of their fiduciary duties.

7. Dividends or other distributions paid by a Fund with respect to each class of its shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be paid at the same dividend rate, except that any Plan Payments and other Class Expenses relating to a particular class of shares will be borne exclusively by the applicable class.

8. The methodology and procedures for calculating the net asset values, dividends, and distribution of the classes of shares and the proper allocation of expenses between those classes have been reviewed by an expert

(the "Expert") who has rendered a report to applicants, which has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to applicants that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by a Fund (which the Fund agrees to provide), will be available for inspection by the SEC staff, upon the written request to the Fund for such work papers, by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a System," as defined and described in SAS No. 44 of the AICPA, and the ongoing reports filed after March 31, 1993, will be "Reports on Policies and Procedures Placed in Operation and Tests of Operating Effectiveness" as defined and described in SAS No. 70 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

9. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset values, dividends and distributions of the classes of shares and the proper allocation of expenses between such classes of shares, and this representation has been concurred with by the Expert in the initial report referred to in Condition 8 above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in Condition 8 above. Applicants will take immediate corrective measures if this representation is not concurred in by the Expert or appropriate substitute Expert.

10. The prospectus for each Portfolio with more than one class will contain a statement to the effect that a salesperson and any other person entitled to receive

compensation for selling or servicing shares may receive different compensation for selling or servicing one particular class of shares over another class in the same Portfolio.

11. The distributor of a Fund will adopt compliance standards as to when each class of shares may appropriately be sold to particular investors. Applicants will require all persons selling shares to agree to conform to such standards.

12. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the directors of a Fund with respect to the Plans and related agreements will be set forth in guidelines which will be furnished to the directors of the Fund.

13. Each Portfolio will disclose the respective expenses, performance data, distribution arrangements, services, fees, transfer agency expenses, sales loads, deferred sales loads, conversion features, and exchange privileges applicable to each class of shares of such Portfolio in every prospectus, regardless of whether all classes of shares in the Portfolio are offered through the prospectus. Each Portfolio will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the Portfolio as a whole generally and not on a per class basis. Each Portfolio's per share data, however, will be prepared on a per class basis with respect to all classes of shares of such Portfolio. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares in a Portfolio, it will also disclose the respective expenses and/or performance data applicable to all classes of shares in each Portfolio. The information provided by a Fund for publication in any newspaper or similar listing of each Portfolio's net asset value and public offering price will present each class of shares separately.

14. Any class of shares with a conversion feature ("Purchase Class") will convert into another class ("Target Class") of shares on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge. After conversion, the converted classes will be subject to an asset-based sales charge and/or service fee (as those terms are defined in Article III, Section 26 of the NASD's Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee

to which they were subject prior to the conversion.

15. If a Fund implements any amendment to its 12b-1 Plan (or, if presented to shareholders, adopts or implements any amendment of a Services Plan) that would increase materially the amount that may be borne by the Target Class shares under the plan, Purchase Class shares will stop converting into Target Class unless the holders of Purchase Class shares, voting separately as a class, approve the proposal. The directors of the Funds shall take such action as is necessary to ensure that existing Purchase Class shares are exchanged or converted into a new class of shares ("New Target Class"), identical in all material respects to Target Class shares as they existed prior to implementation of the proposal, no later than such shares previously were scheduled to convert into Target Class shares. If deemed advisable by the directors of the Funds to implement the foregoing, such action may include the exchange of all existing Purchase Class shares for a new class ("New Purchase Class"), identical to existing Purchase Class shares in all material respects except that New Purchase Class shares will convert into New Target Class shares. New Target Class shares or New Purchase Class shares may be formed without further exemptive relief. Exchanges or conversions described in this condition shall be effected in a manner that the directors of the Funds reasonably believe will not be subject to federal taxation. In accordance with condition 4, any additional cost associated with the creation, exchange, or conversion of New Target Class shares or New Purchase Class shares shall be borne solely by Wells Fargo and the Distributor. Purchase Class shares sold after the implementation of the proposal may convert into Target Class shares subject to the higher maximum payment, provided that the material features of the Target Class shares plan and the relationship of such plan to the Purchase Class shares are disclosed in an effective registration statement.

16. Applicants acknowledge that the grant of the exemptive order requested by this application will not imply SEC approval, authorization, or acquiescence in any particular level of payments that a Fund may make pursuant to a Plan in reliance on the exemptive order.

B. Condition Relating to the CDSC

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 repropounded, adopted, or amended.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-10000 Filed 4-28-93; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-19431; 812-8228]

Capital Value Fund, et al.; Notice of Application

April 23, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Capital Value Fund, Inc. (the "Fund"), Investors Management Group, Ltd. ("IMG"), IMG Financial Services, Inc. ("IFS"), and Capital Value Corporation ("CVC").

RELEVANT ACT SECTIONS: Conditional order requested under section 6(c) of the Act for an exemption from sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d) of the Act and rule 22c-1 thereunder.

SUMMARY OF APPLICATION: Applicants seek a conditional order that would permit certain series of the Fund (a) to issue two classes of shares representing interests in the same portfolio of securities, one of which would convert into the other class after a specified period permitting investors to benefit from lower rule 12b-1 distribution fees, and (b) to assess a contingent deferred sales charge ("CDSC") on certain redemptions of shares of one of the classes and to waive the CDSC under certain circumstances.

FILING DATE: The application was filed on December 24, 1992, and amended on March 1, 1993 and April 20, 1993. Applicants have agreed to file an additional amendment, the substance of which is incorporated herein, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 17, 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 notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 720 Liberty Building, 418 Sixth Street, Des Moines, Iowa 50309.

FOR FURTHER INFORMATION CONTACT: Robert A. Robertson, Staff Attorney, at (202) 504-2283, or C. David Messman, Branch Chief, at (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

A. The Dual Class Arrangement

1. The Fund is an open-end management investment company registered under the Act. It is a "series company" that will offer five different investment portfolios—the Equity Portfolio, the Total Return Portfolio, the Fixed Income Portfolio, the Short Term Government Portfolio, and the Prime Money Market Portfolio. Only the Equity Portfolio, the Total Return Portfolio, the Fixed Income Portfolio, and the Short Term Government Portfolio (the "Portfolios") are seeking the relief requested in the application.

2. CVC is a registered investment adviser under the Investment Advisers Act of 1940. It is an indirect wholly-owned subsidiary of IASD Health Services Corp. ("IASD"), which provides health insurance in the states of Iowa and South Dakota. IMG also is a registered investment adviser. The Fund has entered into an investment management agreement with CVC and a subadvisory agreement with IMG pursuant to which CVC and IMG will provide investment advisory services to the Fund. In addition, CVC will act as administrator to the Fund. IFS is a wholly-owned subsidiary of IMG and serves as principal underwriter for the Fund.

3. Applicants request that any relief granted in accordance with this application apply to any open-end management investment company that is advised by CVC that (a) hereafter becomes part of the same "group of investment companies" as that term is defined in rule 11a-3 under the Act, and (b) issues and sells two classes of shares with characteristics that are identical to the shares described in the application.

4. Applicants propose to offer two classes of shares for each Portfolio designated, respectively, as "Initial Shares" and "Select Shares." Initial Shares will be subject to a CDSC, and a rule 12b-1 distribution fee based on an annual rate of .50% of the average daily net assets of the Initial Shares. Initial Shares will be offered to the general public.

5. Select Shares, which will not be subject to a distribution fee, only will be available to the general public through conversion from Initial Shares, except in certain limited situations. Select Shares will be directly issued to only the following: Officers, trustees, directors and employees (including retirees) of the Fund, CVC, IMG, IFS, IASD and any subsidiary of IASD, for themselves or their spouses, children or parents; to registered representatives and employees of broker-dealers having selling group agreements with IFS; officers, directors and employees of service agents of the Fund, for themselves or their spouses or dependent children; to employees (including their spouses and dependent children) of banks and other financial services firms that provide administration services related to order placement and payment to facilitate transactions in shares of the Fund for their clients pursuant to a written agreement with IFS; to investment advisory clients of CVC or IMG; to any trust or pension, profit sharing or other benefit plan for any of such foregoing persons; in connection with the acquisition of the assets of or merger or consolidation with another investment company; and to shareholders in connection with the investment or reinvestment of income and capital gain dividends on Select Shares. All persons eligible to purchase Select Shares will not be permitted to purchase Initial Shares.

6. Each class of shares will represent interests in the same HP LaserJet III HPLASIII.PRSny shareholder meetings held solely to vote on matters concerning the rule 12b-1 plan ("12b-1 Plan Meeting Expenses"); (b) shareholders of the Initial Shares will have exclusive voting rights with respect to the rule 12b-1 plan; and (c) only the Initial Shares will have a conversion feature providing for the automatic conversion to Select Shares eight years after their issuance.

7. Under the Fund's rule 12b-1 plan for the Initial Shares, the Fund will be paying an annual rule 12b-1 fee to compensate IFS for payments made by IFS to various parties in connection with sale of the Initial Shares. A shareholder services plan will be

adopted under which all Portfolios will pay a fee to CVC at the annual rate of .25% of average daily net assets of each Portfolio for various shareholder services. CVC will provide the various shareholder services or will contract with other financial services firms for the services. Only expenditures properly attributable to the sale or servicing of the Initial Shares will be used to justify any distribution or servicing fee charged to such class. Expenditures not related to the sale or servicing of a particular class will not be presented to the directors of the Fund to justify any fee attributable to that class under the rule 12b-1 plan or shareholder services plan.

8. Initial Shares, including shares attributable thereto that are purchased through the reinvestment of dividends and distributions, automatically will convert to Select Shares eight years after the Initial Shares are acquired. The purpose of the conversion feature is to relieve holders of the Initial Shares from the distribution fee when the Initial Shares have been outstanding long enough for IFS to have been compensated for distribution related expenses. The conversion of the Initial Shares to Select Shares may be subject to the continuing availability of an opinion of counsel, or other assurances acceptable to the Fund's board of directors, that (i) the assessment of the rule 12b-1 fee as to the Initial Shares and not the Select Shares does not result in the Fund's dividends constituting "preferential dividends" under the Internal Revenue Code of 1986, as amended, and (ii) the conversion of shares does not constitute a taxable event under the current federal income tax law. In the event that the conversion of Initial Shares does not occur, the Initial Shares would continue to be subject to the rule 12b-1 fee.

9. The net asset value will be calculated separately for each class of shares because each class will have different expenses. The net asset value of all outstanding Initial Shares and Select Shares representing interests in the same Portfolio will be calculated in the same manner, on the same day and at the same time. The net asset value for each class of shares will be calculated by dividing the ending total net assets applicable to a class by the number of shares outstanding of each class. Any difference between the net asset values of the Initial Shares and the Select Shares will be the result of the daily expense accruals of the rule 12b-1 fee and any 12b-1 Plan Meeting Expenses regarding the Initial Shares.

B. The CDSC

1. Applicants also propose that the Fund be permitted to assess a CDSC on redemptions of Initial Shares and to waive the CDSC under certain circumstances. Applicants plan to impose a CDSC of 4% declining to 0% of the original purchase price of only the Initial Shares redeemed in the first six years after the acceptance of a purchase order by the Fund.

2. The CDSC will not be imposed on any amount in the shareholder's account that represents an increase in the value of shares due to capital appreciation, or on shares purchased through the reinvestment of dividends or capital gains distributions. In determining the applicability and rate of any CDSC, it will be assumed that a redemption is made first of shares representing capital appreciation, next of shares representing reinvestment of dividends and capital gains, and finally of other shares held by the shareholder in the order purchased. This will result in the charge, if any, being imposed at the lowest possible amount.

3. Applicants also proposed to waive the CDSC (i) in the event of the total disability (as evidenced by a determination by the Social Security Administration) of a shareholder after purchase of the shares sought to be redeemed; (ii) in the event of the death of a shareholder; and (iii) in the case of redemptions made pursuant to a systematic withdrawal plan. Additionally, the CDSC will be waived in the case of redemptions held by employer sponsored benefit plans for (a) redemptions to satisfy participant loan advances; (b) redemptions in connection with retirement distributions as defined in the employer's plan (limited at any one time to 10% of the total value of plan assets invested in the Fund); (c) redemptions in connection with distributions qualifying under the hardship provisions of the Internal Revenue Code; (d) redemptions representing returns of excess contributions to such plans or to satisfy anti-discrimination tests, and (e) participant terminations upon certification from the plan trustee or its representatives.

Applicants' Legal Analysis

A. The Dual Class Arrangement

1. Applicants request an exemption under section 6(c) to the extent that the proposed issuance and sale of Initial Shares and Select Shares might be deemed (a) to result in the issuance of a "senior security" within the meaning of section 18(g) and thus be prohibited by section 18(f), and (b) to violate the

equal voting provisions of section 18(i). Section 18(f)(1) provides in relevant part that it shall be unlawful for any registered open-end company to issue any class of senior security or to sell any senior security of which it is the issuer, and section 18(g) defines a "senior security" as any stock of a class having priority over any other class as to distribution of assets or payment of dividends. Section 18(i) provides in relevant part that every share of stock issued by a registered management company shall be a voting stock and have equal voting rights with every other outstanding voting stock.

2. The creation of Initial Shares and Select Shares may result in shares of a class having priority over another class as to payment of dividends because under the proposed arrangement the holders of Initial Shares will pay a distribution fee and the Select Shares will not. In addition, the creation of the two classes may result in the shares of a class having unequal voting rights because the Initial Shares would be entitled to exclusive voting rights with respect to the matters concerning their rule 12b-1 plan.

3. Section 6(c) provides in part that, upon application, the SEC may conditionally exempt any class of transactions from the provisions of the Act to the extent the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested exemption from section 18 meets the standards of section 6(c).

4. Applicants believe that the proposed allocation of expenses and voting rights relating to the rule 12b-1 plan is equitable and would not discriminate against any group of shareholders. While holders of Initial Shares would bear the distribution fee and 12b-1 Plan Meeting Expenses, they also would enjoy exclusive shareholder voting rights as to matters affecting the rule 12b-1 Plan. Because of the conversion feature, shareholders of Initial Shares will be relieved of these incremental expenses after a specified period of time. Moreover, because the rights and privileges of the two classes of shares are substantially identical, the possibility that their interests would ever conflict would be removed and, in any event, the interests of holders of the Initial Shares would be adequately protected.

5. The Fund is aware of the need for full disclosure in the Fund's prospectus (and to the extent necessary, the statement of additional information) of

the differences between the Initial Shares and Select Shares. Financial information regarding the two classes of shares, including the per share table in the Fund's prospectus (and statement of additional information where applicable) based on actual operations will disclose the difference in expenses, CDSCs and exchange and reinvestment privileges applicable to the two classes of shares.

6. Applicants believe that the arrangement does not raise any of the legislative concerns that section 18 was designed to ameliorate. Mutuality of risk will exist as to both the Initial Shares and Select Shares insofar as each class of a Portfolio will represent, on a per share basis, an equal *pro rata* interest in the same investment portfolio and will be subject to the same investment risk as the other class of shares of the same Portfolio. Furthermore, no class of shares will have any preference or priority over any other class in the Portfolio in the usual sense (that is, no class will have distribution or liquidation preferences as to particular assets and no class will be protected by any reserve or other account).

B. The CDSC

1. Applicants also request an exemption under section 6(c) from section 2(a)(32), 2(a)(35), 22(c), and 22(d) and rule 22c-1 thereunder to the extent necessary to permit the Fund to assess a CDSC on certain redemptions of Initial Shares and to waive the CDSC in certain circumstances.

2. Section 2(a)(32) defines a "redeemable security" as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer is entitled to receive approximately his or her proportionate share of the issuer's current net assets, or the cash equivalent thereof. In addition, section 5(a)(1) defines as "open-end company," in relevant part, as a management company that offers for sale any redeemable security of which it is the issuer. To avoid any question regarding whether the CDSC would cause shares of any Fund not to be "redeemable securities," thereby jeopardizing the Fund's status as an open-end management company, applicants seek relief from section 2(a)(32) to the extent necessary to impose the CDSC.

3. Section 2(a)(35) defines the term "sales load" as the difference between the price of a security to the public and that portion of the proceeds from the sale of a security that is received and invested or held for investment by the issuer. Applicants believe that the CDSC is consistent with the intent of the

section 2(a)(35) definition to describe charges used to pay for sales of an investment company's shares. Nevertheless, because the timing of the deduction might be deemed to take the CDSC outside the definition of sales charge, applicants seek an exemption from section 2(a)(35) to the extent necessary to implement the CDSC.

