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Briefings on How To Use the Federal Register
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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.

ATLANTA, GA

When: September 15 at 9:30 a.m.
Where: Jimmy Carter Presidential Library, One Copenhill Avenue, Atlanta, GA
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WASHINGTON, DC

(two briefings)

When: September 17 at 9:00 am and 1:30 pm
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

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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.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1421

RIN 0560–AD31

Price Support Loan Requirements; Farmer Owned Reserve Program Eligibility Requirements

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the regulations with respect to the Price Support Loan Program and the Farmer-Owned Reserve (FOR) Program which are conducted by the Commodity Credit Corporation (CCC) in accordance with section 110 of the Agricultural Act of 1949, as amended (the 1949 Act). The amendments made by this interim rule will offer producers an additional opportunity to declare their intentions for the 1992 feed grains FOR Program, and allow extensions of maturing 1990 FOR wheat loans and 1992 wheat and feed grain loans.

DATES: Interim rule effective August 26, 1993. Comments must be received on or before September 27, 1993, in order to be assured of consideration.

ADDRESSES: Submit comments to Director, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service (ASCS), United States Department of Agriculture (USDA), P.O. Box 2415, Washington, DC 20013–2415; telephone 202–720–7641. Comments received may be inspected between 9 a.m. and 4:30 p.m., Monday through Friday, except holidays, in room 3623, South Agriculture Building, USDA, 14th Street and Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mark Overbo, Program Specialist, Cotton, Grain, and Rice Price Support Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013–2415; telephone 202–720–8223.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Departmental Regulation 1512–1

This interim rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512–1 and it has been determined "nonmajor" because these program provisions will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Federal Assistance Program

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

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable because:

(1) This rule will not have a significant adverse impact on a substantial number of small entities since this rule liberalizes benefits and,

(2) The CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of human environment.

Executive Order 12372

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

Executive Order 12778

This interim rule has been reviewed pursuant to Executive Order 12778. To the extent State and local laws are in conflict with these regulatory provisions, it is the intent of CCC that the terms of the regulations prevail. The provisions of this interim rule are retroactive to the extent that this rule extends price support availability for loans which may have matured. Prior to any judicial action in a court of competent jurisdiction, administrative review under 7 CFR part 780 must be exhausted.

Paperwork Reduction Act

The information collections requirements for participating in the FOR Program have been approved for use by the Office of Management and Budget (OMB) through August 31, 1994, and assigned OMB No. 0560–0087. The amendments to 7 CFR part 1421 set forth in this interim rule do not impose any new or revised information collection requirements to participate in FOR from those previously reviewed and approved by OMB.

Public reporting burden for these collections is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing the burden, to the Department of Agriculture, Clearance Officer, OIRM, AG Box 7630, Washington, DC 20250–0001; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No. 0560–0087), Washington, DC 20503.

Comments

Because of recent natural disasters, producers with outstanding 1990 wheat FOR loans and 1992 wheat and feed grain loans that matured in June, or will mature in July or August, are unable to market or move the loan collateral in order to settle such CCC price support loans. In addition, producers are currently making decisions regarding eligible commodities which may be pledged as collateral for FOR loans. Accordingly, the provisions of this

interim rule are effective upon publication in the **Federal Register**. Comments are requested within 30 days of publication and will be taken into consideration when developing the final rule. This interim rule will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Background

Producers with regular 9-month nonrecourse price support loans are eligible to enter the FOR upon maturity of the regular loan. This interim rule amends 7 CFR 1421.203 by requiring producers intending to enter wheat or feed grains into the FOR who have regular 9-month nonrecourse loans that will mature on or before the date announced by CCC to request an extension of such loans in order to file their intention to enroll the commodity into the FOR. Current regulations provide that CCC may extend a price support loan (1) for wheat, to the last day in February following the year in which the crop is normally harvested; and (2) for corn, grain sorghum, barley, and oats, to May 31 following the year in which the crop is normally harvested.

This interim rule amends § 1421.6 (c) by extending the deadline by which producers intending to enter the FOR must request loan extensions for 9 month nonrecourse loans to a date determined and announced by CCC. This allows extending loans to a date that reasonably corresponds to the date producers are required to file an offer of their intentions to participate in the FOR when such program is announced.

This interim rule amends § 1421.6 to allow producers to extend outstanding wheat, corn, grain sorghum, barley, oats, and rye loans if the producer is unable to market the commodity pledged as collateral for such loans due to a natural disaster. The flooding in the midwestern part of the United States has resulted in the interruption of the normal marketing and movement of commodities. CCC has determined that to require producers to settle such loans by the maturity date would cause producers severe financial difficulties. To remove hardships caused by this natural disaster, CCC has determined that such producers with outstanding wheat and feed grain CCC price support loans that mature during times of natural disasters may request an extension of the original maturity date of such loans until marketing and movement of commodities return to normal levels. This will allow producers in the disaster affected areas an opportunity to settle their loans without financial hardship. In addition, CCC has determined in accordance with § 1421.202 to allow producers to extend for 6 months, outstanding 1990-crop wheat FOR loans.

In order to ensure that maximum reserve quantities are not exceeded and to ensure regional equity when FOR programs are announced, CCC may require producers to file an offer with CCC of their intentions to participate in the FOR. When this is required, producers must now file their intentions for wheat by January 31, and for feed grains by April 30, of the year following the year in which the crop is normally harvested. This interim rule amends § 1421.203 to provide that when producers are required to file their intentions to participate in the FOR, such intentions must be filed by a producer by the date determined and announced by CCC for the applicable commodity pursuant to § 1421.6(c). This allows for greater program flexibility based on conditions at the time of the program announcement without compromising program integrity.

List of Subjects in 7 CFR Part 1421

Grains, Loan programs/agriculture, Oilseeds, Peanuts, Price support programs, Reporting and recordkeeping requirements, Soybeans, Surety bonds, Warehouses.

Accordingly, 7 CFR part 1421 is amended as follows:

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

1. The authority citation for 7 CFR part 1421 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1425, 1441z, 1444f–1, 1445b–3a, 1445c–3, 1445e, and 1446f; 15 U.S.C. 714b and 714c.

2. In § 1421.6, paragraph (c) is revised and paragraph (e) is added to read as follows:

§ 1421.6 Maturity and expiration dates.

* * * * *

(c) 1991 and subsequent year wheat, corn, grain sorghum, barley, and oat loans may only be extended by CCC beyond the maturity date specified in paragraph (a) of this section as CCC determines necessary for allowing producers an opportunity to participate in the farmer owned reserve program conducted in accordance with §§ 1421.200 through 1421.217.

* * * * *

(e) Notwithstanding any other provision of this section, CCC may allow producers with outstanding wheat, corn, grain sorghum, barley, oat, and rye loans maturing during times of a natural disaster, as determined by CCC, to extend such loans beyond the maturity date specified in paragraph (a) of this section. If CCC determines that the commodity pledged as collateral for such loans cannot be marketed because of such natural disaster, CCC may, at its discretion, extend such loans to a date that will allow affected producers to market such commodity in a normal manner.

3. Section 1421.203 is revised to read as follows:

§ 1421.203 Reserve quantity.