4. Section 22(c) and rule 22c-1 thereunder require a registered investment company issuing redeemable securities to redeem those securities at a price based on the current net asset value of the securities that is next computed after receipt of the tender of the securities for redemption. When a redemption of Fund shares subject to the CDSC is effected, the price of the shares on redemption will be based on their current net asset value. The CDSC merely will be deducted from the redemption proceeds in arriving at the shareholder's net proceeds payable on redemption. However, to avoid any question about whether such a redemption would be at a price based on current net asset value, applicants seek relief from section 22(c) and rule 22c-1 to the extent necessary to permit the implementation of the CDSC.

5. Section 22(d) prohibits a registered investment company from selling its redeemable securities other than at a current public offering price described in the company's prospectus. Rule 22d-1 exempts an investment company from the provisions of section 22(d) to the extent necessary to permit the sale of those securities to particular classes of investors or in various kinds of transactions at prices that reflect scheduled variations in, or elimination of, the sales load. The requested exemptive relief would be consistent with the policies underlying rule 22d-1 because the Funds will disclose fully the CDSC and associated waivers in their prospectus. Applicants seek an exemption from section 22(d) to the extent necessary to implement the CDSC and waivers thereof as described above.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

A. Conditions Relating to the Dual Class Arrangement

1. Each class of shares (Initial or Select) will represent interests in the same portfolio of investments of the Fund and be identical in all respects, except as set forth below. The only differences between the classes of shares of the Fund will relate solely to: (a) The impact of the fees that will be charged to the Initial Shares under the rule 12b-

1 plan; (b) the expenses of any shareholder meetings held solely to vote on matters concerning the rule 12b-1 plan that will be charged to the Initial Shares; (c) the fact that only the shareholders of the Initial Shares will vote on the Fund's rule 12b-1 distribution plan; (d) the fact that only the Initial Shares will have a conversion feature; and (e) the designation of each class of shares of the Fund.

2. The directors of the Fund, including a majority of the independent directors, will have approved the dual class structure. The minutes of the meetings of the directors of the Fund regarding the deliberations of the directors with respect to the approvals necessary to implement the dual class structure will reflect the reasons for the directors' determination that the proposed dual class structure is in the best interests of both the Fund and its shareholders.

3. On an ongoing basis the directors of the Fund, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor the Fund for the existence of any material conflicts between the interests of the two classes of shares. The directors, including a majority of the independent directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. CVC, IMG and IFS will be responsible for reporting any potential or existing conflicts to the directors. If a conflict arises CVC, IMG and IFS at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

4. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the directors of the Fund as to the dual class structure will be set forth in guidelines that will be furnished to the directors.

5. The shareholder services plan will be adopted in accordance with the procedures set forth in rule 12b-1 (b) through (f) as if the expenditures made thereunder were subject to rule 12b-1, except that shareholders will not enjoy the voting rights specified in rule 12b-1.

6. The directors of the Fund will receive quarterly and annual statements concerning distribution and shareholder servicing expenditures complying with paragraph (b)(3)(ii) of rule 12b-1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class of shares will be used to justify any distribution or servicing fee charged to that class. Expenditures not related to the sale or servicing of a particular class will not be

presented to the directors to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent directors in the exercise of their fiduciary duties.

7. Dividends paid by a Portfolio with respect to its Initial and Select Shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in the same amount, except that the distribution fee paid under the 12b-1 plan relating to Initial Shares and any 12b-1 plan Meeting Expenses will be borne exclusively by the Initial Shares.

8. The methodology and procedures for calculating the net asset value and dividends and distributions of the two classes and the proper allocation of expenses between the two classes has been reviewed by an expert (the "Expert") who has rendered a report to applicants that such methodology and procedures are adequate to ensure that such calculations and allocations would be made in an appropriate manner. On an ongoing basis the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Fund that the calculations and allocations are being made properly. The reports of the Expert shall be filed as a part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The workpapers of the Expert with respect to such reports, following request by the Fund (which the Fund agrees to provide), will be available for inspection by the SEC staff upon the written request to the Fund by an authorized staff member. Authorized staff members would be limited to the Director of the Division of Investment Management, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director and any Regional Administrator or an Associate or Assistant Regional Administrator. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" as defined and described in Statement of Accounting Standards No. 44 of the American Institute of Certified Public Accountants ("AICPA"), and the ongoing reports filed subsequent to March 31, 1993, shall be "Reports on Policies and Procedures Placed in Operation" and "Tests of Operating Effectiveness" as defined and described in SAS 70 of AICPA, as it may be amended from time to time, or in similar auditing standards as may be

adopted by the AICPA from time to time.

9. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset values and dividends and distributions of the two classes of shares and the proper allocation of expenses between the two classes of shares; and this representation will have been concurred with by the Expert in the report referred to in Condition 8 above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition 8 above. Applicants agree to take immediate corrective measures if this representation is not concurred in by the Expert or appropriate substitute Expert.

10. The prospectus of the Fund will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing Fund shares may receive different compensation with respect to one particular class of shares over another in the Fund.

11. IFS will adopt compliance standards as to when each class of shares may appropriately be sold to particular investors. Applicants will require all persons selling shares of the Fund to agree to conform to such standards. Such standards will require that all persons eligible to purchase Select Shares will be sold only Select Shares.

12. Initial Shares will convert into Select Shares on the basis of the relative net asset values of the two classes without the imposition of any sales load, fee or other charge to the shareholder. After conversion, the converted shares will be subject to an asset-based sales charge and/or service fee (as those terms are defined in Article III, Section 26 of the NASD's Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

13. The Fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of shares in every prospectus, regardless of whether all classes of shares are offered through each prospectus. The Fund will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and

statement of operations, information related to the Portfolio as a whole generally and not on a per class basis. Each Portfolio's per share data, however, will be prepared on a per class basis with respect to all classes of shares of such Portfolio. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares, it will also disclose the respective expenses and/or performance data applicable to all classes of shares. The information provided by applicants for publication in any newspaper or similar listing of the Fund's net asset value and public offering price will present each class of shares separately.

14. If the Fund implements any rule 12b-1 plan for the Select Shares (or, if presented to shareholders, adopts or implements any amendment of a non-rule 12b-1 shareholder services plan that would increase materially the amount that may be borne by the Select Shares), existing Initial Shares will stop converting into Select Shares unless the shareholders holding Initial Shares, voting separately as a class, approve the proposal. The directors shall take such action as is necessary to ensure that existing Initial Shares are exchanged or converted into a new class of shares ("New Select Shares"), identical in all material respects to Select Shares existing prior to implementation of the proposal, no later than the date such shares previously were scheduled to convert into Select Shares. If deemed advisable by the directors to implement the foregoing, such action may include the exchange of all existing Initial Shares for a new class ("New Initial Shares"), identical to existing Initial Shares in all material respects except that New Initial Shares will convert into New Select Shares. New Select Shares or New Initial Shares may be created without further exemptive relief. Exchanges or conversions described in this condition shall be effected in any manner that the directors reasonably believe will not subject the Fund or shareholders to federal taxation. In accordance with condition 3 hereof, any additional cost associated with the creation, exchange or conversion of New Select Shares or New Initial Shares shall be borne solely by IMG, CVC and IFS. Initial Shares sold after the implementation of the proposal may convert into Select Shares subject to the higher maximum payment under the plans, provided that the material features of the Select Shares plan and the relationship of such plan to the Initial Shares are disclosed in an effective registration statement.

15. Applicants acknowledge that the grant of the exemptive order requested by this application will not imply SEC approval, authorization or acquiescence in any particular level of payments that the Fund may make pursuant to the 12b-1 plan or shareholder services plan in reliance on the exemptive order.

B. Condition Relating to the CDSC

Applicants will comply with the provisions of proposed rule 6c-10 under the Act, Investment Company Release No. 16619 (November 2, 1988), as such rule is currently proposed and as it may be repropoed, adopted or amended.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 93-10090 Filed 4-28-93; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2639]

New York; Declaration of Disaster Loan Area

Cayuga County and the contiguous counties of Cortland, Onondaga, Oswego, Seneca, Tompkins, and Wayne in New York constitute a disaster area as a result of damages caused by flooding which began on April 2, 1993. Applications for loans for physical damage may be filed until the close of business on June 21, 1993 and for economic injury until the close of business on January 21, 1994 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Floor, Niagara Falls, NY 14303, or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.625
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 263906 and for economic injury the number is 789000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 21, 1993.

Dayton J. Watkins,
Acting Administrator.

[FR Doc. 93-10082 Filed 4-28-93; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Economic Injury Disaster Loan Area #7886]

**Pennsylvania (And Contiguous Counties in MD, NJ, and NY);
Declaration of Disaster Loan Area**

Bedford, Clearfield, Montour, Pike and Tioga Counties and the contiguous Counties of Blair, Bradford, Cambria, Cameron, Centre, Clinton, Columbia, Elk, Fulton, Huntington, Indiana, Jefferson, Lycoming, Monroe, Northumberland, Potter, Somerset, and Wayne in the State of Pennsylvania; Alleghany County in Maryland; Sussex and Warren Counties in New Jersey, and Chemung and Steuben Counties in New York constitute an economic injury disaster area as a result of damages caused by a blizzard which occurred on March 13 and 14, 1993. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on January 20, 1994, at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, Georgia 30308; or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The economic injury numbers are: for Pennsylvania the number is 7886. For Maryland, 7887; New Jersey, 7888; and New York 7889.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: April 20, 1993.

Dayton J. Watkins,
Acting Administrator.

[FR Doc. 93-10081 Filed 4-28-93; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 1796]

U.S. Organizations for the International Radio Consultative Committee (CCIR) and International Telegraph and Telephone Committee (CCITT); Meeting

The Department of State announces that the U.S. Organizations for the International Radio Consultative Committee (CCIR National Committee) and International Telegraph and Telephone Consultative Committee (CCITT National Committee) will hold a joint open meeting, May 21, 1993, in room 2925D (East Auditorium), at the Department of State, 2201 C Street NW., Washington, DC from 1:30-5 p.m.

Further, at 9:30 a.m., the two U.S. National Committees will hold separate open meetings—the CCIR session taking place in room 1107 and the CCITT meeting being convened in room 1408.

The CCIR and CCITT are permanent organs of the International Telecommunication Union (ITU), a specialized agency of the United Nations, established by the International Telecommunication Convention.

The agenda for the Joint U.S. meeting will consist of discussions relating to ITU development issues and a review of issues on the agenda of the June 4, Joint Meeting of the CCIR Ad Hoc Advisory Group and the new Telecommunication Standardization Advisory Group (TSAG). The primary agenda issue concerns the allocation of work between the Radiocommunication Sector (previously the CCIR) and the Telecommunication Standardization Sector (previously the CCITT). The agenda for the separate National Committee meetings will be devoted to preparations for the respective Advisory Committee meetings also scheduled during June.

Entrance to the Department of State is controlled but can be facilitated by making attendance arrangements in advance. Persons planning to attend the meeting should so advise this office at: (202) 647-0201 (fax (202) 647-7407), no later than two days before the meeting. Notification should include name, date of birth and Social Security number. All attendees must use the C Street entrance.

Dated: April 9, 1993.

Warren G. Richards,
Chairman, U.S. CCIR National Committee.
Earl S. Barbely,
Chairman, U.S. CCITT National Committee.

[FR Doc. 93-10040 Filed 4-28-93; 8:45 am]

BILLING CODE 4710-45-M

Bureau of Politico-Military Affairs

[Public Notice 1795]

Suspension of Munitions Export Licenses to Zaire

AGENCY: Department of State.

ACTION: Public notice.

SUMMARY: Notice is hereby given that all licenses and other approvals to export or otherwise transfer defense articles or defense services to Zaire are suspended until further notice pursuant to Sections 2, 38 and 42 of the Arms Export Control Act.

EFFECTIVE DATE: April 29, 1993.

FOR FURTHER INFORMATION CONTACT: David Shapiro, Office of Defense Trade Policy, Bureau of Political-Military Affairs, U.S. Department of State (202-647-4231).

SUPPLEMENTARY INFORMATION: Effective immediately, it is the policy of the U.S. Government to deny all applications for licenses and other approvals to export or otherwise transfer defense articles and defense services to Zaire. In addition, U.S. manufacturers and exporters and any other affected parties are hereby notified that the Department of State has suspended all previously issued licenses and approvals authorizing the export or other transfer of defense articles or defense services to Zaire. This action has been taken in view of the violence and death fueled by the actions of the regime of President Mobutu.

The licenses and approvals that have been suspended include any manufacturing licenses, technical assistance agreements, technical data, and commercial military exports of any kind subject to the Arms Export Control Act involving Zaire. This action also precludes the use in connection with Zaire of any exemptions from licensing or other approval requirements included in the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120-130).

This action has been taken pursuant to Sections 2, 38 and 42 of the Arms Export Control Act (22 U.S.C. 2752, 2778, and 2791) and § 126.7 of the ITAR in furtherance of the foreign policy of the United States.

In accordance with §§ 126.3 and 126.7 of the ITAR, affected persons desiring review of this decision with regard to a particular export may petition the Director, Office of Defense Trade Controls. Exceptions to this policy will be considered on a case-by-case basis.

Dated: April 19, 1993.

Robert L. Gallucci,

Assistant Secretary, Bureau of Political-Military Affairs, Department of State.

[FR Doc. 93-9984 Filed 4-28-93; 8:45 am]

BILLING CODE 4710-25-M

Bureau of Administration

[Public Notice 1794]

Public Information Collection Requirement Submitted to OMB for Review

AGENCY: Department of State.

ACTION: The Department of State has resubmitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

SUMMARY: Sections 207, 208, and 601 of Public Law 99-440, as amended, the Comprehensive Anti-Apartheid Act of 1986 (CAAA), require certain United States nationals operating businesses in South Africa to adhere to fair labor principles. The regulations implementing the CAAA (22 CFR parts 60-65) establish mechanisms whereby U.S. nationals meeting certain criteria must register with and unless they are bona fide participants in the signatory companies reporting and implementing system, make annual reports to the Department of State. The information collection submitted for review seeks reinstatement of the questionnaire developed to enable registered firms to describe their implementation of Fair Labor Principles. The following summarizes the information collection proposal submitted to OMB:

Type of request—Reinstatement.

Originating office—Bureau of African Affairs.

Title of information collection—South Africa and Fair Labor Standards Questionnaire.

Frequency—Annual.

Respondents—U.S. firms operating in South Africa.

Estimated number of respondents—27.

Average hours per response—30-40 hours.

Total estimated burden hours—1060-1330.

Existing rule containing this collection of information was published in the Federal Register on December 31, 1985 (50 FR 53308).

ADDITIONAL INFORMATION OR COMMENTS:

Copies of the proposed forms and supporting documents may be obtained from Gail J. Cook, (202) 647-3538. Comments and questions should be

directed to (OMB) Jefferson B. Hill, (202) 395-7340.

Dated: April 16, 1993.

Jerome F. Tolson, Jr.,

Acting Assistant Secretary for Administration.

[FR Doc. 92-9968 Filed 4-28-93; 8:45 am]

BILLING CODE 4710-24-M

Oceans and Fisheries Affairs

[Public Notice 1793]

Exporter's Declaration and Government Certification

SUMMARY: Notice is given of the intention of the United States to require that an Exporter's Declaration and Government Certification accompany certain shipments of shrimp from countries whose exports of shrimp to the United States would otherwise be banned under section 609 of Public Law 101-162. A copy of the Exporter's Declaration and Government Certification appears at the end of this notice.

EFFECTIVE DATE: May 1, 1993.

FOR FURTHER INFORMATION CONTACT:

Mr. Bill Gibbons-Fly, Office of Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington, DC 20520-7818. Telephone: (202) 647-3940.

Definitions: The following definitions shall apply to terms used in this notice and in the Exporter's Declaration and Government Certification:

"Harvester" means the owner or operator of an aquaculture facility at which the shrimp in a particular shipment is raised and harvested; or, in the case of shrimp harvested in the ocean by a fishing vessel, the owner or operator of the harvesting vessel.

"Exporter" means the individual or company in the harvesting country who controls the shipment at the time it leaves the customs territory of the harvesting country. The exporter may or may not be the same individual or company as the harvester.

"Harvesting country" means either (1) the country in which the exported shrimp is raised in an aquaculture facility; or (2) the country into whose customs territory the shrimp is landed from a commercial fishing vessel, whether or not the flag of such vessel is the same as that of the country in which the shrimp is harvested and landed.

"Aquaculture" means the process of raising shrimp for harvest in large ponds where the shrimp spend at least 60 days in such ponds prior to being harvested.

SUPPLEMENTARY INFORMATION: Section 609 of Public Law 101-162 provides that shrimp harvested with technology that may adversely affect certain sea turtles may not be imported into the United States unless the President certifies to Congress by May 1, 1991, and annually thereafter, that the harvesting country has adopted a regulatory program to reduce the incidental capture of sea turtles in commercial shrimp trawl fisheries comparable to the program in effect in the United States. The President has delegated the authority for making the certification to the Department of State (Memorandum of December 19, 1990; 56 FR 357, January 4, 1991). Revised guidelines for making that certification were published by the Department of State in the Federal Register on February 18, 1993 (58 FR 9015).

Those guidelines provide, *inter alia*, that any ban on imports shall not apply to: (1) Harvested shrimp raised in an aquaculture facility from a country otherwise under embargo, since the harvesting of such shrimp does not pose a threat to sea turtles; and (2) shrimp harvested in waters beyond the geographic scope of section 609 of Public Law 101-162, i.e., outside the Gulf of Mexico, the Caribbean or the western Atlantic Ocean, by a country otherwise under embargo.

As a result, some shipments of shrimp from a country whose shrimp is otherwise banned from import into the United States under section 609 of Public Law 101-162 will be admitted for entry into the United States, provided that, in addition to meeting all other applicable requirements for entry: (1) The shrimp was not harvested in the Gulf of Mexico, the Caribbean or western Atlantic Ocean but was instead harvested either in the Pacific Ocean or raised in an aquaculture facility; and (2) the import documents accompanying any such shipment include a completed Exporter's Declaration and Government Certification.

The Exporter's Declaration and Government Certification will require the following specific information: the harvesting country; the name and address of the harvester, the name and address of the exporter, and the name and address of the final consignee; applicable harmonized tariff schedule number; total weight, number of units (boxes/cases), and the species name of the shrimp in the shipment accompanying the form. In addition, the Exporter's Declaration and Government Certification will require that the exporter, the harvester and a responsible government official of the harvesting country each certify that the shrimp in

the relevant shipment was not harvested in the Caribbean, Gulf of Mexico, or western Atlantic but instead was either: (1) Harvested from an aquaculture facility; or (2) harvested in the Pacific Ocean. The certifying official of the exporting country may be any official designated by the government of the exporting nation for this purpose. However, any official so designated must be employed on a full time basis by the government of the exporting country. Such Government may not delegate the authority to certify the forms to a representative of the private sector or to a part-time government employee.

The Exporter's Declaration and Government Certification will only be required for shrimp imports from countries whose shrimp is otherwise banned from importation into the United States under section 609 of Public Law 101-162, and only while such ban is in effect. The Exporter's Declaration and Government Certification will be required for shipments exported from the embargoed countries on or after May 1, 1993, that include any products classifiable as follows (harmonized tariff systems (HTS) codes are specified):

Frozen shrimp and prawns: 0306.13.00
Shrimp and Prawns, not frozen:
0306.23.00

Shrimp and prawn products: 1605.20.05
Other prepared shrimp and prawns:
1605.20.10

The countries whose exports of shrimp will be subject to this entry requirement will be listed in the Federal Register on or about May 1, 1993. Those countries will be notified in advance. Shipments whose date of importation into the United States is on or after May 1, 1993, will be allowed entry without the Exporter's Declaration and Government Certification, provided that the import documents clearly show that the recorded date of export was prior to May 1, 1993. The exporter's Declaration and Government Certification will be available from all U.S. Embassies and Consulates in any country whose shrimp imports into the United States are otherwise prohibited under section 609 of Public Law 101-162. Three copies of the Exporter's Declaration and Government Certification must accompany each shipment. The Exporter's Declaration and Government Certification may be photocopied, but each user must ensure that any copy accompanying a shipment is clearly legible. Illegible copies will not be accepted.

As this notice makes clear, the Exporter's Declaration and Government Certification has been created to provide for the entry of shrimp into the United

States from countries whose shrimp exports would otherwise be banned under section 609 of Public Law 101-162. As such, it is intended to mitigate the adverse economic impact on harvesters and exporters whose product is beyond the intended scope of any such ban. However, if falsification of the Exporter's Declaration and Government Certification or other abuses of this mechanism are determined to impair the ability of the Government to implement fully and effectively any ban required under section 609 of Public Law 101-162, the United States Government reserves the right to revoke the use of this form and to ban all shrimp imports into the United States from a harvesting nation otherwise under embargo.

Classification: As a matter relating to the foreign affairs function, this notice is exempt from the notice, comment, and delayed effectiveness provisions of the Administrative Procedures Act. This action is exempt from Executive Order 12291, and is not subject to the requirements of the Regulatory Flexibility Act.

Dated: April 16, 1993.

David A. Colson,
Deputy Assistant Secretary Oceans and Fisheries.

BILLING CODE 4710-09-M



U.S. DEPARTMENT OF STATE

OMB APPROVAL NO. 1405-0095
EXPIRATION DATE: 4-30-96
ESTIMATED BURDEN: 30 minutes***EXPORTER'S DECLARATION AND GOVERNMENT CERTIFICATION**

1. HARVESTING COUNTRY		2. HARVESTER (Name and address)	
3. EXPORTER (Name and address)		4. FINAL CONSIGNEE (Name and address)	
5. DESCRIPTION OF PRODUCT			
U.S. Tariff Schedule Number	Number of Units	Weight in Kilograms	Species (Scientific name)
6. HARVESTER'S AND EXPORTER'S DECLARATION (To be signed by a responsible agent of both the harvester and the exporter of the product.) I hereby declare that the shipment of shrimp accompanying this declaration was not harvested in the waters of the Gulf of Mexico, the Caribbean or the western Atlantic Ocean but instead was (check one): ☐ Harvested from the aquaculture facility listed in block 2 above, where the shrimp spent at least 60 days in ponds at that facility prior to being harvested; or ☐ Harvested by a commercial shrimp trawl vessel operating exclusively in the Pacific Ocean owned and/or operated by the individual or company listed in block 2 above.			
HARVESTER (Name and title)	ADDRESS / TELEX / FAX	SIGNATURE	DATE
EXPORTER (Name and title)	ADDRESS / TELEX / FAX	SIGNATURE	DATE
7. GOVERNMENT CERTIFICATION (To be signed by a responsible Government official of the harvesting nation) I hereby declare that the statements signed above by the harvester and exporter of this shipment of shrimp are true and accurate to the best of my knowledge.			
NAME, AGENCY, TITLE	ADDRESS / TELEX / FAX	SIGNATURE	DATE
THIS FORM MUST ACCOMPANY ALL SHIPMENTS OF SHRIMP FROM ANY COUNTRY WHOSE IMPORTS OF SHRIMP INTO THE UNITED STATES WOULD OTHERWISE BE PROHIBITED UNDER SECTION 609 OF PUBLIC LAW 101-162.			

FORM
4-93 DSP-121

*Public reporting burden for this collection of information is estimated to average 0 minutes per response, including time required for searching existing data sources, gathering the necessary data, providing the information required, and reviewing the final collection. Send comments on the accuracy of this estimate of the burden and recommendations for reducing it to: Department of State (OIS/RA/DIR), Washington, D.C. 20520-0264, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (1405-0095), Washington, D.C. 20503.

Office of Defense Trade Controls**[Public Notice 1798]****Statutory Debarment Under the International Traffic in Arms Regulations****AGENCY:** Office of Defense Trade Controls, Department of State.**ACTION:** Notice.

SUMMARY: Notice is hereby given that Delft Instruments, N.V., The Netherlands (Delft), defense related entities have been statutorily debarred pursuant to § 127.6(c) of the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120-130).

EFFECTIVE DATE: July 17, 1992.

FOR FURTHER INFORMATION CONTACT: Clyde G. Bryant Jr., Chief, Compliance Analysis Division, Office of Defense Trade Controls, Department of State (703-875-6650).

SUPPLEMENTARY INFORMATION: Section 38(g)(4)(A) of the Arms Export Control Act (AECA) prohibits the issuance of export licenses to a person, or any party to the export, who has been convicted of violating certain U.S. criminal statutes, including the AECA. The term "person," as defined in § 120.16 of the ITAR, means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization or group, including governmental entities. The ITAR, specifically § 126.7(e), defines the term "party to the export" to include the president, the chief executive officer, and other senior officers of the applicant; the freight forwarders or designated exporting agent of the applicant; and any consignee or end-user of any item to be exported. The statute permits certain limited exceptions to this prohibition to be made on a case-by-case basis. 22 U.S.C. 2778(g)(4).

The ITAR authorizes the Assistant Secretary of State for Political-Military Affairs to prohibit certain persons convicted of violating, or conspiring to violate, the AECA from participating directly or indirectly in the export of defense articles or in the furnishing of defense services. Such a prohibition is referred to as a "statutory debarment," which may be imposed on the basis of judicial proceedings that resulted in a conviction for violating, or of conspiring to violate, the AECA. 22 CFR 127.6(c).

Statutory debarment is based upon a conviction in a criminal proceeding conducted by a United States court. Thus, the administrative debarment procedures outlined in the ITAR, 22

CFR part 128, are not applicable in such cases.

Under the AECA, section 38(g)(4)(A), and the ITAR, § 127.6, the Assistant Secretary for Political-Military Affairs has statutorily debarred Delft's defense related entities based on its July 17, 1992, conviction of conspiring to violate and violating the AECA in the U.S. District Court for the District of Columbia.

Pursuant to a Consent Agreement, between Delft Instruments, N.V. (Delft) and the Department of State, and an Order signed by the Assistant Secretary of State for Political-Military Affairs, Delft's period of debarment is three years with two years suspended starting from the date of conviction, July 17, 1992. Licensing privileges may be reinstated at the request of the debarred company following the necessary interagency consultations, after a thorough review of the circumstances surrounding the conviction and a finding that appropriate steps have been taken to mitigate any law enforcement concerns, as required by section 38(g)(4) of the AECA.

The Consent Agreement provides that the Department of State will give due consideration to applications for licenses or requests for approvals where the foreign end-user is identified as, and is determined to be, the Ministry of Defense of the Government of the Netherlands, the Ministry of Defense of the Government of Belgium, programs of the North Atlantic Treaty Organization (NATO), Ministries of Defense of the foreign governments that are members of NATO, and previously approved transactions that expired during the suspension period (January 25, 1991-July 16, 1992).

Pursuant to § 127.6(c) of the ITAR, the specific defense related entities within Delft noted herein, are being published in the *Federal Register*. Anyone who requires additional information to determine whether a person or company has been debarred should contact the Office of Defense Trade Controls.

In accordance with these authorities the following defense related entities within Delft Instruments, N.V. are debarred for a period of three years, with two years suspended, following Delft Instruments, N.V.'s conviction for conspiring to violate and violating § 38 of the AECA: Delft Instruments Defense, BV, Netherlands; Delft Instruments Electro-Optics, BV, (DIEO), Netherlands; Oldelft Electronic Instruments, Srl, Italy; Instrubel, NV, Belgium; Franke Systemtechnik, GmbH, Germany; OIP, NV, Belgium; and the defense related activities of BV Delft Electronische Producten, (DEP), Netherlands. Note

that DEP is eligible to receive United States-origin defense articles covered by Category XII(e) and (f) of the U.S. Munitions List, 22 CFR 121.1, for civil applications.

This notice involves a foreign affairs function of the United States encompassed within the meaning of the military and foreign affairs exclusion of the Administrative Procedure Act. Because the exercising of this foreign affairs function is discretionary, it is excluded from review under the Administrative Procedure Act.

Dated: April 19, 1993.

William B. Robinson,

Director, Office of Defense Trade Controls, Department of State.

[FR Doc. 93-10041 Filed 4-28-93; 8:45 am]

BILLING CODE 4710-25-M

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****Scenic Byways Advisory Committee; Public Meeting****AGENCY:** Federal Highway Administration (FHWA), DOT.**ACTION:** Notice of public meeting.

SUMMARY: The FHWA announces a meeting of the Scenic Byways Advisory Committee, as authorized by the Scenic Byways Program (section 1047 of the Intermodal Surface Transportation Efficiency Act of 1991; Pub. L. 102-240, 105 Stat. 1914, 2068). The focus of the meeting will be to review the recommendations regarding minimum criteria and standards for use by State and Federal agencies in designating highways as Scenic Byways and all-American roads for the purpose of a national scenic byways program. Discussion topics as developed by the Committee will include: (1) Program structure recommendations; (2) funding structure recommendations; (3) designation process recommendations; (4) designation criteria recommendations; (5) documentation recommendations; and (6) incentive program recommendations.

DATES: The meeting will be June 2, 1993, 8:30 a.m. to 5 p.m., and June 3, 1993, 8:30 a.m. to 5 p.m. The meeting is open to the public.

ADDRESSES: The meeting will be held at Department of Transportation, 400 7th Street, SW., Conference Room 2230, NASSIF Building, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Eugene Johnson, Federal Highway Administration, Intermodal Planning

Division, HEP-50, Room 3222, 400 Seventh St., SW., Washington, DC 20590, (202) 366-0150. Office hours are 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except legal holidays.

Authority: 23 U.S.C. 315; 49 CFR 1.48; Sec. 1047, Pub. L. 102-240, 105 Stat. 1914, 1996.

Issued on: April 22, 1993.

E. Dean Carlson,

Executive Director.

[FR Doc. 93-10083 Filed 4-28-93; 8:45 am]

BILLING CODE 4910-22-P

Federal Transit Administration

Environmental Impact Statement on the Mission Valley East Light Rail Project in San Diego County, CA

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Federal Transit Administration (FTA), and the San Diego Metropolitan Transit Development Board (MTDB) intend to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) on the proposed extension of light rail transit service in the Mission Valley East corridor. Mass transit improvements would occur from the Mission Valley West Light Rail Transit (LRT) alignment terminus near Interstate-15 to the Grossmont Station on the existing San Diego East LRT Line. MTDB, as local lead agency, will ensure that the EIS also satisfies the requirements of the California Environmental Quality Act (CEQA) and serves as the Environmental Impact Report (EIR) required by CEQA. In addition to two LRT alignments, the EIS/EIR will evaluate the No-Action and the Best Bus alternatives and any new alternatives generated through the scoping process. Scoping will be accompanied through correspondence with interested persons, organizations, and federal, state, and local agencies and through two public meetings.

DATES: Comment Due Date: Written comments on the scope of alternatives and impacts to be considered should be sent to MTDB by June 18, 1993. **Scoping Meetings:** Public scoping meetings will be held on Wednesday, May 19, 1993 at 3 p.m. in the MTDB Board of Directors Room and at 7 p.m. at Lewis Junior High School. See **ADDRESSES** below.

ADDRESSES: Written comments on project scope should be sent to Ms. Toni Bates, Project Manager, MTDB, 1255 Imperial Avenue, Suite 1000, San Diego,

CA 92101. *Scoping meetings* will be held at the following locations.

1. Wednesday, May 19, 1993—3 p.m., MTDB Board of Directors Room, 1255 Imperial Avenue, 10th Floor, San Diego, CA 92101
2. Wednesday, May 19, 1993—7 p.m., Lewis Junior High School, 5170 Greenbrier Avenue, San Diego, CA 92120.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Hom, Director, Office of Program Development, Federal Transit Administration, Region 9, (415) 744-3116.

SUPPLEMENTARY INFORMATION:

I. Scoping

FTA and MTDB invite interested individuals, organizations and federal, state, and local agencies to participate in defining the alternatives to be evaluated in the EIS/EIR and identifying any significant social, economic, or environmental issues related to the alternatives. An information packet describing the purpose of the project, the proposed alternatives, the impact areas to be evaluated, the citizen involvement program, and the preliminary project schedule is being mailed to affected federal, state, and local agencies and to interested parties on record. Others may request the scoping materials by contacting Ms. Toni Bates at MTDB at the address above or by calling at (619) 231-1466. Scoping comments may be made verbally at either of the public scoping meetings or in writing. See the **DATES** and **ADDRESSES** sections above for locations and times. During scoping, comments should focus on identifying specific social, economic, or environmental impacts to be evaluated and suggesting alternatives which are less costly or less environmentally damaging while achieving similar transit objectives. Scoping is not the appropriate time to indicate a preference for a particular alternative. Comments on preferences should be communicated after the Draft EIS/EIR has been completed. If you wish to be placed on the mailing list to receive further information as the project develops, contact Ms. Toni Bates at MTDB as previously described.