The maximum quantity of wheat and feed grains stored under the FOR program shall be determined and announced annually by CCC by the date specified in § 1421.201(b). In order to assure that such quantities are not exceeded and to ensure regional equity, CCC may require producers to file with CCC, on a form prescribed by CCC, an offer which includes a statement of the quantity of grain which is pledged as collateral for a regular price support loan which such producers intend to place in the FOR program. If the quantities on such forms show that the quantity intended to be entered into the FOR program by producers will likely exceed the maximum quantity allowed, CCC may apply a uniform factor to the offered quantity. If such a form is required, failure to file such form with respect to a commodity that would otherwise be eligible for entry into the FOR program, will result in ineligibility of the commodity for FOR entry. All such forms, if required by CCC, must be filed by a producer with the ASCS county office that disbursed the qualifying regular price support loan by the date determined and announced by CCC for the applicable commodity.

Signed in Washington, DC, on August 19, 1993.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 93–20660 Filed 8–25–93; 8:45 am]

BILLING CODE 3410–05–P

Animal and Plant Health Inspection Service

9 CFR Parts 1 and 2

[Docket No. 91–035–4]

RIN 0579–AA42

Random Source Dogs and Cats

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: We are correcting an error in a final rule that established regulations

under the Animal Welfare Act (Act) regarding the housing and care of dogs and cats held by certain facilities that provide these animals to dealers, and that also added certification requirements regarding random source dogs and cats provided by dealers. The rule was promulgated under the Act to prevent the use of stolen pets in research and to provide owners the opportunity to locate their animals. The final rule was published in the **Federal Register** on July 22, 1993 (58 FR 39124–39130, Docket No. 91–035–3).

EFFECTIVE DATE: August 23, 1993.

FOR FURTHER INFORMATION CONTACT: Dr. R. L. Crawford, Assistant Deputy Administrator, Animal Care, Regulatory Enforcement and Animal Care, APHIS, USDA, room 554, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–4981.

§ 2.75 [Corrected]

In FR Doc. 93–17439, pages 39124–39130, the following correction is made: On page 39129, third column, in § 2.75, paragraph (a)(4), the words "cat sold or otherwise disposed of by a dealer or exhibitor: *Provided*," are added immediately before the word "*however*,".

Done in Washington, DC, this 20th day of August 1993.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 93–20719 Filed 8–25–93; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–87–AD; Amendment 39–8665; AD 93–16–08]

Airworthiness Directives; Boeing Model 757 Series Airplanes Equipped With Rolls Royce Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, that currently requires repetitive inspections to detect cracking in the midspar fuse pins, replacement of certain fuse pins, and inspections of the bushings in the midspar attachment which terminate the requirement for the repetitive inspections. This amendment removes the requirement to terminate the repetitive inspections. This amendment is prompted by reports of cracked fuse pins found on in-service airplanes. The actions specified in this AD are intended to prevent the separation of the strut and engine from the wing of the airplane.

DATES: Effective September 10, 1993.

The incorporation by reference of Boeing Service Bulletin 757–54A0020, Revision 4, dated May 27, 1993, as listed in the regulations, is approved by the Director of the Federal Register as of September 10, 1993.

The incorporation by reference of certain other publications listed in the regulations was approved previously by the Director of the Federal Register as of December 3, 1992 (57 FR 48959, October 29, 1992).

Comments for inclusion in the Rules Docket must be received on or before October 25, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–87–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carrie Sumner, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2778; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: On October 2, 1992, the FAA issued AD 92–22–11, Amendment 39–8397 (57 FR 48959, October 29, 1992), to require repetitive inspections to detect cracking in the midspar fuse pins, replacement of straight fuse pins (part number 311N5067–1), and inspections of the bushings in the midspar attachment which terminate the requirement for the repetitive inspections. That action was prompted by an analysis conducted by the manufacturer which indicated that bushing inspection and fuse pin replacement may terminate the requirement for the repetitive inspections of the midspar fuse pins. The actions required by that AD are intended to prevent the separation of the strut and engine from the wing of the airplane.

Since the issuance of that AD, the FAA has received additional reports of cracked straight fuse pins on in-service Model 757 series airplanes equipped with Rolls Royce engines. Testing of these fuse pins has indicated that the inspection of the bushings in the midspar attachment, as required by the existing AD, does not adequately protect these fuse pins from cracking as originally anticipated. Therefore, the FAA finds that this inspection of the bushings in the wing of the airplane should not terminate the requirement for repetitive eddy current inspections of the midspar fuse pins.

Finite Element Modeling was used to evaluate the midspar fuse pins. The results of that evaluation alone, however, could not accurately predict an exact interval for inspection of these pins that would be adequate to detect cracking before it initiated or propagated. Therefore, FAA reviewed the service experience of affected in-service airplanes and has determined that a conservatively adjusted repetitive inspection interval of 1,500 flight cycles is appropriate.

Further, the FAA has conducted a review of the integrity of refinished straight fuse pins on in-service airplanes. As a result, the FAA has determined that fatigue cracking in refinished straight fuse pins can be detected in a timely manner and safety of the fleet will not be affected adversely by their use if the fuse pins are inspected at intervals of 1,500 flight cycles.

Since the issuance of AD 92–22–11, the FAA has determined that fuse pins on other Model 757 series airplanes equipped with Rolls Royce engines may also be subject to this type of cracking. To ensure that all of these fuse pins are inspected adequately (i.e., new and refinished straight fuse pins) or replaced regularly (i.e, bulkhead fuse pins), the FAA finds that the applicability of the rule must be expanded to include all Model 757 series airplanes equipped with Rolls Royce engines.

Complete fracture of both midspar fuse pins on the same strut could result in separation of the strut and engine from the wing of the airplane.

The FAA has reviewed and approved Boeing Service Bulletin 757–54A0020, Revision 4, dated May 27, 1993, that describes procedures for eddy current inspections to detect cracking in the inner diameter of the strut midspar fuse pins, and replacement of certain cracked fuse pins with new or refinished fuse pins.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD supersedes AD 92–22–11 to remove the previous requirement to terminate the repetitive inspections of the midspar fuse pins. This AD requires continuing repetitive inspections to detect cracking in the midspar fuse pins and replacement of certain fuse pins with new or refinished fuse pins. Additionally, this AD is now applicable to all Model 757 series airplanes equipped with Rolls Royce engines.

This is considered to be interim action. The manufacturer currently is developing a modification that will positively address the subject unsafe condition, and will constitute terminating action for the repetitive inspections required by this AD. Once this modification is completed, tested, approved, and available, the FAA may consider further rulemaking.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–87–AD." The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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 removing amendment 39–8397 (57 FR 48959, October 29, 1992), and by adding a new airworthiness directive (AD), amendment 39–8665, to read as follows:

93–16–08 Boeing: Amendment 39–8665. Docket 93–NM–87–AD. Supersedes AD 92–22–11, Amendment 39–8397.

Applicability: Model 757 series airplanes equipped with Rolls Royce engines, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the strut and engine from the wing of the airplane, accomplish the following:

(a) For Model 757 series airplanes equipped with straight fuse pins, part number (P/N) 311N5067–1, perform an eddy current inspection to detect cracking in those fuse pins in accordance with Boeing Service Bulletin 757–54A0020, Revision 4, dated May 27, 1993; Revision 3, dated March 26, 1992; or Revision 2, dated October 31, 1991; at the times specified in paragraph (a)(1) and (a)(2) of this AD.