II. Description of Study Area and Project Need

The Mission Valley East Corridor extends between I-15 and La Mesa generally along I-8. The corridor includes the San Diego communities of Grantville, Navajo, the San Diego State University (SDSU) campus, the College Area, and the City of La Mesa. The

corridor roadways, especially I-8, experience substantial congestion for east/west travel during peak periods and throughout the day. Through travel is oriented to the commute patterns of east county residents into Mission Valley, Kearny Mesa, and Centre City San Diego. Travel within the corridor is composed of SDSU employees and students and corridor residents travelling to work or commercial areas. The proposed Mission Valley East project would improve transit accessibility through Mission Valley and complete a link of the regional LRT network. MTDB is presently doing Final Engineering and permitting on the Mission Valley West corridor from I-15 west to Old Town. The Mission Valley East project should improve regional air quality by providing an alternative to the automobile in the I-8 corridor, particularly to San Diego State University.

III. Alternatives

The alternatives proposed for evaluation include: No-Action which involves no change to transportation services or facilities in the corridor beyond already committed projects, the Best Bus which consists of supplementing and reconfiguring bus services and facilities to provide additional travel opportunities, including express/limited service and other improvements to the bus system to optimize service, and, two LRT alignments would be analyzed. The LRT alignments parallel I-8 with one option through the Grantville area and two options at San Diego State University, one on the north side of campus and one in a tunnel near the south side of campus. Bus service in either alternative would be realigned to feed the LRT. An extensive screening process has already evaluated and eliminated several other alignment variations as described in the information packet.

IV. Probable Effects

FTA and MTDB plan to evaluate the EIS/EIR all social, economic and environmental impacts of the alternatives. Among the primary issues are the expected increase in transit ridership, the capital outlays needed to construct the project, the cost of operating and maintaining the facilities created by the project, and the financial impacts on the funding agencies. Environmental and social impacts proposed for analysis include land use and neighborhood impacts, traffic and parking impacts near stations, visual impacts, impacts on cultural resources, and noise and vibration impacts. Impacts on natural areas, rare and

endangered species, air and water quality, groundwater and geologic forms will also be covered. Impacts will be evaluated both for the construction period and for the long-term period of operation. Measures to mitigate adverse impacts will be explored.

V. FTA Procedures

In accordance with the Federal Trade Act, as amended, and FTA policy, the Draft EIS/EIR will be prepared in conjunction with an Alternative Analysis, and the Final EIS/EIR in conjunction with Preliminary Engineering. After its publication, the Draft EIS/EIR will be available for the public and agency review and comment, and a public hearing will be held. On the basis of the Draft EIS/EIR and the comments received, MTDB will select a locally preferred alternative and seek approval from FTA to continue with Preliminary Engineering and preparation of the Final EIS/EIR.

Issued on April 23, 1993.

Stewart F. Taylor,

Regional Administration.

[FR Doc. 93-9997 Filed 4-28-93; 8:45 am]

BILLING CODE 4910-57-M

National Highway Traffic Safety Administration

Highway Safety Programs; Amendment of Conforming Products List of Calibrating Units for Breath Alcohol Testers

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice.

SUMMARY: This notice amends the Conforming Products List for instruments which have been found to conform to the Model Specifications for Calibrating Units for Breath Alcohol Testing (49 FR 48865).

EFFECTIVE DATE: April 29, 1993.

FOR FURTHER INFORMATION CONTACT:

Mrs. Robin Mayer, Office of Alcohol and State Programs, NTS-21, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; Telephone: (202) 366-9825.

SUPPLEMENTARY INFORMATION: On August 19, 1975, (40 FR 36167), the National Highway Traffic Safety Administration (NHTSA) published the Standards for Calibrating Units for Breath Alcohol Testers. A Qualified Products List of Calibrating Units for Breath Alcohol

Testers, of devices which met this standard, was first issued on November 30, 1976, (41 FR 53384). On December 14, 1984, (49 FR 48864), NHTSA converted this standard to Model Specifications for Calibrating Units for Breath Alcohol Testers, and published in Appendix B (49 FR 48872), a Conforming Products List (CPL) of calibrating units which were found to conform to the Model Specifications. Amendments to the CPL have been published in the Federal Register since that time.

Since the last publication of the CPL for calibrating units, one device, U.S. Alcohol Testing of America, Inc., Alco-Simulator 2000 was evaluated and found to meet the requirements of the specifications. In addition, the Intoximeters, Inc., Nalco Breath Alcohol Standard has been redesignated as Alco Breath Alcohol Standard. This is a name change only, and retesting of this device is not required.

The Conforming Products List is therefore amended to read as follows:

Conforming Products List of Calibrating Units for Breath Alcohol Testers (Manufacturer and Calibrating Unit)

1. Century Systems, Inc., Arkansas City, KA: Breath Alcohol Simulator BAS311.
2. CMI, Inc., Owensboro, KY: Toxitest II.
3. Federal Signal Corporation, CMI, Inc., Minturn, CO: Toxitest Model ABS 120.
4. Guth Laboratories, Inc., Harrisburg, PA: Model 34C Simulator; Model 34C Cal DOJ; Model 34C-FM; Model 34C-NPAS; and Model 10-4.
5. Intoximeters, Inc., St. Louis, MO: Alco Breath Alcohol Standard.
6. Luckey Laboratories, Inc., San Bernardino, CA: Simulator.
7. PLD of Florida, Inc., Rockledge, FL: BA 500.
8. Protection Devices, Inc./U.S. Alcohol Testing, Inc., Rancho Cucamonga, CA: LS34 Model 6100.
9. Smith & Wesson Electronic Co., Springfield, MA: Mark II-A Simulator.
10. Systems Innovation, Inc., Hallstead, PA: True-Test MD 901.
11. U.S. Alcohol Testing, Inc., Rancho Cucamonga, CA: Alco-Simulator 2000.

(23 U.S.C. 402; delegations of authority at 49 CFR 1.50 and 501.8)

Michael B. Brownlee,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 93-10011 Filed 4-26-93; 9:34 am]

BILLING CODE 4910-50-M

Highway Safety Program; Amendment of Conforming Products List of Evidential Breath Testing Devices

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice.

SUMMARY: This notice amends the Conforming Products List for instruments that conform to the Model Specifications for Evidential Breath Testing Devices (49 FR 48854).

EFFECTIVE DATE: April 29, 1993.

FOR FURTHER INFORMATION CONTACT:

Mrs. Robin Mayer, Office of Alcohol and State Programs, NTS-21, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; Telephone: (202) 366-9825.

SUPPLEMENTARY INFORMATION:

On November 5, 1973, the National Highway Traffic Safety Administration (NHTSA) published the Standards for Devices to Measure Breath Alcohol (38 FR 30459). A Qualified Products List of Evidential Breath Measurement Devices comprised of instruments that met this standard was first issued on November 21, 1974, (39 FR 41399).

On December 14, 1984 (49 FR 48854), NHTSA converted this standard to Model Specifications for Evidential Breath Testing Devices, and published in Appendix D to that notice (49 FR 48864), a Conforming Products List (CPL) of instruments that were found to conform to the Model Specifications. Amendments to the CPL have been published in the Federal Register since that time.

Since the last publication of the CPL, two devices were evaluated and found to meet specifications for mobile and non-mobile evidential breath test devices: CMI, Inc., Intoxilyzer 5000 with cooled detector; and CMI, Inc., Intoxilyzer 200. In addition, U.S. Alcohol Testing Inc./Protection Devices, has relocated to Rancho Cucamonga, CA. This change is noted on the Conforming Products List.

The Conforming Products List is therefore amended to read as follows:

CONFORMING PRODUCTS LIST OF EVIDENTIAL BREATH MEASUREMENT DEVICES

Manufacturer and model	Mobile	Nonmobile
Alcohol Countermeasures System, Inc., Port Huron, MI, Alert J3AD	X	X
BAC Systems, Inc., Ontario, Canada, Breath Analysis Computer	X	X
CAMEC Ltd., North Shields, Tyne and Ware, England, IR Breath Analyzer	X	X
CMI, Inc., Ownesboro, KY, Intoxilyzer Model:		
200	X	X
1400	X	X
4011	X	X
4011A	X	X
4011AS	X	X
4011AS-A	X	X
4011AS-AQ	X	X
4011 AW	X	X
4011A27-10100	X	X
4011A27-10100 with filter	X	X
5000	X	X
5000 (w/Cal. Vapor Re-Circ.)	X	X
5000 (w/3/8" ID Hose option)	X	X
5000 (w/cooled detector)	X	X
5000 (CAL DOJ)	X	X
5000 (VA)	X	X
PAC 1200	X	X
S-D2	X	X
Decator Electronics, Decator, IL, Alco-Tector model 500		X
Intoximeters, Inc., St. Louis, MO, Photo Electric Intoximeter		X
GC Intoximeter MK II	X	X
GC Intoximeter MK IV	X	X
Auto Intoximeter	X	X
Intoximeter Model:		
3000	X	X
3000 (rev B1)	X	X
3000 (rev B2)	X	X
3000 (rev B2A)	X	X
3000 (rev B2A) w/FM option	X	X
3000 (Fuel Cell)	X	X
3000 D	X	X
3000 DFC	X	X
Alcomonitor		X
Alco-Sensor III	X	X
Alco-Sensor IV	X	X
RBT III	X	X
RBT III-A	X	X
RBT IV	X	X
Komyo Kitagawa, Kogyo, K.K., Alcoalyzer DPA-2	X	X
Breath Alcohol Meter PAM 101B	X	X
Life-Loc, Inc., Wheat Ridge, CO, PBA 3000-P	X	X
Lion Laboratories, Ltd., Cardiff, Wales, UK:		
Alcolmeter Model:		
AE-D1	X	X
SD-2	X	X
EBA	X	X
Auto-Alcolmeter		X
Luckey Laboratories, San Bernadino, CA, Alco-Analyzer Model:		
1000		X
2000		X
National Draeger, Inc., Pittsburgh, PA, Alcotest Model:		
7010	X	X
7110	X	X
7410	X	X
Breathalyzer Model:		
900	X	X
900A	X	X
900BG	X	X
National Patent Analytical Systems, Inc., Mansfield, OH, BAC Datamaster	X	X
Omicron Systems, Palo Alto, CA, Intoxilyzer Model:		
4011	X	X
4011AW	X	X
Plus 4 Engineering, Mintum, CO, 5000 Plus4	X	X
Siemens-Allis, Cherry Hill, NJ:		
Alcomat	X	X
Alcomat F	X	X
Smith and Wesson Electronics, Springfield, MA:		
Breathalyzer Model:		
900	X	X

CONFORMING PRODUCTS LIST OF EVIDENTIAL BREATH MEASUREMENT DEVICES—Continued

Manufacturer and model	Mobile	Nonmobile
900A	X	X
1000	X	X
2000	X	X
2000 (non-Humidity Sensor)	X	X
Stephenson Corp., Breathalyzer 900	X	X
U.S. Alcohol Testing, Inc./Protection Devices, Inc., Rancho Cucamonga, CA:		
Alco-Analyzer 1000		X
Alco-Analyzer 2000		X
Verax Systems, Inc., Fairport, NY:		
The BAC Verifier	X	X
BAC Verifier Datamaster	X	X
BAC Verifier Datamaster II	X	X

(23 U.S.C. 402; delegations of authority at 49 CFR 1.50 and 501.8)

Michael B. Brownlee,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 93-9977 Filed 4-26-93; 9:33 am]

BILLING CODE 4810-50-M

[Docket No. 93-29; Notice 1]

Am-Safe, Inc., Receipt of Petition for Determination of Inconsequential Noncompliance

Am-Safe, Inc. (Am-Safe) of Phoenix, Arizona, has determined that some of its replacement seat belt assemblies fail to comply with 49 CFR 571.209, Federal Motor Vehicle Safety Standard (FMVSS) No. 209, "Seat Belt Assemblies," and has filed an appropriate report pursuant to 49 CFR part 573. Am-Safe has also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under Section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Between January 1985 and the present, Am-Safe produced and distributed approximately 100,000 replacement seat belts which did not include the installation and maintenance instructions required by Standard No. 209.

Standard No. 209, Section S4.1(k) requires that "[a] seat belt assembly or retractor shall be accompanied by an instruction sheet providing sufficient information for installing the assembly in a motor vehicle except for a seat belt assembly installed in a motor vehicle by an automobile manufacturer. The installation instructions shall state

whether the assembly is for universal installation or for installation only in specifically stated motor vehicles

" * * *." In addition, Section S4.1(l) requires that "[a] seat belt assembly or retractor shall be accompanied by written instructions for the proper use of the assembly, stressing particularly the importance of wearing the assembly snugly and properly located on the body, and on the maintenance of the assembly and periodic inspection of all components. The instructions shall show the proper manner of threading webbing in the hardware of seat belt assemblies in which the webbing is not permanently fastened."

Am-Safe supports its petition for inconsequential noncompliance with the following:

No evidence of incorrectly installed seat belts

[Am-Safe believes] the simplistic mounting design of these seat belts make it improbable that any incorrect installations exist. Am-Safe, Inc. is unaware of any suggestions or allegations, in regards to motor vehicle safety, from seat belts that were incorrectly installed.

Am-Safe sophisticated part numbering system

Seat belts are identified by a nine or ten digit part number. A typical seat belt part number is 502293-401-6. The 502293 defines the basic belt configuration such as a retractable or non-retractable lap belt. The -401 specifies the dimensions of [the] web and component cover lengths. The -6 is the color code when applicable. Permanently affixed labels have pertinent information to ensure the proper seat belt is ordered for replacement. This label includes the part number, manufacturing date, and name and phone number of the manufacturer. This accurate numbering system can be confidently used for proper seat belt replacement.

Simple installation procedures

The seat belts in question are attached to the vehicle anchorage holes with existing mounting hardware. These assemblies require only one bolt for attachment of the buckle half and one bolt for the attachment of the connector half. To accomplish the installation of a replacement seat belt, the existing seat belt must first be removed from the vehicle. These steps are then reversed for proper installation of the replacement seat belt. The majority of these replacements are performed by individuals acquainted with seat belt installation, i.e.; seat manufacturers, transit bus operators, and associated companies [which] perform seat belt installation on a regular basis. In addition, the design and construction characteristics of these seat belts reflect universal practices of operation and maintenance procedures.

Conclusion

There is no evidence that any of the subject seat belts are incorrectly installed. These seat belts have been installed and are currently in service without incident making a recall impractical. The complex part numbering system used by Am-Safe, Inc. leaves little chance for error when ordering a replacement seat belt. In the majority of cases, installation was performed by companies with experienced [personnel] familiar with correct procedures. [In instances where seat belts are knowingly distributed to the general public, Am-Safe, Inc. has always supplied appropriate instructions. [As a] result of this noncompliance, Am-Safe, Inc. now includes these instructions with all seat belts unless otherwise instructed by the vehicle manufacturers. In conclusion, Am-Safe, Inc. believes that lack of instructions for seat belts that are currently in service is inconsequential as it relates to motor vehicle safety.

Interested persons are invited to submit written data, views, and arguments on the petition of Am-Safe, described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the notice will be published in the *Federal Register* pursuant to the authority indicated below.

Comment closing date: June 1, 1993.

(15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: April 23, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93-10010 Filed 4-28-93; 8:45am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

April 23, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0172.

Form Number: IRS Form 4562.

Type of Review: Revision.

Title: Depreciation and Amortization (Including Information on Listed Property).

Description: Taxpayers use Form 4562 to: (1) claim a deduction for depreciation and/or amortization; (2) make a section 179 election to expense depreciable assets, and (3)

answer questions regarding the use of automobiles and other listed property to substantiate the business use under section 274(d).

Respondents: Individuals or households, Farms, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.

Estimated Number of Respondents/

Recordkeepers: 11,500,000.