(1) For airplanes, line numbers 1 through 273 inclusive, 276, 278 through 283 inclusive, and 288 through 425 inclusive:

(i) For new fuse pins not previously inspected in accordance with AD 92–22–11: Prior to the accumulation of 5,000 total flight cycles on the fuse pin;

(ii) For refinished fuse pins not previously inspected in accordance with AD 92–22–11: Prior to the accumulation of 1,500 total flight cycles on the fuse pin;

(iii) For fuse pins previously inspected in accordance with paragraph (a) of AD 92–22–11, but not previously inspected in accordance with paragraph (e) of that AD: Within 1,500 flight cycles on the fuse pin after the last inspection in accordance with that AD; and

(iv) For fuse pins previously inspected in accordance with paragraph (e) of AD 92–22–11: Within 500 flight cycles after the effective date of this AD or 60 days after the effective date of this AD, whichever occurs first.

(2) For airplanes, line numbers 274 through 275 inclusive, 277, 284 through 287 inclusive, and 426 and subsequent: Inspect prior to the later of the times specified in paragraphs (a)(2)(i) and (a)(2)(ii) or (a)(2)(iii), as applicable:

(i) Within 500 flight cycles after the effective date of this AD or 60 days after the effective date of this AD, whichever occurs first, on the fuse pin.

(ii) Prior to the accumulation of 5,000 total flight cycles on a new straight fuse pin.

(iii) Prior to the accumulation of 1,500 total flight cycles on a refinished straight fuse pin.

(b) If cracking is found, prior to further flight, replace the cracked fuse pin with a new or refinished straight fuse pin having P/N 311N5067–1 in accordance with Boeing Service Bulletin 757–54A0020, Revision 4, dated May 27, 1993. Following replacement, inspect these fuse pins in accordance with the time specified in paragraph (a)(1) of this AD. Repeat the inspection thereafter at intervals not to exceed 1,500 flight cycles on the fuse pin.

(c) If no crack is found, reinspect the fuse pins at intervals not to exceed 1,500 flight cycles on the fuse pin in accordance with Boeing Service Bulletin 757–54A0020, Revision 4, dated May 27, 1993.

(d) For Model 757 series airplanes equipped with bulkhead fuse pins, P/N 311N5211–1: Prior to the accumulation of 6,000 total flight cycles on the bulkhead fuse pin replace it with one of the following:

(1) A new bulkhead fuse pin having P/N 311N5211–1 in accordance with Boeing Service Bulletin 757–54A0020, Revision 4, dated May 27, 1993, and thereafter at intervals not to exceed 6,000 flight cycles on any bulkhead fuse pin, replace it with a new bulkhead fuse pin having P/N 311N5211–1.

(2) A new straight fuse pin having P/N 311N5067–1 in accordance with Boeing Service Bulletin 757–54A0020, Revision 4, dated May 27, 1993. Following replacement, accomplish the requirements of paragraph (a) of this AD.

(3) A refinished straight fuse pin in accordance with Boeing Service Bulletin 757–54A0020, Revision 4, dated May 27, 1993. Following replacement, accomplish the requirements of paragraph (a) of this AD. Bulkhead fuse pins shall not be refinished.

(e) 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, Seattle 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, Seattle ACO.

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

(f) 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.

(g) The inspections and replacements shall be done in accordance with Boeing Service Bulletin 757–54A0020, Revision 4, dated May 27, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Certain other inspections and replacements shall be done in accordance with Boeing Alert Service Bulletin 757–54A0020, Revision 2, dated October 31, 1991; or Boeing Alert Service Bulletin 757–54A0020, Revision 3, dated March 26, 1992. The incorporation by reference of these documents was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on September 10, 1993.

Issued in Renton, Washington, on August 17, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–20635 Filed 8–25–93; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 93–CE–23–AD; Amendment 39–8671; AD 93–17–01]

Airworthiness Directives; Beech Aircraft Corp. Models B90, C90, and C90A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Beech Aircraft Corporation (Beech) Models B90, C90, and C90A airplanes. This action requires inspecting the inboard nipple on the leading edge fuel cell for cracks or fuel leaks, repairing if cracks or fuel leaks are found, and replacing the fuel interconnect assembly. Reports of fuel line misalignment that resulted in cracking of the fuel cell nipples at the inboard wing root of the affected airplanes prompted this action. The actions specified by this AD are intended to prevent failure of these fuel cell nipples caused by cracking and fuel leaks, which, if not detected and corrected, could result in an airplane fire.

DATES: Effective October 12, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 12, 1993.

ADDRESSES: Service information that applies to this AD may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles D. Riddle, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946–4144; Facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that would apply to certain Beech Models B90, C90, and C90A airplanes was published in the **Federal Register** on April 16, 1993 (58 FR 19788). The action proposed to require: (1) Inspecting the inboard nipple on the leading edge fuel cell for cracks or fuel leaks, and repairing any cracks or fuel leaks; and (2) replacing the fuel interconnect tube assembly. The proposed inspection and fuel interconnect tube assembly replacement would be accomplished in accordance with Beech Service Bulletin No. 2475, dated February 1993. If necessary, the proposed repair would be accomplished in accordance with procedures specified in the applicable maintenance manual.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

After careful review, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 572 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 6 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $70 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $228,800. These figures take into account that none of the affected airplane operators have accomplished the required actions.

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

For the reasons discussed above, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory

Flexibility Act. A copy of the final 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, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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 AD:

93–17–01 Beech Aircraft Corporation: Amendment 39–8671; Docket No. 93–CE–23–AD.

Applicability: Models B90, C90, and C90A airplanes (serial numbers LJ–489 through LJ–1318), certificated in any category.

Compliance: Required within the next 150 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent failure of the leading edge fuel cell nipples caused by cracking and fuel leaks, which, if not detected and corrected, could result in an airplane fire, accomplish the following:

(a) Inspect the inboard nipple on the leading edge fuel cell for cracks or fuel leaks in accordance with Part I of the Accomplishment Instructions section of Beech Service Bulletin (SB) No. 2475, dated February 1993. If cracks or fuel leaks are found, prior to further flight, repair the fuel cells in accordance with procedures specified in the applicable maintenance manual.

(b) Replace the fuel interconnect tube assembly in accordance with Part II of the Accomplishment Instructions section of Beech SB No. 2475, dated February 1993.

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(e) The inspection and replacement required by this AD shall be done in accordance with Beech Service Bulletin No. 2475, dated February 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment (39–8671) becomes effective on October 12, 1993.

Issued in Kansas City, Missouri, on August 19, 1993.

John E. Tigue,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–20671 Filed 8–25–93; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 93–NM–88–AD; Amendment 39–8666; AD 93–16–09]

Airworthiness Directives; Boeing Model 757 Series Airplanes Equipped With Pratt and Whitney Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, that currently requires repetitive inspections to detect cracking in the midspar fuse pins and replacement of certain fuse pins. That AD also provides for optional inspections of the bushings in the midspar attachment which terminate the requirement for the repetitive inspections. This amendment removes the option to terminate the repetitive inspections. This amendment is prompted by reports of cracked fuse pins found on in-service airplanes. The actions specified in this AD are intended to prevent the separation of the strut and engine from the wing of the airplane.

DATES: Effective September 10, 1993.