Estimated Burden Hours Per

Respondent/Recordkeeper:

Recordkeeping—36 hours, 35 minutes

Learning about the law or the form—4 hours, 10 minutes

Preparing and sending the form to the IRS—4 hours, 57 minutes

Frequency of Response: Annually.

Estimated Total Reporting Burden:

495,627,500 hours.

Clearance Officer: Garrick Shear (202)

622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202)

395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 93-9995 Filed 4-28-93; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

April 23, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0472.

Form Numbers: ATF F 5630.5 and ATF F 5630.7.

Type of Review: Revision.

Title: Special Tax Registration and Return, Alcohol and Tobacco (ATF F 5630.5). Special Tax Registration and Return, National Firearms Act (NFA) (ATF F 5630.7).

Description: Chapters 51, 52 and 53 of 26 U.S.C. authorize the collection of an occupational tax from persons engaged in certain alcohol, tobacco or firearms businesses. ATF F 5630.5 and/or ATF F 5630.7 is used to both compute and report the tax, and as an application for registry as required by statute. Upon receipt of the tax, a special tax stamp is issued.

Respondents: Individuals or households, businesses or other for-profit, small businesses or organizations.

Estimated Number of Respondents: 90,700.

Estimated Burden Hours Per

Respondent:

ATF F 5630.5—48 minutes

ATF F 5630.7—48 minutes

Frequency of Response: On occasion.

Estimated Total Reporting Burden:

75,560 hours.

Clearance Officer: Robert N. Hogarth (202) 927-8930, Bureau of Alcohol, Tobacco and Firearms, room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93-9996 Filed 4-28-93; 8:45 am]

BILLING CODE 4810-31-M

Public Information Collection Requirements Submitted to OMB for Review

April 23, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-1150.

Form Number: IRS Form 990-EZ.

Type of Review: Revision.

Title: Short Form Return of Organization Exempt From Income Tax Under Section 501(c) of the Internal Revenue Code (except black lung benefit

trust or private foundation) or Section 4947(a)(1) charitable trust.

Description: Form 990-EZ is needed to determine that IRC section 501(a) tax-exempt organizations fulfill the operating conditions of their tax exemption. IRS uses the information from this form to determine if the filers are operating within the rules of their exemption.

Respondents: Non-profit institutions.

Estimated Number of Respondents/Recordkeepers: 100,000.

Estimated Burden Hours Per

Respondent/Recordkeeper:

Recordkeeping: 26 hours, 47 minutes.

Learning about the law or the form: 5 hours, 20 minutes.

Preparing the form: 6 hours, 56 minutes.

Copying, assembling, and sending the form to the IRS: 16 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 3,933,000 hours.

Clearance Officer: Garrick Shear (202) 622-3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503. **Lois K. Holland,**

Departmental Reports Management Officer.

[FR Doc. 93-10072 Filed 4-28-93; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

April 23, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Special Request: The Department of the Treasury is requesting a less-than 60-day review and approval of the Internal Revenue Service information collection, described below. All comments must be received by COB May 21, 1993.

Internal Revenue Service

OMB Number: 1545-1315.

Form Number: None.

Type of Review: Reinstatement.

Title: TeleFile Surveys.

Description: These surveys are being conducted to help the Service evaluate TeleFile and to initiate recommendations for changes and improvements. Participants will be taxpayers who used TeleFile to file a return, taxpayers who tried TeleFile but did not file a return, and taxpayers who, although eligible to use TeleFile, elected not to file a return by TeleFile.

Respondents: Individuals or households.

Estimated Number of Respondents: 18,000.

Estimated Burden Hours Per Respondent: 10 minutes.

Frequency of Response: Other (one-time survey).

Estimated Total Reporting: 3,900 hours.

Clearance Officer: Garrick Shear (202) 622-3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503. **Lois K. Holland,**

Departmental Reports Management Officer.

[FR Doc. 93-10073 Filed 4-28-93; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

April 23, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515-0052.

Form Number: CF 4609.

Type of Review: Reinstatement.

Title: Petition for Remission or Mitigation of Forfeiture and Penalties Incurred.

Description: Person whose property is seized or who incur monetary penalties due to violations of the Tariff Act are

entitled to seek remission or mitigation by means of an informal administrative appeal. This form gives the violator the opportunity to claim mitigation and provides a record of such administrative appeals.

Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 28,000.

Estimated Burden Hours Per Respondent: 19 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 8,834.

Clearance Officer: Ralph Meyer (202) 927-1552, U.S. Customs Service, Paperwork Management Branch, Room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503. **Lois K. Holland,**

Departmental Reports Management Officer.

[FR Doc. 93-10074 Filed 4-28-93; 8:45 am]

BILLING CODE 4820-02-M

Public Information Collection Requirements Submitted to OMB for Review

April 23, 1993.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Special Request: The Department of the Treasury is requesting a less-than 60-day review and approval of the Internal Revenue Service information collection, described below. All comments must be received by COB May 21, 1993.

Internal Revenue Service

OMB Number: New.

Form Number: None.

Type of Review: New collection.

Title: Tax Year '92 TeleFile Focus Group Interviews.

Description: These focus groups are being conducted to help the Internal

Revenue Service evaluate TeleFile and to initiate recommendations for changes and improvements. Participants will be taxpayers who were eligible to use TeleFile to file their 1992 Federal Tax Returns.

Respondents: Individuals or households.

Estimated Number of Respondents: 1,200.

Estimated Burden Hours Per

Respondent:

Screening Interview: 5 minutes.

Focus Group Sessions: 2 hours.

Travel to and from Focus Group facility: 1 hour.

Frequency of Response: Other (one-time focus group).

Estimated Total Reporting: 340 hours.

Clearance Officer: Garrick Shear (202) 622-3869, Internal Revenue Service,

Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93-10075 Filed 4-28-93; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register

Vol. 58, No. 81

Thursday, April 29, 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

Farm Credit Administration Board; Special Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the May 13, 1993 regular meeting of the Farm Credit Administration Board (Board) will not be held and that a special meeting of the Board is scheduled for Tuesday, May 4, 1993.

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on May 4, 1993, from 10 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: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. The matters to be considered at the meeting are:

OPEN SESSION

- A. *Approval of Minutes*
- B. *New Business*

1. *Regulations*

- a. Accounting and Report Requirements—High-Risk Assets (Proposed)
- b. Disclosure to Shareholders—Director Certification of Quarterly Reports (Final)

Closed Session*

- A. *New Business*

1. *Enforcement Actions*

Date: April 27, 1993.

Curtis M. Anderson,
Secretary, Farm Credit Administration Board.

* Session Closed—Exempt pursuant to 5 U.S.C. 552b(c) (8), (9) and (10).

[FR Doc. 93-10257 Filed 4-27-93; 3:49 pm]

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), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Tuesday, May 4, 1993, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Memorandum re: Final amendments to Part 353 of the Corporation's rules and regulations, entitled "Reports of Apparent Crimes Affecting Insured Nonmember Banks," which implement new procedures for completion and submission of the uniform multi-agency criminal referral form designed to facilitate financial institutions' compliance with criminal activity reporting requirements and enhance law enforcement agencies' ability to investigate the matters reported in criminal referrals.

Discussion Agenda

Memorandum and resolution re: Final amendments to Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits," which (1) eliminates section 329.3 that prescribes the rules governing advertisements of insured State nonmember banks and have it superseded by Regulation DD which has been enacted by the Board of Governors of the Federal Reserve System to implement the requirements of the Truth in Savings Act; and (2) withdraws the Corporation's Statement of Policy entitled "Information Regarding Computation of Interest and Dividends on Deposits," and General Counsel's Opinion No. 1, "Advertising of Interest or Dividends on Deposits," which will likewise be superseded upon the effective date of Regulation DD.

Memorandum and resolution re: Final amendments to the Corporation's rules and regulations in the form of a new Part 363 regarding independent annual audits and reporting requirements.

Memorandum and resolution re: Provisions on Contractor Fitness and Integrity and Statement of Policy on Contracting with Outside Firms.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 898-6745 (Voice); (202) 898-3509 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-6757.

Dated: April 27, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 93-10253 Filed 4-27-93; 3:43 pm]

BILLING CODE 6714-01-M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, May 4, 1993 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, May 6, 1993 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advisory Opinion 1993-6: J. Breck Tostevin of Citizens for Congressman Panetta (continued from meeting of April 22, 1993).

Report from FEC Office of Personnel.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION:

Mr. Fred Eiland, Press Officer,
Telephone: (202) 219-4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 93-10174 Filed 4-27-93; 11:34 am]

BILLING CODE 6716-01-M

NUCLEAR REGULATORY COMMISSION

DATES: Weeks of April 26, May 3, 10, and 17, 1993.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 26

Friday, April 30

2:00 p.m.

Affirmation/Discussion and Vote (Public Meeting)

- a. Final Amendments to 10 CFR Parts 26, 70, and 73 to Establish Fitness-for-Duty Requirements for Licensees Authorized to Possess, Use, or Transport Formula Quantities of Strategic Special Nuclear Material (Tentative) (Postponed from 4/22) (Contact: Stanley Turel, 301-492-3739)

Week of May 3—Tentative

Monday, May 3

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of May 10—Tentative

Friday, May 14

9:00 a.m.

Briefing on Options for Addressing Shutdown and Low Power Risk Issues (Public Meeting)

10:30 a.m.

Periodic Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting) (Contact: John Larkins, 301-492-8049)

2:30 p.m.

Briefing on Evolutionary and Advanced Light-Water Reactor Design Issues (Public Meeting) (Contact: Richard Borchardt, 301-504-1193)

4:00 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of May 17—Tentative

Tuesday, May 17

10:00 a.m.

Briefing on Status of Action Plan for Fuel Cycle Facilities (Public Meeting) (Contact: Ted Sherr, 301-504-3371)

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

2:00 p.m.

Briefing on Turkey Point Lessons Learned (Public Meeting) (Contact: Fred Hebdon, 301-504-2024)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meeting call (Recording)—(301) 504-1292.

CONTACT PERSON FOR MORE INFORMATION:

William Hill (301) 504-1661.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 93-10254 Filed 4-27-93; 3:43 pm]

BILLING CODE 7590-01-M

**Thursday
April 29, 1993**

**Estimated
Receipt
Date**

Part II

**Department of
Transportation**

**Research and Special Programs
Administration**

**Hazardous Materials Transportation;
Registration and Fee Assessment
Program; Notice**

DEPARTMENT OF TRANSPORTATION**Research and Special Programs Administration**

[Docket No. HM-208; Notice No. 93-10]

Hazardous Materials Transportation; Registration and Fee Assessment Program

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of filing requirements.

SUMMARY: The 1993-94 registration year for the Hazardous Materials Registration Program begins July 1, 1993. This notice is intended to advise persons who offer for transportation or transport certain categories or quantities of hazardous materials of an annual requirement to file a registration statement and pay a fee to the Department of Transportation. In addition, this notice addresses certain recent rulemaking actions that expand the scope of persons subject to the registration requirements.

FOR FURTHER INFORMATION CONTACT:

David W. Donaldson, Office of Hazardous Materials Planning and Analysis (202-366-4109), Hazardous Materials Safety, 400 Seventh Street SW., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION: A final rule establishing a national registration program was published in the *Federal Register* on July 9, 1992 [57 FR 30620]. The provisions of the final rule and subsequent amendments are contained in the 1992 edition of Title 49, Code of Federal Regulations Part 107 Subpart G. The final rule requires that, after September 15, 1992, each person (as defined in 49 CFR 107.3 and 171.8) who offers for transportation or transports certain categories or quantities of hazardous materials must register annually and pay a fee. Collected fees will be used to fund emergency response planning and training grants to State, local, and Indian tribal governments.

A document revising certain registration requirements was issued on March 5, 1993 [58 FR 12543]. A revision, based on a provision contained in the Pipeline Safety Act of 1992, removed the requirement that persons who offer or transport smaller bulk packagings with capacities of less than 3,500 gallons or 468 cubic feet must register with RSPA after July 1, 1993. In addition, RSPA removed a recordkeeping requirement for persons to retain certain documents proving payment of the registration fee at their principal place of business. A copy of the registration statement and the

Certificate of Registration still must be maintained at the principal place of business. Highway carriers also must maintain a copy of the current Certificate of Registration or another document bearing a current registration number on board each truck and truck tractor used to transport hazardous materials subject to the registration requirements.

Persons subject to the registration requirements include those who offer or transport in commerce any of the following materials:

A. Any highway route-controlled quantity of a Class 7 (radioactive) material;

B. More than 25 kilograms (55 pounds) of a Division 1.1, 1.2, or 1.3 (explosive) material in a motor vehicle, rail car, or freight container;

C. More than one liter (1.06 quarts) per package of a material extremely toxic by inhalation (Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A);

D. A hazardous material in a bulk packaging having a capacity equal to or greater than 13,248 liters (3,500 gallons) for liquids or gases or more than 13.24 cubic meters (468 cubic feet) for solids; or

E. A shipment, in other than a bulk packaging, of 2,268 kilograms (5,000 pounds) gross weight or more of a class of hazardous materials for which placarding of a vehicle, rail car, or freight container is required for that class.

Several recent rulemaking actions impose a mandatory compliance date of October 1, 1993. On and after this date, persons offering or transporting certain categories or quantities of materials previously not regulated under the Hazardous Materials Regulations (HMR) may be subject to the registration program. These rulemaking actions include:

A. An interim final rule published on February 2, 1993 [58 FR 6864] under Docket HM-214 designates, as hazardous materials, oils previously not regulated under the HMR. As a result, many offerors and transporters of bulk packagings containing oils, such as animal and vegetable oils, residual fuel oil, and lubricating oil, will be subject to the registration requirements after October 1, 1993.

B. A final rule issued under Docket HM-198A on October 2, 1991 [56 FR 49980] and revised January 8, 1993 [58 FR 3344], requires hazard classification, communication and packaging standards for elevated temperature materials, such as asphalt or molten metals. Persons who offer or transport these materials after October 1, 1993,

may need to register because of the quantities being offered or transported.

C. Certain other materials will become subject to the HMR on October 1, 1993, as a result of being identified as a marine pollutant [Docket HM-211; 57 FR 52930, November 5, 1992] or meeting new hazard classification criteria adopted under Docket HM-181 [Performance Packaging Standards; 55 FR 52402, December 21, 1990].

Copies of these documents may be obtained by contacting the RSPA Dockets Unit (DHM-30), U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590-0001 [202-366-4511].

A formal interpretation relating to the registration requirements and clarifying the terms "offeror" and "transporter" was published on October 28, 1992 (57 FR 48739).

The 1993-94 registration year will begin July 1, 1993, and end June 30, 1994. Any person who engages in any of the specified activities during that period must file a registration statement for the 1993-94 registration year and pay the \$300 fee by July 1, 1993, or before engaging in any covered activity, whichever is later.

RSPA strongly encourages persons subject to the registration requirements to register well in advance of the July 1, 1993, deadline. This will ensure timely receipt of a valid 1993-94 registration number to comply with recordkeeping requirements. A Certificate of Registration is generally mailed within three weeks of RSPA's receipt of a registration statement.

The registration statement has been revised to reflect amendments to the registration requirements and to collect certain information that more clearly characterizes the registrants' activities relating to the transportation of hazardous materials. Registrants are urged to use the revised registration statement to avoid submitting additional information at a later time. The revised registration statement, indicating a March 1993 revision date, is printed as an appendix to this notice and may be reproduced for use. Copies of the revised registration statement may be obtained by contacting the Office of Hazardous Materials Planning and Analysis (DHM-60), Hazardous Materials Safety, 400 Seventh Street SW., Washington, DC 20590-0001 (202-366-4109).

In April 1993, RSPA will mail a revised registration statement form and an informational brochure to all persons who registered for the 1992-93 registration year. This mailing will be addressed to the principal place of business indicated on the 1992-93

statement and to the attention of the person who signed that statement.

Any person who has engaged in a specified activity since September 16, 1992, but has not registered for the 1992-93 registration year, may be subject to civil penalties for each day a covered function is performed. The legal

obligation to register for a year in which any specified activity was conducted does not end with the registration year. Registration after the completion of a registration year may also involve the imposition of interest, late-payment penalties, and administrative charges, in addition to a civil penalty.

Dated: April 21, 1993.