The incorporation by reference of certain other publications listed in the regulation is approved previously by the Director of the Federal Register as of September 10, 1993.

The incorporation by reference of Boeing Alert Service Bulletin 757–54A0019, Revision 2, dated October 11, 1991, as listed in the regulation was approved previously by the Director of the Federal Register as of February 25, 1992 (57 FR 4843, February 10, 1992).

Comments for inclusion in the Rules Docket must be received on or before October 25, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–88–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carrie Sumner, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2778; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: On January 23, 1992, the FAA issued AD 92–04–04, Amendment 39–8174 (57 FR 4843, February 10, 1992), to require repetitive inspections to detect cracking in the midspar fuse pins and replacement of straight fuse pins (part number 311N5067–1), and to provide for optional inspections of the bushings in the midspar attachment which terminate the requirement for the repetitive inspections of the midspar fuse pins. That AD also requires replacement of bulkhead fuse pins (part number 311N5211–1) every 6,000 flight cycles. That action was prompted by tests of the pins, which demonstrated that the pin crack growth rates are greater than previously anticipated. The actions required by that AD are intended to prevent the separation of the strut and engine from the wing of the airplane.

Since the issuance of that AD, the FAA has received additional reports of cracked straight fuse pins on in-service Model 757 series airplanes equipped with Pratt and Whitney engines. Testing of these fuse pins has indicated that the optional terminating inspection of the bushings in the midspar attachment (as

provided in the existing AD) does not adequately protect these fuse pins from cracking as originally anticipated. Therefore, the FAA finds that this optional inspection should not terminate the requirement for repetitive eddy current inspections of the midspar fuse pins, and that those inspections must continue in order to ensure the continuing airworthiness of the midspar attachment.

Finite Element Modeling was used to evaluate the midspar fuse pins. The results of that evaluation alone, however, could not accurately predict an exact interval for inspection of these pins that would be adequate to detect cracking before it initiated or propagated. Therefore, FAA reviewed the service experience of affected in-service airplanes and has determined that a conservatively adjusted repetitive inspection interval of 1,000 flight cycles is appropriate.

Further, the FAA has conducted a review of the integrity of refinished straight fuse pins used on in-service airplanes. As a result, the FAA has determined that fatigue cracking in refinished straight fuse pins can be detected in a timely manner and safety of the fleet will not be affected adversely by their use if the fuse pins are inspected at intervals of 1,000 flight cycles.

Since the issuance of AD 92–04–04, the FAA has determined that fuse pins on other Model 757 series airplanes equipped with Pratt and Whitney engines may be also be subject to this type of cracking. To ensure that all of these fuse pins are inspected adequately (i.e., new and refinished straight fuse pins) or replaced regularly (i.e., bulkhead fuse pins), the FAA finds that the applicability of the rule must be expanded to include all Model 757 series airplanes equipped with Pratt and Whitney engines.

Complete fracture of both midspar fuse pins on the same strut could result in separation of the strut and engine from the wing of the airplane.

The FAA has reviewed and approved Boeing Service Bulletin 757–54A0019, Revision 4, dated May 27, 1993, that describes procedures for eddy current inspections to detect cracking in the inner diameter of the strut midspar fuse pins, and replacement of certain cracked fuse pins with new or refinished fuse pins.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD supersedes AD 92–04–04 to remove the previous option of terminating the repetitive inspections. This AD requires continuing repetitive inspections to detect cracking in the midspar fuse pins and replacement of certain fuse pins with new or refinished fuse pins. Additionally, this AD is now applicable to all Model 757 series airplanes equipped with Pratt and Whitney engines.

This is considered to be interim action. The manufacturer currently is developing a modification that will positively address the subject unsafe condition, and will constitute terminating action for the repetitive inspections required by this AD. Once this modification is completed, tested, approved, and available, the FAA may consider further rulemaking.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–88–AD." The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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 removing amendment 39–8174 (57 FR 4843, February 10, 1992), and by adding a new airworthiness directive (AD), amendment 39–8666, to read as follows:

93–16–09 Boeing: Amendment 39–8666. Docket 93–NM–88–AD. Supersedes AD 92–04–04, Amendment 39–8174.

Applicability: Model 757 series airplanes equipped with Pratt and Whitney engines, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the strut and engine from the wing of the airplane, accomplish the following:

(a) For Model 757 series airplanes equipped with straight fuse pins, part number (P/N) 311N5067–1, perform an eddy current inspection to detect cracking in those fuse pins in accordance with Boeing Service Bulletin 757–54A0019, Revision 2, dated October 11, 1991; Revision 3, dated March 26, 1992; or Revision 4, dated May 27, 1993; at the times specified in paragraph (a)(1) and (a)(2) of this AD.

(1) For airplanes, line numbers 1 through 277, inclusive, and 284 through 424, inclusive:

(i) For new fuse pins not previously inspected in accordance with AD 92–04–04: Prior to the accumulation of 3,800 total flight cycles on the fuse pin;

(ii) For refinished fuse pins not previously inspected in accordance with AD 92–04–04: Prior to the accumulation of 1,000 total flight cycles on the fuse pin;

(iii) For fuse pins previously inspected in accordance with paragraph (a) of AD 92–04–04, but not previously inspected in accordance with paragraph (d) of that AD: Within 1,000 flight cycles on the fuse after the last inspection in accordance with that AD; and

(iv) For fuse pins previously inspected in accordance with paragraph (d) of AD 92–04–04: Within 500 flight cycles after the effective date of this AD or 60 days after the effective date of this AD, whichever occurs first.

(2) For airplanes, line numbers 278 through 283 inclusive, and 425 and subsequent, inspect prior to the later of the times specified in paragraphs (a)(2)(i) and (a)(2)(ii) or (a)(2)(iii), as applicable:

(i) Within 500 flight cycles after the effective date of this AD or 60 days after the effective date of this AD, whichever occurs first, on the fuse pin.

(ii) Prior to the accumulation of 3,800 total flight cycles on a new straight fuse pin.

(iii) Prior to the accumulation of 1,000 total flight cycles on a refinished straight fuse pin.

(b) If cracking is found, prior to further flight, replace the cracked fuse pin with a new or refinished straight fuse pin in accordance with Boeing Service Bulletin 757–54A0019, Revision 4, dated May 27, 1993. Following replacement, inspect these fuse pins in accordance with the time specified in paragraph (a)(1) of this AD. Repeat the inspection thereafter at intervals not to exceed 1,000 flight cycles on the fuse pin.

(c) If no crack is found, reinspect the fuse pins at intervals not to exceed 1,000 flight cycles on the fuse pin in accordance with Boeing Service Bulletin 757–54A0019, Revision 4, dated May 27, 1993.

(d) For Model 757 series airplanes equipped with bulkhead fuse pins, P/N 311N5211–1: Prior to the accumulation of 6,000 total flight cycles on the bulkhead fuse pin, replace it with one of the following:

(1) A new bulkhead fuse pin having P/N 311N5211–1 in accordance with Boeing Service Bulletin 757–54A0019, Revision 4, dated May 27, 1993, and thereafter at intervals not to exceed 6,000 flight cycles on any bulkhead fuse pin, replace it with a new bulkhead fuse pin having P/N 311N5211–1.

(2) A new straight fuse pin having P/N 311N5067–1 in accordance with Boeing Service Bulletin 757–54A0019, Revision 4, dated May 27, 1993. Following replacement, accomplish the requirements of paragraph (a) of this AD.

(3) A refinished straight fuse pin in accordance with Boeing Service Bulletin 757–54A0019, Revision 4, dated May 27, 1993. Following replacement, accomplish the requirements of paragraph (a) of this AD. Bulkhead fuse pins shall not be refinished.

(e) 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, Seattle 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, Seattle ACO.

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

(f) 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.

(g) The inspections and replacement shall be done in accordance with Boeing Service Bulletin 757–54A0019, Revision 4, dated May 27, 1993; or Boeing Service Bulletin 757–54A0019, Revision 3, dated March 26, 1992. The incorporation by reference of these documents was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Certain other inspections and replacements shall be done in accordance with Boeing Alert Service Bulletin 757–54A0019, Revision 2, dated October 11, 1991. This incorporation by reference was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on September 10, 1993.

Issued in Renton, Washington, on August 17, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–20634 Filed 8–25–93; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 93–AWA–6]

Amendment of Federal Airways V–18 and V–185

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes language from the airspace designations of Federal Airways V–18 and V–185 concerning Restricted Area R–6004. Presently, these designations exclude the airspace within R–6004. R–6004 was revoked in 1976. However, the designations of V–18 and V–185 were not updated to reflect this revocation. This action updates the designations to reflect the revocation of Restricted Area R–6004.

EFFECTIVE DATE: 0901 u.t.c., November 11, 1993.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) removes language from the airspace designations of Federal Airways V–18 and V–185 concerning Restricted Area R–6004. Presently, these designations exclude the airspace within R–6004. R–6004 was revoked in 1976. However, the designations of V–18 and V–185 were not updated to reflect this revocation. This action updates the designations to reflect the revocation of Restricted Area R–6004. Because this action is a minor technical amendment in which the public is not particularly interested, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298, July 6, 1993). The Domestic VOR Federal airways listed in this document will be published subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are

necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V-18 [Revised]

From Guthrie, TX, via INT Guthrie 156° and Millsap, TX, 274° radials; Millsap; Dallas-Forth Worth, TX; Quitman, TX; Shreveport, LA; Monroe, LA; Jackson, MS; Meridian, MS; Tuscaloosa, AL; Vulcan, AL; Talladega, AL; Atlanta, GA; Colliers, SC; Charleston, SC.

* * * * *

V-185 [Revised]

From Savannah, GA; Colliers, SC; Greenwood, SC; Sugarloaf Mountain, NC; Snowbird, TN; INT Snowbird 301° and Volunteer, TN, 069° radials; to Volunteer.

* * * * *

Issued in Washington, DC, on August 18, 1993.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93–20679 Filed 8–25–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 92–ANM–24]

Alteration of Class E Airspace

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the names of three VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) aids and one VHF Omnidirectional Range/Distance Measuring Equipment (VOR/DME) aid, within the designations of certain Class E airspace areas located in Oregon and Idaho. A navigational aid (NAVAID) with the same name as the airport should be located on the airport. This action reflects the name changes, where necessary, of the NAVAID's that are not located on the airport with which they are associated.

EFFECTIVE DATE: 0901 u.t.c., November 11, 1993.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, ANM–535, Federal Aviation Administration, Docket No. 92–ANM–24, 1601 Lind Avenue SW. Renton, Washington 98055–4056, Telephone (206) 227–2535.

SUPPLEMENTARY INFORMATION:

History

On December 29, 1992, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to reflect the change of the names of four VORTAC's within the airspace designations for certain Class E airspace located in Oregon and Idaho (57 FR 61848). FAA Handbook 7400.2C states that a NAVAID with the same name as the associated airport should be located on the airport. These four NAVAID's are not located on the airport surfaces, so the names should be changed.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice, except for slight changes in longitude of the Bend Municipal Airport, Medford-Jackson County Airport, the Pumice LOM, Oregon, and latitude of Nez Perce VOR/DME, Idaho to reflect the latest data. Airspace Reclassification, which became effective September 16, 1993, discontinued the use of the term "transition area" and replaced it with the designation "Class E airspace" for airspace extending upward from 700 feet or more above ground level. Other than that change in terminology, this amendment is the same as that proposed in the notice. The coordinates in the proposal were North American Datum 27; however, these coordinates have been updated to North America Datum 83. Class E airspace designations for airspace extending upward from 700 feet or more above ground level are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298, July 6, 1993). The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations changes the names of three VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) aids and one VHF Omnidirectional Range/Distance Measuring Equipment (VOR/DME) aid, within the designation of certain Class E airspace areas located in Oregon and Idaho. A navigational aid (NAVAID) with the same name as the airport should be located on the airport. The action reflects the name changes, where necessary, of the NAVAID's that are not located on the airport with which they are associated.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71, in effect as of September 16, 1993, as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6005—Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM OR E5 Bend, OR [Revised]

Bend Municipal Airport, OR

(lat. 44°05′37″N, long. 121°12′00″W)
Deschutes VORTAC (lat. 44°15′10″N, long. 121°18′13″W)

That airspace extending upward from 700 feet above the surface within a 4.3-mile radius of the Bend Municipal Airport, and within 1.8 miles each side of the Deschutes VORTAC 334° and 154° radials extending from the 4.3-mile radius to .9 mile northwest of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 4.3 miles southwest and 7 miles northeast of the Deschutes VORTAC 334° radial extending from the VORTAC to 10.5 miles northwest of the VORTAC.

* * * * *

ANM OR E5 Medford, OR [Revised]

Medford-Jackson County Airport, OR

(lat. 42°22′20″N, long. 122°52′21″W)
Rogue Valley VORTAC (lat. 42°28′47″N, long. 122°54′47″W)
Pumie LOM (lat. 42°27′03″N, long. 122°54′48″W)
Klamath Falls VORTAC (lat. 42°09′11″N, long. 121°43′39″W)
Fort Jones VORTAC (lat. 41°26′59″N, long. 122°48′23″W)

That airspace extending upward from 700 feet above the surface within 6.1 miles northeast and 4.3 miles southwest of the Medford ILS localizer northwest course extending from 2.7 miles northwest of the Pumie LOM to 20.9 miles northwest of the LOM, and within 3 miles each side of the Rogue Valley VORTAC 352° radial extending from the Rogue Valley VORTAC to 7.4 miles north of the VORTAC, and within 3.1 miles each side of the Medford ILS localizer southeast course extending from the LOM to 20.9 miles southeast of the LOM; that airspace extending upward from 1,200 feet above the surface bounded on the east by V–452, on the southeast by the 34.8-mile radius of the Klamath Falls VORTAC, on the south by V–122, on the west by V–23, and that airspace southeast of Medford bounded on the north by the south edge of V–122, on the east by the 34.8-mile radius of the Klamath Falls VORTAC, on the southeast by a line 4.3 miles southeast and parallel to the Fort Jones VORTAC 041° radial, on the west by the east edge of V–23, and that airspace west of the Rogue Valley VORTAC bounded on the north by the south edge of V–287, on the west by the east edge of V–27, on the south by the north edge of V–122.