Alan I. Roberts,
*Associate Administrator for Hazardous
Materials Safety.*

**Appendix—Registration Statement
Form**

BILLING CODE 4910-60-P

Exempted from Paperwork Reduction Act by 49 App. U.S.C. 1805(c)(13)

U. S. DEPARTMENT OF TRANSPORTATION
HAZARDOUS MATERIALS REGISTRATION STATEMENT
REGISTRATION YEAR 19____ - 19____

(Please Type or Print all Responses)

Initial Registration _____ Renewal of Registration _____ Amendment to Registration _____ Expedited Follow-up _____

Current Registration # _____

1. Registrant

(Company Name)

(Place pre-printed label here if provided and if name and address are correct. Otherwise, provide correct information.)

2. Mailing Address of Principal Place of Business

Street or P.O. Box _____ City _____

County _____ State _____ Zip Code _____ - _____ Country _____

3. Carrier's US DOT ID Number, ICC Number, or Reporting Railroad Alphabetic Code (if applicable)

US DOT ID # _____ ICC # _____ Railroad Alphabetic Code _____

4. Mode(s) Used to Transport Hazardous Materials: Highway _____ Rail _____ Water _____ Air _____

5. Industrial Classification: Check the primary industry in which the registrant operates. **Mark Only One.**

Transportation

- ◆ ... Carrier
- ◆ ... Warehousing
- ◆ ... Freight Forwarding, Agent Services
- ◆ ... Transportation Repair & Service Facilities

Manufacturing

- ◆ ... Petroleum Refining & Related Industries
- ◆ ... Apparel & Other Textile Products
- ◆ ... Paper, Wood, & Allied Products
- ◆ ... Printing & Publishing
- ◆ ... Chemicals & Allied Products
- ◆ ... Food & Kindred Products
- ◆ ... Rubber & Miscellaneous Plastic Products
- ◆ ... Electric & Electronic Equipment

- ◆ ...Explosives
- ◆ ...Other Manufacturing Industries

Other

- ◆ ... Agriculture & Support Services
- ◆ ... Mining - Metal & Non-Metal
- ◆ ... Oil & Gas Extraction
- ◆ ... Gasoline, Fuel Oil, Propane Sales & Delivery
- ◆ ... Construction - All Types
- ◆ ... Wholesale or Retail Trade
- ◆ ... Non-Transportation Repair Facilities
- ◆ ... Hazardous Waste Services - Transportation, Disposal, Treatment
- ◆ ... Other

6. Annual Registration Fee. The combined registration and processing fee is \$300.00. (Complete only when submitting initial or renewal registration.)

Total Amount Enclosed:

Make check or money order in U.S. funds, drawn on a U.S. bank, and payable to "U.S. Department of Transportation," and identified as payment for the "Hazmat Registration Fee."

Method of Payment

Check _____ Money Order _____ Credit Card: *VISA* *MasterCard*

Credit Card Users Please Provide the Following Information:[illegible]

Name as it appears on the card _____

Authorized Signature _____

Cardholder acknowledges ordering goods or services in the amount of the total shown hereon and agrees to perform the obligations set forth in the Cardholder's agreement with the issuer. Credit card statement will list this payment as "US DOT Hazmat Regis."

NOTE: If completing an Expedited Registration, **do not** resubmit credit card information here.

7. PRIOR-YEAR SURVEY INFORMATION: Hazardous Materials Activities, and States in Which Activity was Conducted.

Indicate those activities conducted by the registrant during the previous calendar year (e.g., 1992 for the 1993-94 Registration Year). Mark "A" through "E," as appropriate, to indicate the category or categories and the activity or activities (shipper, carrier, or other) in which the registrant acted. Check all categories and activities that apply. "Other" may be checked to indicate offeror activities not covered under the heading of shipper or carrier, such as freight forwarder or agent. Carriers should circle all states in which they operated as a hazardous materials carrier. Shippers and others engaged in offering hazardous materials should circle only those states from which they offered hazardous materials. They do not need to indicate to or through which states shipments were sent. A list of the states and their abbreviations appears in the accompanying brochure. Circle "48 Contiguous States," if appropriate, to indicate that the activity was conducted in all of the 48 contiguous states. If the registrant did not engage in activities covered by "A" through "E" during the previous year, but plans to do so in the current registration year, mark only "F."

A. _____ Offered or transported in commerce any highway route-controlled quantity of a Class 7 (radioactive) material.

1. Shipper _____ 2. Carrier _____ 3. Other (Freight Forwarder, Agent, etc.) _____
AL AR AZ CA CO CT DE FL GA ID IL IN IA KS KY LA MA MD ME MI MN
MO MS MT NC ND NE NH NJ NM NV NY OH OK OR PA RI SC SD TN TX UT
VT VA WA WV WI WY 48 CONTIGUOUS STATES AK AS DC GU HI MP PR VI

B. _____ Offered or transported in commerce more than 25 kilograms (55 pounds) of a Division 1.1, 1.2, or 1.3 (explosive) material in a motor vehicle, rail car, or freight container

1. Shipper _____ 2. Carrier _____ 3. Other (Freight Forwarder, Agent, etc.) _____
AL AR AZ CA CO CT DE FL GA ID IL IN IA KS KY LA MA MD ME MI MN
MO MS MT NC ND NE NH NJ NM NV NY OH OK OR PA RI SC SD TN TX UT
VT VA WA WV WI WY 48 CONTIGUOUS STATES AK AS DC GU HI MP PR VI

C. _____ Offered or transported in commerce more than 1 liter (1.06 quarts) per package of a material extremely toxic by inhalation (Division 2.3, Hazard Zone A, or Division 6.1, Packing Group I, Hazard Zone A).

1. Shipper _____ 2. Carrier _____ 3. Other (Freight Forwarder, Agent, etc.) _____
AL AR AZ CA CO CT DE FL GA ID IL IN IA KS KY LA MA MD ME MI MN
MO MS MT NC ND NE NH NJ NM NV NY OH OK OR PA RI SC SD TN TX UT
VT VA WA WV WI WY 48 CONTIGUOUS STATES AK AS DC GU HI MP PR VI

D. _____ Offered or transported in commerce a hazardous material or hazardous waste in a bulk packaging (see 49 CFR 171.8) having a capacity equal to or greater than 13,248 liters (3,500 gallons) for liquids or gases or more than 13.24 cubic meters (468 cubic feet) for solids.

1. Shipper _____ 2. Carrier _____ 3. Other (Freight Forwarder, Agent, etc.) _____
AL AR AZ CA CO CT DE FL GA ID IL IN IA KS KY LA MA MD ME MI MN
MO MS MT NC ND NE NH NJ NM NV NY OH OK OR PA RI SC SD TN TX UT
VT VA WA WV WI WY 48 CONTIGUOUS STATES AK AS DC GU HI MP PR VI

E. _____ Offered or transported in commerce a shipment, in other than a bulk packaging, of 2,268 kilograms (5,000 pounds) gross weight or more of one class of hazardous materials or hazardous waste for which placarding of a vehicle, rail car, or freight container is required.

1. Shipper _____ 2. Carrier _____ 3. Other (Freight Forwarder, Agent, etc.) _____
AL AR AZ CA CO CT DE FL GA ID IL IN IA KS KY LA MA MD ME MI MN
MO MS MT NC ND NE NH NJ NM NV NY OH OK OR PA RI SC SD TN TX UT
VT VA WA WV WI WY 48 CONTIGUOUS STATES AK AS DC GU HI MP PR VI

F. _____ Did not engage in any of the activities listed in A through E during the previous calendar year.

8. Certification of Information. I certify that, to the best of my knowledge, the above information is true, accurate, and complete.

Certifier's Name _____ Date _____
(Print)

Title _____ Phone (____) _____

Certifier's Signature _____

FALSE STATEMENTS MAY VIOLATE 18 U.S.C. 1001

MAIL COMPLETED FORM TO:

U.S. Department of Transportation
Hazardous Materials Registration
P.O. Box 740188
Atlanta, GA 30374-0188

Please retain a copy of this form for your records.

Federal Register

**Thursday
April 29, 1993**

Part III

**Department of
Defense**

Department of the Army

33 CFR Part 334

**Restricted Area in the Kuluk Bay Near
Alaska; Interim Final Rule**

DEPARTMENT OF DEFENSE

Department of the Army

33 CFR Part 334

Restricted Area in the Kuluk Bay Near Adak, Alaska

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Interim final rule.

SUMMARY: The U.S. Army Corps of Engineers is amending the regulations in 33 CFR 334.1320 to correct errors in the coordinates which established a restricted area in the waters of Kuluk Bay, Adak, Alaska. The area encompassed by the coordinates in 33 CFR 334.1320 does not exactly agree with the location of submarine cables the area was designed to protect. The regulations presently prohibit anchoring and the dredging of anchors within the restricted area, except in great emergency. Due to the possibility of damage to the existing submarine cables, fishing and trawling are also prohibited within the restricted area. This amendment is being published as an interim final rule with the opportunity for comment to coincide with the publication of a public notice concurrently being published by the Alaska District Engineer.

DATES: Interim Final Rule effective on April 29, 1993. Written comments must be received on or before June 1, 1993.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Weger at (907) 753-2716 or Mr. Ralph Eppard at (202) 272-1783.

SUPPLEMENTARY INFORMATION: The Commander, U.S. Navy Undersea Surveillance, U.S. Pacific Fleet, Pearl Harbor, Hawaii, has requested that the Corps amend the regulations in 33 CFR 334.1320, which established a naval restricted area in Kuluk Bay, near Adak, Alaska, (NOAA Nautical Chart No. 16475). The purpose of the amendment is to correct the coordinates which define the restricted area boundaries. The corrections will expand the area approximately 1.3 nautical miles east, and the northern boundary approximately 1/2 nautical mile north. These amendments also include placing a restriction on fishing and trawling activities, in addition to anchoring and dragging of anchors, as currently stated in the regulations. The naval restricted area regulations in 33 CFR 334.1320 were established in 1963 and last amended in 1977. Kuluk Bay, on the

northeast side of Adak Island, Alaska, is about 4 miles long and 4 miles wide, and is one of the best natural harbors in the Aleutians. It is entered between Zeto Point on the north and Thunder Point on the south, and includes Kuluk Bay proper, Clam Lagoon, Sweeper Cove, Finger Bay, and Scabbard Bay. Tidal currents in the bay are weak and the flow appears to depend mainly upon the winds.

A notice of proposed rulemaking (NPRM) soliciting comments on these amendments was published in the *Federal Register* on February 2, 1993, with the comment period expiring on March 4, 1993. No comments were received. However, it was the Alaska District's intent to concurrently publish a public notice which would have been sent directly to Federal, State and local governments, navigation interests, fisheries and in general, all known interested parties. Due to a communication problem, the District was not aware of the date of publication of the NPRM and the public notice was not issued. In order to assure that all parties have had the opportunity to review these changes to the restricted area, the District is now publishing these proposed changes in a district public notice. This interim final rule is made effective on the date of publication in the *Federal Register* due to the existing potential for damage to Government-owned property in the area. We will, however, consider any comments or objections submitted and make any changes to the regulations we determine to be appropriate. It should be noted that it will be necessary to disestablish an explosives anchorage area, which is within the expanded boundary of the restricted area. Changes to the regulations (if any) which establish the explosives anchorage area is solely the responsibility of the U.S. Coast Guard. We have been informed that the Coast Guard has no objection to the elimination of the explosives anchorage area within the boundaries of the expanded naval restricted area. Accordingly, we will formally request that the Coast Guard take appropriate action to disestablish the explosives anchorage area.

Economic Assessment and Certification

This rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12291 do not apply. These 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 a 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, Danger zones. In consideration of the above, the Corps is amending 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 334.1320 is revised to read as follows:

§ 334.1320 Kuluk Bay, Adak, Alaska; naval restricted area.

(a) *The area.* The northwest portion of Kuluk Bay bounded as follows: Beginning on shore at latitude 51° 55' 00" N, longitude 176° 33' 09" W; thence due east to latitude 51° 55' 00" N, longitude 176° 33' 09" W; thence due south to latitude 51° 51' 55" N longitude 176° 31' 09" W; thence due west to the shore at latitude 51° 51' 00" N, longitude 176° 37' 43" W; thence along the shoreline to the point of beginning.

(b) *The regulations.* (1) Except in great emergency, no vessel shall anchor in the restricted area described above.

(2) The dragging of anchors in or across the restricted area is prohibited and no object attached to a vessel shall be placed on or near the bottom.

(3) Fishing and trawling activities in the restricted area are prohibited.

(4) The regulation of this restricted area shall be enforced by the Commander, Patrol Wing, U.S. Pacific Fleet, Naval Air Station Moffett Field, California, and such agencies and he/she may designate.

Stanley G. Genega,
Brigadier General (P), USA Director of Civil Works.

[FR Doc. 93-10045 Filed 4-28-93; 8:45 am]

BILLING CODE 3710-92-M

Federal Register

Thursday
April 29, 1993

Part IV

**Department of
Housing and Urban
Development**

Office of the Secretary

**24 CFR Part 92
HOME Investment Partnerships Program;
Proposed Rule**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 92

[Docket No. R-93-1648; FR-3411-P-01]

RIN 2501-AB50

HOME Investment Partnerships Program

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the existing interim rule for the HOME Investment Partnerships Program by implementing amendments enacted by the Housing and Community Development Act of 1992.

DATES: Comment due date: Comments on this proposed rule must be submitted on or before June 1, 1993.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, room 10278, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address. Faxed comments will not be accepted.

FOR FURTHER INFORMATION CONTACT: Mary Kolesar, Director, Program Policy Division, Office of Affordable Housing Programs, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708-2470, TDD (202) 708-2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements for the HOME Investment Partnerships Program have been approved by the Office of Management and Budget, under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520), and assigned OMB control number 2501-0013. This proposed rule does not contain additional information collection requirements.

II. Background

The HOME Investment Partnerships Program (HOME) was enacted under title II (42 U.S.C. 12701-12839) of the Cranston-Gonzalez National Affordable Housing Act (NAHA) (Pub. L. 101-625, approved November 28, 1990). On March 19, 1991, the Department

published a proposed rule (56 FR 11592) to implement the HOME Program. The Department received 119 public comments in response to the proposed rule. After reviewing and considering these comments, HUD published an interim rule on December 16, 1991 (56 FR 65313), inviting additional comments on the program.

The Department received 118 public comments on the interim rule. In partial response to these comments and HUD's experience in implementing the program, an interim rule to make necessary changes on an expedited basis to the December 16, 1991 interim rule was developed. In addition, the Housing and Community Development Act of 1992 (HCDA 1992) (Pub. L. 102-550, approved October 28, 1992) included a substantial number of amendments to the HOME program. Some of the HCDA 1992 amendments that were determined to be immediately effective were included in the "necessary changes" interim rule, which was published on December 22, 1992 (57 FR 60960). Additional HCDA amendments determined to be immediately effective will be published in a new interim rule being developed by the Department.

Other HCDA 1992 changes were determined to require the publication of a proposed rule with an opportunity for public notice and comment before they could be implemented. This proposed rule fulfills that requirement. The discussion that follows provides a summary of these proposed HCDA 1992 changes to the HOME interim rule. In addition, this proposed rule would amend the method by which dwelling units are designated and counted as affordable housing units during the period of affordability, as discussed below, in this preamble.

Section 210 of HCDA 1992 amends the matching requirements of the HOME program in a number of ways. Section 210(a)(4) permits match credit for investment in housing that qualifies as affordable housing under the HOME program. Before this amendment, match credit was available only for investment in affordable housing actually assisted with HOME funds, as opposed to investment in housing that would qualify as "affordable" even though it receives no HOME funds. This proposed rule would allow match credit for contributions made with respect to housing that meets the HOME income targeting, rent or homeownership restrictions, and long-term affordability requirements at §§ 92.252 and 92.254. It is not sufficient for match purposes that the contribution be made to an entity that is engaged in developing affordable housing; rather, in every instance, the

contribution must be made with regard to a specific project. "Affordable housing" does not include tenant-based rental assistance, and therefore, rental assistance that is not funded with HOME funds is not eligible for this match credit.

To implement the section 210(a)(4) amendment, conforming language changes would be made in §§ 92.218(a) and 92.219(a) to substitute "housing that qualifies as affordable housing under the HOME program" for "affordable housing assistance with HOME funds". Section 92.219 of the HOME rule would be further amended by redesignating paragraph (b) as paragraph (c), and adding a new paragraph (b) to require a written agreement between the participating jurisdiction, or its instrumentality, and the owner of the property to which match contributions are made. All of the affordability requirements from either § 92.252 or 92.254, whichever is applicable, the property standards requirements at § 92.252, and income determinations made in accordance with § 92.203 must be enumerated and imposed in the agreement. This agreement must be executed before the contribution to the housing may be counted for match purposes. The contribution itself may be for any eligible form of match, except those in § 92.220(a) (2) and (4) which, by statute, must be made for affordable housing assisted with HOME funds.