* * * * *

ANM OR E5 Redmond, OR [Revised]

Redmond, Roberts Field, OR

(lat. 44°15′14″N, long. 121°09′00″W)
Deschutes VORTAC (lat. 44°15′10″N, long. 121°18′13″W)

That airspace extending upward from 700 feet above the surface within 1.8 miles north and 11.8 miles south of the Deschutes VORTAC 059° radial to 28.8 miles east of the VORTAC, and within 1.8 miles each side of the 230° bearing from the Roberts Field Airport extending 8.7 miles southwest of the airport, and within 1.8 miles each side of the Deschutes VORTAC 162° radial extending from the VORTAC to 4.3 miles south of the VORTAC, and within 1.8 miles each side of Deschutes VORTAC 281° radial extending from the VORTAC to 4.3 miles west of the VORTAC and within 3.5 miles each side of the Deschutes VORTAC 014° radial extending from 13.1 miles north of the VORTAC to 30.5 miles north; that airspace extending upward from 1,200 feet above the surface within a 32.2–mile radius of the VORTAC between the 006° and 048° radials, within a 27-mile radius of the VORTAC between the 048° radial and a line 5.3 miles west of and parallel to the 189° radial; that airspace extending upward from 1,700 feet above the surface within a line beginning at Deschutes VORTAC extending north on V–25 to V–112, east on V–112 to V–4, southeast on V–4 to V–357, southwest on V–357 to V–122, west on V–122 to V–452, northwest on V–452 to V–269, east on V–269 to the Deschutes VORTAC; excluding that airspace within Federal Airways; the Lakeview, OR Additional Control Area; the Baker, OR; Klamath Falls, OR; Pendleton, OR; The Dalles, OR and the Burns, OR, class E airspace areas.

* * * * *

ANM OR E5 Sunriver, OR [Revised]

Sunriver Airport, OR

(lat. 43°52′35″N, long. 121°27′10″W)
Deschutes VORTAC (lat. 44°15′10″N, long. 121°18′13″W)

That airspace extending upward from 700 feet above the surface within a 6.1 mile radius of the Sunriver Airport and within 3.5 miles each side of the Deschutes VORTAC 197° radial extending from the 6.1-mile radius to 8.7 miles north of the airport.

ANM OR E5 The Dalles, OR [Revised]

The Dalles Municipal Airport, OR

(lat. 45°37′07″N, long. 121°10′02″W)
Klickitat VORTAC (lat. 45°42′49″N, long. 121°06′03″W)

That airspace extending upward from 700 feet above the surface within a 4.3-mile radius of The Dalles Municipal Airport, and that airspace within 4.4 miles each side of the Klickitat VORTAC 184° radial extending from the Klickitat VORTAC to 15.2 miles south of the VORTAC, and that airspace between the Klickitat VORTAC 206° radial clockwise to the 222° radial extending from the 4.3-mile radius of the airport to the 10.1-mile radius of the airport, and that airspace 4.3 miles either side of the 15.1 mile radius of the VORTAC between the 121° radial clockwise to the 206° radial; that airspace extending upward from 1,200 feet above the surface within 7 miles north and 5.3 miles south of the Klickitat VORTAC 281° radial and 101° radial extending from 6.1 miles west to 12.2 miles east of the VORTAC, and within 4.3 miles north of the VORTAC 101° radial extending from 12.2 miles east to 20.1 miles east of the VORTAC, and that airspace within a 20.1-mile radius of the VORTAC extending clockwise from the 101° radial to the 272° radial, excluding the airspace within the Portland, OR, class E airspace area.

* * * * *

ANM ID E5 Lewiston, ID [Revised]

Lewiston-Nez Perce County Airport, ID

(lat. 46°22′28″N, long. 117°00′55″W)
Nez Perce VOR/DME (lat. 46°22′54″N, long. 116°52′10″W)
Walla Walla VOR/DME (lat. 46°05′13″N, long. 118°17′33″W)

That airspace extending upward from 700 feet above the surface within an area bounded by a line beginning at lat. 46°29′25″N., long. 117°34′09″W.; east to lat. 46°30′45″N., long. 117°00′49″W.; north to lat. 46°34′25″N., long. 117°04′44″W.; than via the arc of a 14.4 nautical mile radius centered on the Nez Perce VOR/DME to lat. 46°27′00″N., long. 116°32′09″W.; east to lat. 46°25′30″N., long. 116°26′03″W.; south to lat. 46°13′20″N., long. 116°30′04″W.; west to lat. 46°14′33″N., long. 116°35′15″W.; then via the arc of a 14.4 nautical mile radius centered on the Nez Perce VOR/DME; to lat. 46°09′00″N., long. 116°46′54″W.; north to lat. 46°17′00″N., long. 116°49′14″W.; west to lat. 46°18′05″N., long. 117°00′15″W.; west to lat. 46°17′42″N., long. 117°22′04″W.; south to lat. 46°10′30″N., long. 117°26′24″W.; west to lat. 46°12′00″N., long. 117°35′44″W.; north to point of beginning; that airspace extending upward from 1,200 feet above the surface, within an area bounded by a line beginning at lat. 46°00′00″N., long. 116°00′04″W., to lat. 46°00′00″N., long. 116°23′04″W., to lat. 45°39′00″N., long. 116°10′03″W., to lat. 45°30′00″N., long. 116°14′03″W., to lat. 45°23′00″N., long. 116°21′03″W., to lat. 45°25′00″N., long. 116°34′04″W., to lat. 45°30′00″N., long. 116°46′04″W., to lat. 46°00′00″N., long. 116°56′04″W.; thence west along lat. 46°00′00″N, to the Walla Walla VOR/DME 16.6 nautical mile radius, thence north along the 16.6 nautical mile radius until intercepting V–536, thence east along V–536 to long. 116°00′00″W.; thence south along long. 116°00′00″W., to lat. 46°00′00″N., to beginning.

* * * * *

Issued in Seattle, Washington, on August 9, 1993.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division.

[FR Doc. 93–20680 Filed 8–25–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 93–ASW–32]

Alteration of Jet Routes, VOR Federal Airways and Low Altitude Reporting Points; NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action reflects the name change of the Roswell, NM, very high frequency omnidirectional range/tactical air navigation (VORTAC) to the Chisum, NM, VORTAC. Because the Roswell VORTAC is not located on the Roswell Industrial Air Center, having the same name as the airport could confuse pilots as to their desired destination. The Roswell VORTAC is located approximately 5 nautical miles west of the Roswell Industrial Air Center. Due to the potential confusion, FAA guidelines recommend that navigational aids (NAVAID's) not located on the airport surface not have the same name as the primary airport. This action changes the descriptions in all jet routes, airways and reporting points that have Roswell in their text.

EFFECTIVE DATE: 0901 u.t.c., November 11, 1993.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) changes the name of the Roswell, NM, VORTAC to the Chisum, NM, VORTAC in all jet routes, airways and reporting points that have Roswell in their text. Because the Roswell VORTAC is not located on the Roswell Industrial Air Center, having the same name as the airport could confuse pilots as to their desired destination. Because this action is a minor technical amendment in which the public would not be particularly interested, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Jet routes, domestic VOR Federal airways, and domestic low altitude reporting points are published in paragraphs 2004, 6010 and 7001, respectively, of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 as of September 16, 1993 (58 FR 36298; July 6, 1993). The jet routes, airways, and reporting point listed in this document will be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 in effect as of September 16, 1993, as follows:

PART 71—[AMENDED]

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

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

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 2004—Jet Routes

* * * * *

J–15 [Revised]

From Humble, TX, via INT Humble 269° and Junction, TX, 112° radials; Junction; Wink, TX; Chisum, NM; Corona, NM; Albuquerque, NM; Farmington, NM; Grand Junction, CO; Salt Lake City, UT; Boise, ID; Kimberly, OR; INT Kimberly 288° and Battle Ground, WA, 136° radials; to Battle Ground.

* * * * *

J–26 [Revised]

From Ciudad Juarez, Mexico, via El Paso, TX; INT of El Paso 070° and Chisum, NM, 215° radials; Chisum; Amarillo, TX; Gage, OK; Wichita, KS; Kansas City, MO; Kirksville, MO; Bradford, IL; to Joliet, IL. The airspace within Mexico is excluded.

* * * * *

J–65 [Revised]

From San Antonio, TX, INT San Antonio 323° and Abilene, TX, 180° radials; Abilene; Chisum, NM; Truth or Consequences, NM; Phoenix, AZ; INT Phoenix 272° and Blythe, CA, 096° radials; Blythe; Palmdale, CA; INT Palmdale 310° and Shafter, CA, 140° radials; Shafter; Clovis, CA; Sacramento, CA; Red Bluff, CA; Klamath Falls, OR; to Seattle, WA.

* * * * *

J–166 [Revised]

From San Simon, AZ, via Truth or Consequences, NM; Chisum, NM; to Wichita Falls, TX.

* * * * *

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V–14 [Revised]

From Chisum, NM, via Lubbock, TX; Childress, TX; Hobart, OK; Will Rogers, OK; INT Will Rogers 052° and Tulsa, OK, 246° radials; Tulsa; Neosho, MO; Springfield, MO; Vichy, MO; INT Vichy 067° and St. Louis, MO, 225° radials; Vandalia, IL; Terre Haute, IN; Indianapolis, IN; Muncie, IN; Findlay, OH; Dryer, OH; Jefferson, OH; Erie, PA; Dunkirk, NY; Buffalo, NY; Geneseo, NY; Georgetown, NY; INT Georgetown 093° and Albany, NY, 270° radials; Albany; INT Albany 094° and Gardner, MA, 284° radials; Gardner; to Norwich, CT. The airspace within R–5207 and Canada is excluded.

* * * * *

V–68 [Revised]

From Montrose, CO; Cones, CO; Dove Creek, CO; Cortez, CO; Farmington, NM; INT Farmington 128° and Albuquerque, NM, 345° radials; Albuquerque, via INT Albuquerque 120° and Corona, NM, 311° radials; Corona; 41 miles 85 MSL, Chisum, NM; Hobbs, NM; Midland, TX; San Angelo, TX; Junction, TX; Center Point, TX; San Antonio, TX; INT San Antonio 064° and Industry, TX, 267° radials; Industry; INT Industry 101° and Hobby, TX, 290° radials to Hobby.

* * * * *

V–83 [Revised]

From Carlsbad, NM, via Chisum, NM; 40 miles, 85 MSL Corona, NM; Otto, NM, Santa Fe, NM; Taos, NM; Alamosa, CO; INT Alamosa 074° and Pueblo, CO, 191° radials; Pueblo, INT Pueblo 004° and Colorado Springs, CO, 153° radials; Colorado Springs; Kiowa, CO.

* * * * *

V–280 [Revised]

From Ciudad Juarez, Mexico, via El Paso, TX; INT El Paso 070° and Pinon, NM, 219° radials; Pinon; Chisum, NM; INT Chisum 063° and Texico, NM, 218° radials; Texico; INT Texico 044° and Amarillo, TX, 252° radials; Amarillo; Gage, OK; INT Gage 025°

and Hutchinson, KS, 234° radials; Hutchinson; INT Hutchinson 061° and Topeka, KS, 236° radials; to Topeka. The airspace within Mexico is excluded.

* * * * *

V–291 [Revised]

From Hobbs, NM, via INT Hobbs 287° and Chisum, NM, 136° radials; Chisum, via INT Chisum 335° and Corona, NM, 124° radials; Corona, via INT Corona 328° and Albuquerque, NM, 103° radials; Albuquerque; Gallup, NM; Winslow, AZ; Flagstaff, AZ; to Peach Springs, AZ. The airspace within Restricted Area R–2302 is excluded.

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Paragraph 7001—Domestic Low Altitude Reporting Points

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Chisum, NM [New]

* * * * *

Roswell, NM [Remove]

* * * * *

Issued in Washington, DC, on August 17, 1993.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93–20682 Filed 8–25–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–ASO–6]

Establishment of Class D Airspace: Fort Rucker Shell, AL; Andalusia, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes Class D airspace at Shell Army Heliport, Fort Rucker, AL; and Andalusia-Opp Airport, AL. The United States Army operates a control tower at each of these locations. Terminal Airspace Reclassification, which becomes effective September 16, 1993, will discontinue the use of the term Airport Traffic Area (ATA) and will eliminate the requirement for two-way radio communication with the control towers at Shell Army Heliport and Andalusia-Opp Airport. The intended effect of this action is to provide adequate Class D airspace to perpetuate the existing two-way radio communication requirement at these two airports.

EFFECTIVE DATE: 0901 u.t.c., November 11, 1993.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Patterson, Airspace Section, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On April 19, 1993, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class D airspace at Shell Army Heliport, Fort Rucker, AL; and Andalusia-Opp Airport, AL (58 FR 21122). Terminal Airspace Reclassification, which becomes effective on September 16, 1993, will discontinue the use of the term Airport Traffic Area (ATA) and will eliminate the requirement for two-way radio communication with the control towers at Shell Army Heliport and Andalusia-Opp Airport. The proposed action would provide adequate Class D airspace to perpetuate the existing two-way radio communication requirement for these two locations. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. The coordinates for this airspace docket are based on North American Datum 83. Class D airspace areas are published in Para 5000 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 in effect as of September 16, 1993 (58 FR 36298, July 6, 1993). The Class D airspace listed in this document will be published subsequently in the Handbook.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes Class D airspace at Shell Army Heliport, Fort Rucker, AL; and Andalusia-Opp Airport, AL. This action lowers the base of controlled airspace from 700 feet above the surface to the surface in vicinity of Shell Army Heliport and Andalusia-Opp Airport. The intended effect is to provide adequate Class D airspace to perpetuate the existing two-way radio communication requirement at these two airports.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71, in effect as of September 16, 1993, as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Para. 5000 General

* * * * *

ASO AL D Andalusia, AL

Andalusia-Opp Airport, AL

(lat. 31°18′32″N., long. 86°23′38″W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4-mile radius of Andalusia-Opp Airport. This Class D airspace is effective during the special dates and times established by Notice to Airman. The effective dates and times will thereafter be continuously published in the Airport Facility Directory.

* * * * *

ASO AL D Fort Rucker Shell, AL

Fort Rucker, Shell Army Heliport, AL

(lat. 31°21′46″N., long. 85°50′58″W.)