HCDA section 210 also adds as a new form of matching contribution a percentage of the proceeds from certain bond financing and allows the reduction of match requirements for State PJs in fiscal distress by up to 100 percent.

Permitting a percentage of the proceeds from bond financing repayable with revenues derived from a multifamily or single family affordable housing project as an eligible form of match would be implemented by revising § 92.220(a)(5). The current language pertaining to a match for administrative expenses would be deleted, in accordance with HCDA section 207(c) which eliminates administrative expenses as an eligible form of match, and replaced with language permitting a match for up to 50% of the bond proceeds loan amount to a multifamily affordable housing project owner, or up to 25% in the case of a single family project. Funds from both of these sources could not constitute more than 25% of a participating jurisdiction's total annual match contribution. Loans made bond proceeds in excess of 25 percent of a participating jurisdiction's total annual match contribution would not be

eligible match contributions and are not carried over to the following fiscal year as excess match. Section 92.221(b)(6) would be added to specify that if the contribution is made as a loan, the match credit is recognized at the time of the loan closing.

This proposed rule applies the statutory limitation (50% for multifamily housing, 25% for single family housing) to each loan made with bond proceeds rather than to the total bond proceeds for affordable housing. This approach is proposed for several reasons. Although match credit may only be given for loans from bond proceeds to housing that qualifies as affordable housing under the HOME program, the Department believes that the entire bond need not be issued for affordable housing. The Department recognizes that state and local governments issue bonds for housing, only some of which may qualify as affordable housing. (For example, the income limits for a single family housing bond issue may be 120% of median family income; however, many of the loans will be made to families who qualify as low-income families under the HOME program.) The total amount of the bond proceeds that are used for affordable housing will not be known until the entire bond proceeds are committed to specific housing projects. Therefore, instead of waiting until all bond proceeds are committed to affordable housing projects, the regulation gives the match credit (50% or 25%) for each loan to affordable housing. The Department also believes that crediting each loan, rather than determining the total bond proceeds amount committed to affordable housing and tracking each loan against the total amount, is administratively less burdensome for the participating jurisdictions.

HCDA 1992 section 210(c) amended the requirements for permitting a reduction of the match. To implement these amendments, the current match reduction procedures at § 92.222, permitting a percentage reduction of the match over a three year period, would be stricken, and would be replaced by procedures that require the reduction of the match on the basis of the fiscal distress of the PJ, with some variation depending upon whether a State or non-State PJ is involved. The procedures for a PJ other than a State require little or no regulatory elaboration by the Department beyond the language in the statute, and they are being implemented in a separate interim rule, although they are published here to provide for the continuity of the text in the revised § 92.222.

Regarding participating jurisdictions that are States, the statute provides: "In determining the degree to which a jurisdiction that is a State is distressed, the Secretary shall take into consideration the State's fiscal capacity and expenditure needs as determined by a national organization which compiles the relevant data."

In developing criteria to implement this provision, which is being proposed here as new paragraph § 92.222(a)(4), HUD consulted with the Advisory Commission on Intergovernmental Relations (ACIR), which was identified in the Senate Committee Report as the national organization. However, after the Department consulted with ACIR, it was determined that the data compiled by ACIR would not be appropriate for purposes of the statute because they were neither current nor regularly available.

The Department also consulted with the Bureau of the Census, the Bureau of Economic Analysis (BEA) and others with expertise in statistical indicators of fiscal stress; and conducted an empirical analysis of many potential indicators from several different sources. Among the factors examined and rejected were BEA's data series on Gross State Product (GSP), private sector GSP, earned income, and private sector earned income; and ACIR's Representative Tax System. Some of the factors failed to meet the selection criteria of being available from a single source, using a standard methodology, and being available on a timely and regular basis. Other factors had essentially the same results as the factors that were selected and were deemed to be redundant. Based on the foregoing, the Department has concluded:

- A State's fiscal distress may be a chronic condition resulting from long-term structural problems in the State economy, or it may be a short-term cyclical problem associated with recession or other slowing down of economic activity. Both types of fiscal distress ought to be used in considering whether to reduce the HOME match requirements.
- The indicators for chronic problems will be the percentage of families in poverty and per capita income, as determined by the Bureau of the Census. These are the same indicators that are required by the statute to be used to determine the match reduction for local jurisdictions. Furthermore, these same factors are used to determine the "relative fiscal incapacity" of participating

jurisdictions under the basic HOME allocation formula.

- The indicator for short-term cyclical problems will be growth in personal income. Quarterly estimates of State and national personal income are prepared by the Bureau of Economic Analysis (BEA). The data are, thus, both timely and regularly available. The definitions underlying the State estimates are essentially the same as those underlying the national estimates of personal income, permitting State and national growth in personal income to be compared. The BEA procedure not only imparts the accuracy of the national totals to the State estimates but also yields an additive system where the State estimates sum to the national total. Estimates are seasonally adjusted at annual rates and are available approximately 90 days after the end of the quarter. For example, the data for the first quarter of 1992 were published in the July issue of the Survey of Current Business. Second quarter data are in the October issue.

Based upon the foregoing, there will be three factors—percentage of families in poverty, per capita income, and change in personal income—that will be used to identify States that are in fiscal distress. If a State has at least 2 of the 3 factors indicating distress, the State will be deemed to be in severe fiscal distress, and its match requirement will be reduced 100%. If any 1 of the 3 factors indicate distress, then the State will be deemed to be in fiscal distress, and its match requirement will be reduced by 50%.

The Department will publish its determinations of severe fiscal distress and fiscal distress, computed as described below, each year. In order to permit the full benefit of the match reduction to be taken into account for planning purposes by States, the reduction will be effective for the fiscal year in which the distress determination is published and for the next fiscal year. A 100% match reduction will, in every instance, be effective for this two year period. However, if in the second year of a 50% match reduction period the published distress determination indicates severe fiscal distress, a two year 100% match reduction period (for the fiscal year in which the determination of severe fiscal distress is made, and for the next fiscal year) becomes immediately effective, superseding the second year of the 50% match reduction.

For the FY 1993 HOME program, 1990 census data will be used to make determinations for the first two factors.

The growth reflected in BEA's State personal income estimates over the most current available four quarters will be used for the third factor. The same qualifying percentages for the first two factors will be applicable to States as provided in HCDA 1992 section 210 for local government participating jurisdictions. A State will meet the first factor if its percent of families in poverty is 125 percent or more of the United States average; and a State will meet the second criterion of distress if its per capita income is less than 75 percent of the United States average. Although the statute requires that the measurements of both poverty rate and per capita income be determined according to data compiled by the Bureau of the Census for the calendar year immediately preceding the jurisdiction's calendar year, these data are not available on such a timely basis. The Department will use the most current available data. A State will meet the slow quarterly personal income growth criterion in this proposed rule if its personal income growth rate is less than 75 percent of the personal income growth rate of the United States average, measured over the most currently available four quarters.

HCDA 1992 section 218 amends the definition of *housing* for purposes of the HOME program to include elder cottage housing opportunity (ECHO) units that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to an existing single-family dwelling (which will be referred to here as the "host property"). ECHO housing may be manufactured housing, modular housing, or built on site.

In addition to changing the *housing* definition at § 92.2, a new section § 92.259 would be added to subpart F—Project Requirements of the regulation to provide guidance on the use of HOME funds for ECHO housing units. The Department has identified two ECHO housing program models, and will make both options available for the use of HOME funds by participating jurisdictions. In the first model, the PJ may provide assistance directly to homeowners for the purchase and placement of ECHO units (including utility hook-ups) on their property. In this model, the owner of the host property owns the ECHO unit, which must be occupied by an eligible person(s). In the second model, the PJ or a nonprofit organization retains ownership of the ECHO unit(s) and identifies homeowners who provide the host property for the unit, which must be occupied by an eligible person(s).

ECHO housing occupants must meet HOME income targeting requirements, i.e., they must have an annual income at or below 80 percent of the area's median income. In addition, the occupant must qualify as an elderly family as defined in 24 CFR part 812, a regulation which defines terms as given in section 3 of the United States Housing Act of 1937 (1937 Act). This definition includes elderly, handicapped and disabled individuals. The HOME program is required by statute to use the same definition for "families" as is given in section 3 of the 1937 Act, and the Department believes it would be appropriate and consistent to use the 1937 Act definition of "elderly family" for the purpose of determining eligibility for ECHO housing. The Department chose this broader definition of elderly because, in addition to expanding the availability of affordable housing with the advantages of privacy, independence, and proximity of assistance provided by ECHO housing for older persons, it anticipates the need and desired use of these units for handicapped and disabled individuals.

HOME funds for an ECHO unit would only be available on a one-time initial purchase and placement basis, regardless of who (host property owner, PJ or nonprofit) would own it, since the Department wants to maximize the use of HOME funds for the creation of affordable housing units. ECHO unit owners—particularly participating jurisdictions and nonprofit organizations—are encouraged to set aside funds, which may be derived from unit rentals, to cover the expense of maintenance and subsequent removal and relocation of the units. Nonfederal funds used to remove and relocate ECHO units to accommodate eligible tenants would be permissible contributions for purposes of match requirements, and would be added to the list of eligible forms of matching contributions at § 92.220(c).

Because ECHO units are accessory units provided as an independent living space, the proposed rule would allow only one ECHO unit per host property. In addition, all of the project requirements of subpart F would apply, including the rent affordability provisions of § 92.252, and property standards provisions at § 92.251, unless otherwise noted in the proposed rule. Although rent need not be charged, if it is, it must meet HOME rent requirements and be set at the lesser of either the fair market rent (FMR) or 30 percent of 65 percent of median income.

The National Affordable Housing Act of 1990, section 215(a)(1)(E) requires

that the housing assisted with HOME funds remain affordable for the "useful life of the property, as determined by the Secretary." The affordability period is to be "the longest feasible period of time consistent with sound economics and the purposes of this Act". For ECHO housing, the Department is proposing to require an affordability period in accordance with the rental housing requirements of § 92.252(a)(5). This means that if the original occupant no longer occupies the unit within the affordability period, the ECHO unit owner would have to either: (1) Rent the unit to another eligible occupant on site; (2) move the ECHO unit to another property for occupancy by an eligible occupant. However, if the owner of the ECHO unit is the host property owner, there is a third option: The participating jurisdiction can recapture the HOME subsidy (or net proceeds) from the host property owner. This flexibility in the applicable affordability provisions will accommodate the institutional and private homeowner use of ECHO units in a manner consistent with the statutory purposes of the HOME program.

The same ECHO housing requirements would be added to subpart M—HOME Funds for Indian Tribes in a new § 92.625.

The Department is also proposing to amend the procedure for housing project owners to designate those units in a property that are the HOME-assisted units. Currently, specific units are designated as the HOME units and that designation is fixed for the term of the affordability period. To provide more program flexibility, the Department is proposing to add new language to §§ 92.255 and 92.256 that would permit project owners to use a system of "floating" units that may be changed over the affordability period, so long as the total number of units remains the same and the substituted units are at least comparable in terms of size, features, and number of bedrooms to the originally designated HOME-assisted units. Comments are specifically solicited on this proposal.

To address a remaining issue arising out of section 220 of HCDA 1992, the Department is planning to publish, in the near future, a separate proposed rule to implement antidisplacement and relocation requirements in accordance with section 104(d) of the Housing and Community Development Act of 1974.

III. Findings and Certifications

Comment Period

The Department has limited the comment period on this proposed rule

to 30 days in order to publish as timely as possible an effective rule within the time period specified in section 222 of the Housing and Community Development Act of 1992 (Pub. L. 102-550, approved October 28, 1992).

Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Impact on the Economy

Although the HOME Program interim rule was found to be a "major rule" as that term is defined in Section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981, and a regulatory impact analysis (RIA) was prepared, this amending proposed rule does not constitute a "major rule". Analysis of this proposed rule, which only makes limited adjustments to the interim rule for which a RIA was prepared, indicates that it would not: (1) Have an annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Impact on Small Entities

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the undersigned hereby certifies that this proposed rule does not have a significant economic impact on a substantial number of small entities, because jurisdictions that are statutorily eligible to receive formula allocations are relatively larger cities, counties or States.

Regulatory Agenda

This proposed rule was listed as item number 1369 in the Department's Semiannual Agenda of Regulations published on November 3, 1992 (57 FR 51392) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Federalism Impact

The General Counsel has determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, *Federalism*, that this proposed rule does not have federalism implications concerning the division of local, State, and federal responsibilities. While the HOME Program interim rule amended by this proposed rule was determined to be a rule with federalism implications and the Department submitted a Federalism Assessment concerning the interim rule to OMB, this proposed rule only makes limited adjustments to the interim rule and does not significantly affect any of the factors considered in the Federalism Assessment for the interim rule.

Impact on the Family

The General Counsel, as the designated official under Executive Order 12606, *The Family*, has determined that this proposed rule would not have significant impact on family formation, maintenance, and general well-being. Assistance provided under this proposed rule can be expected to support family values, by helping families achieve security and independence; by enabling them to live in decent, safe, and sanitary housing; and by giving them the means to live independently in mainstream American society. This proposed rule would not, however, affect the institution of the family, which is requisite to coverage by the Order. Even if this proposed rule had the necessary family impact, it would not be subject to further review under the Order, since the provision of assistance under this proposed rule is required by statute, and is not subject to agency discretion.

The Catalog of Federal Domestic Assistance Number for the HOME Program is 14.239.

List of Subjects in 24 CFR Part 92

Grant programs—housing and community development, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, the Department proposes to amend part 92 of title 24 of the Code of Federal Regulations as follows:

PART 92—HOME INVESTMENT PARTNERSHIPS PROGRAM

1. The authority citation for part 92 would continue to read as follows:

Authority: 42 U.S.C. 3535(d) and 12701-12839.

2. In § 92.2, the definitions of *housing* would be revised to read as follows:

§ 92.2 Definitions.

Housing includes manufactured housing and manufactured housing lots. Housing also includes elder cottage housing opportunity (ECHO) units that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing single-family dwellings.

3. In § 92.218, paragraph (a) would be revised to read as follows:

§ 92.218 Amount of matching contribution.

(a) Each participating jurisdiction must make contributions to housing that qualifies as affordable housing under the HOME program, throughout a fiscal year. The contributions must total not less than:

4. Section 92.219 would be revised to read as follows:

§ 92.219 Recognition of matching contribution.

(a) A contribution is recognized as a matching contribution if:

- (1) It is made with respect to a tenant who is assisted with HOME funds, or
- (2) It is made with respect to housing that qualifies as affordable housing under § 92.252 or § 92.254; or
- (3) It is made with respect to any portion of a project (including a mixed-use project under § 92.256) not less than 50 percent of the dwelling units of which qualify as affordable housing under § 92.252 or § 92.254.

(b) To obtain credit for a match contribution that is made to housing that qualifies as affordable housing under § 92.252 or § 92.254, and that is not assisted with HOME funds, the participating jurisdiction, or its instrumentality, must execute, with the owner of the housing (or, if the participating jurisdiction is the owner, with the manager or developer), a written agreement that imposes and enumerates all of the affordability requirements from either § 92.252 or § 92.254, whichever is applicable, and the property standards requirements of § 92.251, and that requires income determinations to be made in accordance with § 92.203. This written agreement must be executed before any match contributions may be made.

(c) In addition to the requirements of paragraphs (a) and (b) of this section, a cash contribution is recognized as a matching contribution only if it is used for costs eligible under § 92.206 (except administrative costs and community housing development organization operating expenses) or § 92.301, or for the following costs (which are not

eligible costs for HOME funds): The cost of removing and relocating an ECHO housing unit to accommodate an eligible tenant, a project reserve account for replacements, a project reserve account for unanticipated increases in operating costs, operating subsidies, or costs relating to the portion of a mixed-income or mixed-use project not related to the affordable housing units.

5. In § 92.220, paragraphs (a)(1) and (a)(5) would be revised to read as follows:

§ 92.220 Form of matching contribution.

(a) * * *

(1) Cash contributions from nonfederal sources. Except for contributions made to affordable housing that is not assisted with HOME funds and bond proceeds to which the provisions of § 92.220(a)(5) are applicable, to be a cash contribution, funds must be contributed permanently to the HOME program, regardless of the form of investment the jurisdiction provides to a project. Therefore all repayment, interest, or other return on investment of the contribution must be deposited in the local account of the participating jurisdiction's HOME Investment Trust Fund to be used for eligible HOME activities in accordance with the requirements of this part. A cash contribution to affordable housing that is not assisted with HOME funds must be contributed permanently to the project.

(5) Proceeds from multifamily affordable housing and single-family project bond financing validly issued by a State or local government, or an agency, instrumentality, or political subdivision of a State, as follows:

(i) Up to 50 percent of the loan amount made from bond proceeds to a multifamily affordable housing project owner may qualify as match.

(ii) Up to 25 percent of the loan amount from bond proceeds made to a single-family affordable housing project owner may qualify as match.

(iii) Loans made from bond proceeds may not constitute more than 25 percent of a participating jurisdiction's total annual match contribution. Loans made from bond proceeds in excess of 25 percent of a participating jurisdiction's total annual match contribution are not eligible match contributions and are not carried over to the following fiscal year as excess match.

6. In § 92.221, paragraph (b)(6) would be added to read as follows:

§ 92.221 Match credit.

* * * * *

(b) * * *

(6) A loan made from bond proceeds under § 92.220(a)(5) is credited at the time of the loan closing.

* * * * *

7. § 92.222 would be revised to read as follows:

§ 92.222 Reduction of matching contribution requirement.

(a) *Reduction for fiscal distress.*

(1) *Distress criteria for local government participating jurisdictions.* As determined and published annually by HUD, if a local government participating jurisdiction satisfies both of the distress factors in paragraphs (a)(1) (i) and (ii) of this section, it is in severe fiscal distress and its match requirement will be reduced 100% for the period specified in paragraph (a)(3) of this section. If a local government participating jurisdiction satisfies either distress factor in paragraphs (a)(1) (i) or (ii) of this section, it is in fiscal distress and its match requirement will be reduced by 50 percent, for the period specified in paragraph (a)(4) of this section.

(i) *Poverty rate.* The average poverty rate in the participating jurisdiction was equal to or greater than 125 percent of the average national poverty rate during the calendar year for which the most recent data are available, as determined according to information of the Bureau of the Census.

(ii) *Per capita income.* The average per capita income in the participating jurisdiction was less than 75 percent of the average national per capita income, during the calendar year for which the most recent data are available, as determined according to information of the Bureau of the Census.

(2) *Distress criteria for participating jurisdiction that are States.* As determined and published annually by HUD, if a State has at least 2 of the 3 distress factors in paragraphs (a)(2) (i)–(iii) of this section, it will be deemed to be in severe fiscal distress and its match requirement will be reduced 100% for the period specified in paragraph (a)(3) of this section. If a State has any 1 of the 3 distress factors in paragraphs (a)(2) (i)–(iii) of this section, it will be deemed to be in fiscal distress and its match requirement will be reduced by 50%, for the period specified in paragraph (a)(4) of this section.

(i) *Poverty rate.* The average poverty rate in the State was equal to or greater than 125 percent of the average national poverty rate during the calendar year for which the most recent data are available, as determined according to information of the Bureau of Census.

(ii) *Per capita income.* The average per capita income in the State was less than 75 percent of the average national per capita income, during the calendar year for which the most recent data are available, as determined according to information of the Bureau of Census.

(iii) *Personal income growth.* The average personal income growth rate in the state over the most recent four quarters for which the data are available was less than 75 percent of the average national personal income growth rate during that period, as determined according to information of the Bureau of Economic Analysis.

(3) *Period of match reduction for severe fiscal distress.* A 100% match reduction is effective for the fiscal year in which the severe fiscal distress determination is published and for the following fiscal year.

(4) *Period of match reduction for fiscal distress.* A 50% match reduction is effective for the fiscal year in which the fiscal distress determination is published and for the following fiscal year, except that if a severe fiscal distress determination is published in that following fiscal year, the participating jurisdiction starts a new two-year match reduction period in accordance with the provisions of paragraph (a)(3) of this section.

(b) *Reduction of match for participating jurisdictions in disaster areas.* If a participating jurisdiction is located in an area in which a declaration of major disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act is made, HUD may reduce the matching requirement specified in § 92.218 by up to 100 percent for the fiscal year in which the declaration of major disaster is made and the following fiscal year for a local participating jurisdiction, and for a State participating jurisdiction, by up to 100 percent for the fiscal year in which the declaration of major disaster is made and the following fiscal year with respect to any HOME funds expended in an area to which the declaration of major disaster applies. [Participating jurisdictions for which a declaration of major disaster was made in FY 1992 are permitted to request a match reduction for FY 1993 and FY 1994.] To request a reduction, a participating jurisdiction must submit to the local HUD Field Office a copy of the disaster declaration.

8. Section 92.255 would be revised to read as follows:

§ 92.255 Mixed-income project.

(a) Housing that accounts for less than 100 percent of the dwelling units in a project qualifies as affordable housing if

the housing meets the criteria of § 92.252 or § 92.254. Each building in the project must contain housing that meets the requirements of § 92.252 or § 92.254. See § 92.219 for matching contribution requirements concerning mixed-income projects.

(b) For purposes of meeting affordable housing requirements for a project, the dwelling units counted as affordable housing may be changed over the affordability period, so long as the total number of affordable housing units remains the same, and the substituted units are, at a minimum, comparable in terms of size, features, and number of bedrooms to the originally designated affordable housing units.

[Approved by the Office of Management and Budget under OMB control number 2501-0013.]

9. In subpart F, a new § 92.259 would be added to read as follows:

§ 92.259 Elder cottage housing opportunity (ECHO) units.

(a) *General.* HOME funds may be used for the initial purchase and initial placement costs of elder cottage housing opportunity (ECHO) units that meet the requirements of this section, and that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing single-family dwellings.

(b) *Eligible owners.* The owner of a HOME-assisted ECHO unit may be—

(1) The owner of the single-family host property on which the ECHO unit will be located;

(2) A participating jurisdiction; or

(3) A non-profit organization.

(c) *Eligible tenants.* During the affordability period, the tenant of a HOME-assisted ECHO unit must be an elderly, handicapped or disabled family as defined in part 812 of this title, and must also be a low income family.

(d) *Applicable requirements.* The requirements of § 92.252 of this part apply to HOME-assisted ECHO units, except as specified in this section, including the following requirements:

(1) Only one ECHO unit may be provided per host property.

(2) The ECHO unit owner may choose whether or not to charge the tenant of the ECHO unit for rent, but if a rent is charged, it must meet the requirements of § 92.252.

(3) The ECHO housing must remain affordable for the period specified in § 92.252(a)(5). If within the affordability period the original occupant no longer occupies the unit, the ECHO unit owner must:

(i) Rent the unit to another eligible occupant on site;

(ii) Move the ECHO unit to another site for occupancy by an eligible occupant; or

(iii) If the owner of the ECHO unit is the host property owner, in accordance with requirements established by the participating jurisdiction and determined by HUD to be appropriate, the participating jurisdiction may recapture the full HOME subsidy, or if the ECHO unit is sold and the net proceeds are less than the full amount of the HOME subsidy, recapture the net proceeds to be used for additional HOME activities.

(4) The participating jurisdiction has the responsibility to enforce the project requirements applicable to ECHO units.

10. In subpart M, under the undesignated center heading "Project Requirements," a new § 92.625 would be added to read as follows:

§ 92.625 Elder cottage housing opportunity (ECHO) units.

(a) *General.* HOME funds may be used for the initial purchase and initial placement costs of elder cottage housing opportunity (ECHO) units that meet the requirements of this section, and that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing single-family dwellings.

(b) *Eligible owners.* The owner of a HOME-assisted ECHO unit may be—

(1) The owner of the single-family host property on which the ECHO unit will be located;

(2) An Indian tribe; or

(3) A non-profit organization.

(c) *Eligible tenants.* During the affordability period, the tenant of a HOME-assisted ECHO unit must be an elderly, handicapped or disabled family as defined in § 905.102 of this title, and must also be a low income family.

(d) *Applicable requirements.* The requirements of § 92.614 apply to HOME-assisted ECHO units, except as specified in this section, including the following requirements:

(1) Only one ECHO unit may be provided per host property.

(2) The ECHO unit owner may choose whether or not to charge the tenant of the ECHO unit for rent, but if a rent is charged, it must meet the requirements of § 92.614.

(3) The ECHO housing must remain affordable for the period specified in § 92.614(a)(5). If within the affordability period the original occupant no longer occupies the unit, the ECHO unit owner must:

(i) Rent the unit to another eligible occupant on site;

(ii) Move the ECHO unit to another site for occupancy by an eligible occupant; or

(iii) If the owner of the ECHO unit is the host property owner, in accordance with requirements established by the Indian tribe and determined by HUD to be appropriate, the Indian tribe may recapture the full HOME subsidy, or if ECHO unit is sold and the net proceeds are less than the full amount of the HOME subsidy, recapture the net proceeds for additional HOME activities.

(4) The Indian tribe has the responsibility to enforce the project requirements applicable to ECHO units.

Dated: March 5, 1993.

Henry G. Cisneros,
Secretary.

[FR Doc. 93-10095 Filed 4-28-93; 8:45 am]

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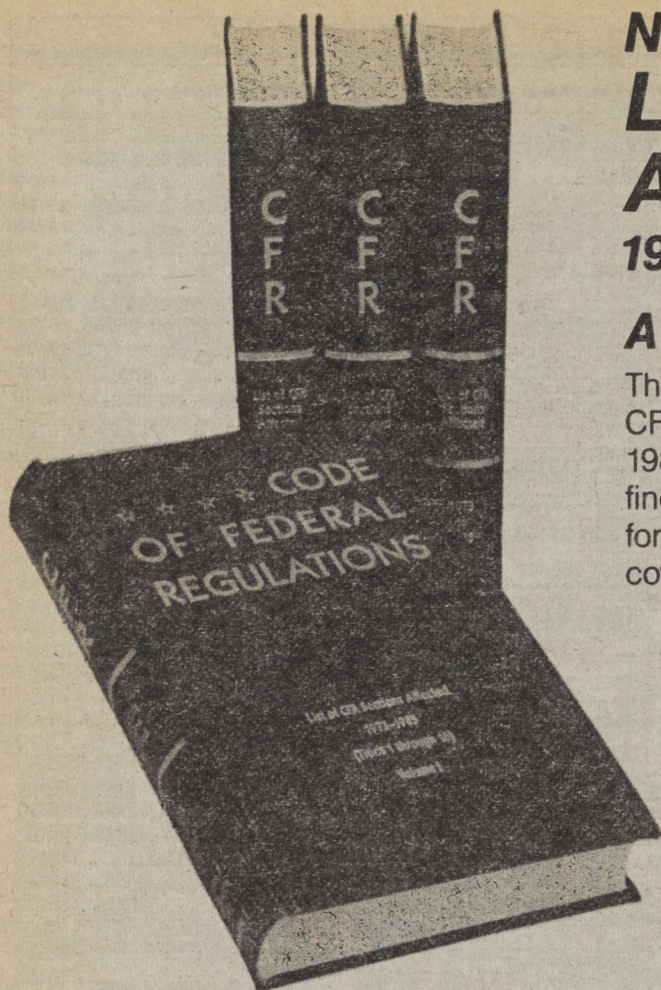
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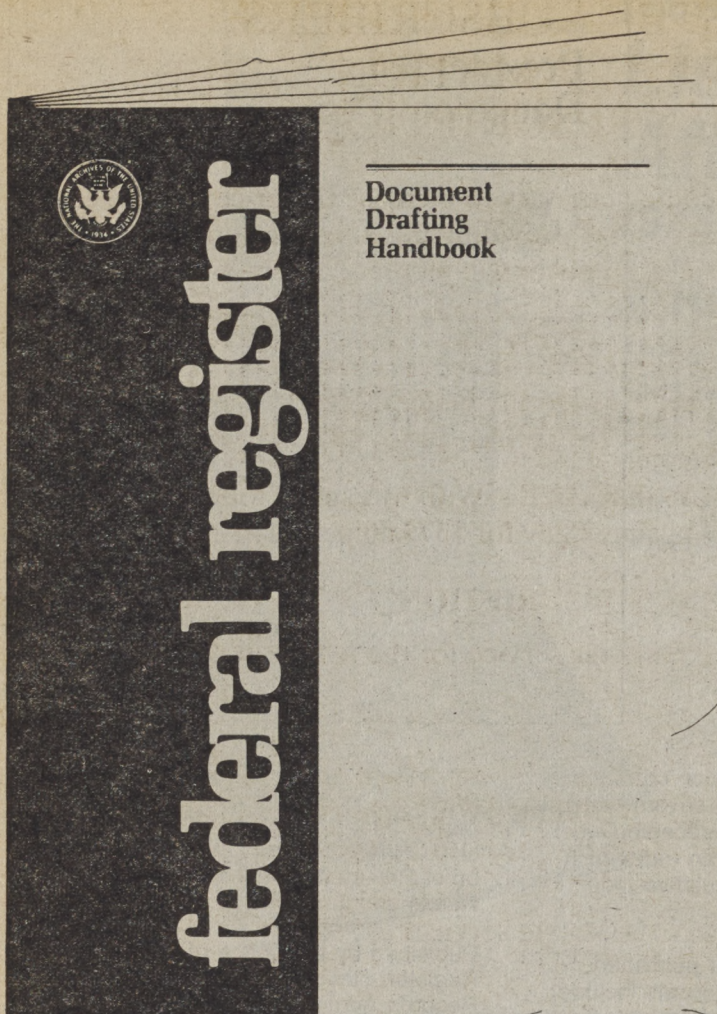
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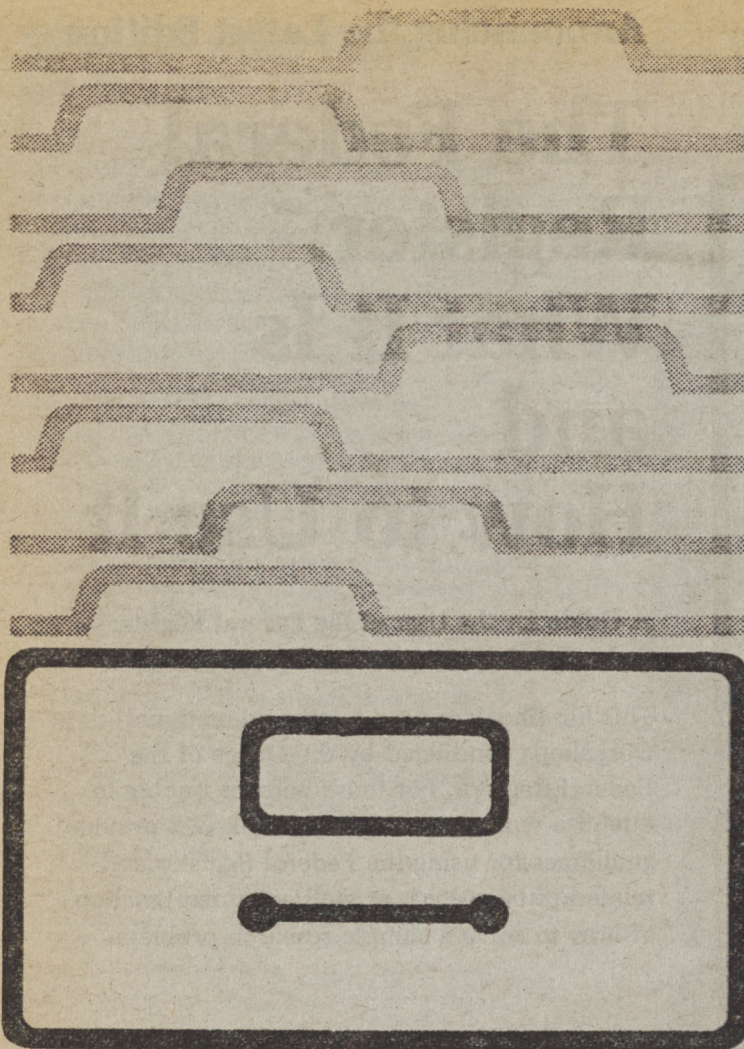
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