That airspace extending upward from the surface to and including 1,500 feet MSL within a 1.8-mile radius of Shell Army Heliport, excluding that airspace south of latitude 31°20′47″N. This Class D airspace is effective during the special dates and times established by Notice to Airman. The effective dates and times will thereafter be continuously published in the Airport Facility Directory.

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Issued in East Point, Georgia, on August 12, 1993.

Walter E. Denley,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 93–20684 Filed 8–25–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 93–AAL–5]

Revocation of Transition Area and Control Zone; AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the 700/1200 foot above ground level (AGL) transition areas and the control zone at Amchitka Island, Alaska. The Amchitka Very High Frequency Omnidirectional Range/Tactical Air Navigational Aid (VORTAC) will be taken out of service effective the last week of August 1993. The instrument landing system (ILS) will be decommissioned on September 8, 1993. The standard instrument approach procedures (SIAPs) based on the VORTAC and ILS will be canceled. Controlled airspace to the surface will no longer be needed to contain Instrument Flight Rules (IFR) operations at Amchitka.

EFFECTIVE DATE: 0901 u.t.c., September 15, 1993.

FOR FURTHER INFORMATION CONTACT: Robert C. Durand, System Management Branch, AAL–531, Federal Aviation Administration, 222 West 7th Avenue #14, Anchorage, AK 99513–7587; telephone number: (907) 271–5898.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 71 of the Federal Aviation Regulations revokes the 700/1200 foot above ground level (AGL) transition areas and the control zone at Amchitka Island, Alaska.

The Department of the Navy has, on short notice, advised the Federal Aviation Administration of their decision to terminate Naval activity at Amchitka. The U.S. Navy will no longer require the control zone, transition area, or instrument approaches after September 15, 1993. The Navy owned and operated VORTAC will be removed during the last week of August 1993, and the ILS will be decommissioned on September 8, 1993. The weather reporting used to support the IFR approaches and the control zone is being discontinued. Since there will no longer be Naval activity at Amchitka, the controlled airspace to the surface at Amchitka must be removed to avoid confusion on the part of the pilots flying in the vicinity of the Amchitka Airport and to promote safe and efficient handling of air traffic in the area. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b), are impracticable and good cause, pursuant to 5 U.S.C. 553(d), exists for making this amendment effective in less than thirty days.

Transition areas are published in § 71.181 and control zones are published in § 71.171 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The transition area and control zone listed in this document will be removed subsequently from the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

Section 71.171 Designation of Control Zone

* * * * *

AAL AK CZ Amchitka Island, AK [Removed]

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Section 71.181 Designation of Transition Areas

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AAL AK TA Amchitka Island, AK [Removed]

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Issued in Anchorage, AK, on August 16, 1993.

Gene Cowgill,

Acting Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 93–20775 Filed 8–25–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 73

[Airspace Docket No. 93–AWP–13]

Change In Using Agency for Restricted Areas R–2519, R–2535A, R–2535B; CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the using agency for Restricted Areas R–2519, Point Mugu, CA, R–2535A and R–2535B, San Nicolas Island, CA, to "U.S. Navy, Commander, Naval Air Warfare Center Weapons Division, Point Mugu, CA." This is an administrative change initiated by the U.S. Navy to reflect its reorganization. There are no changes to the boundaries, designated altitudes, times of designation, or activities conducted within the affected restricted areas.

EFFECTIVE DATE: 0901 u.t.c., November 11, 1993.

FOR FURTHER INFORMATION CONTACT: Diane Bodenhamer, Military Operations Program Office (ATM–420), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–3178.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 73 of the Federal Aviation Regulations changes the using agency for Restricted Areas R–2519 Point Mugu, CA, R–2535A and R–2535B San Nicolas Island, CA, to "U.S. Navy, Commander, Naval Air Warfare Center Weapons Division, Point Mugu, CA." Currently, Commander, Pacific Missile Test Center, Point Mugu, CA, is the designated using agency for these restricted areas. This is an administrative change initiated by the U.S. Navy to reflect its reorganization. This action does not affect the boundaries, designated altitudes, times of designation, or activities conducted

in these restricted areas. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public is not particularly interested. Section 73.25 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8A dated March 3, 1993.

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

Environmental Review

This action is an administrative change and does not affect the boundaries, designated altitudes, times of designation, or activities of the restricted areas. Accordingly, this action will have no effect on current air traffic procedures or routing of civil aircraft operations in the area. The FAA, therefore, finds that there will be no significant impact on the environment as a result of this action.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

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

PART 73—[AMENDED]

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

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

§ 73.25 [Amended]

2. In each designation listed below, remove the words "Commander, Pacific Missile Test Center, Point Mugu, CA" for the using agency and add, in their place, the words, "U.S. Navy, Commander, Naval Air Warfare Center Weapons Division, Point Mugu, CA":

(a) R–2519 Point Mugu, CA
(b) R–2535A San Nicolas Island, CA
(c) R–2535B San Nicolas Island, CA

Issued in Washington, DC, on August 17, 1993.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93–20678 Filed 8–25–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 73

[Airspace Docket No. 93–ASW–34]

Change of Time of Designation for Restricted Areas R–5103A, B, C, and D, McGregor, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action reduces the times of designation for Restricted Areas R–5103A, B, C, and D, McGregor, NM. This action is taken to provide more efficient management of the airspace by accurately reflecting the actual times utilized. This action is a result of an FAA special use airspace review and results in lessening the burden on the flying public.

EFFECTIVE DATE: 0901 u.t.c., November 11, 1993.

FOR FURTHER INFORMATION CONTACT: Steve Riley, Military Operations Program Office (ATM–420), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–7130.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 73 of the Federal Aviation Regulations reduces the times of designation for R–5103A, B, C, and D, McGregor, NM. The FAA conducted a special use airspace review of the McGregor Range in Fiscal Year 1993. During this review it was determined that the published times of designation did not reflect the actual times of use. This action reduces the times of designation for R–5103A, B, C, and D, from "0700–2400 local time; other times by NOTAM" to "0700–2000 local time; other times by NOTAM." The revised times of designation will lessen the burden on the flying public; because this rule is insignificant in nature and impact, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Section 73.51 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8A dated March 3, 1993.

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

Environmental Review

This action reduces the times of designation for R–5103A, B, C, and D. This amendment does not change either the dimensions or activities currently conducted within the established areas and the FAA, therefore, finds that there will be no significant impact on the environment as a result of this action.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

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

PART 73—[AMENDED]

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

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

§ 73.51 [Amended]

2. In each designation in § 73.51 listed below remove the words "0700–2400 local time; other times by NOTAM" for the time of designation and add, in their place, the words "0700–2000 local time; other times by NOTAM."

(a) R–5103A McGregor, NM
(b) R–5103B McGregor, NM
(c) R–5103C McGregor, NM
(d) R–5103D McGregor, NM

Issued in Washington, DC, on August 11, 1993.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93–20686 Filed 8–25–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 95

[Docket No. 27420; Amdt. No. 378]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: September 16, 1993.

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

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current.

It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Issued in Washington, DC, on August 20, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, April 1, 1993:

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

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

PART 95—[AMENDED]

2. Part 95 is amended to read as follows:

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS

[Amendment 378—Effective Date, September 16, 1993]

From	To	MEA
§ 95.1001 Direct Routes-U.S. Is Amended to Read in Part		
Williston, ND VORTAC VIA ISN VORTAC 340 *3400–MOCA	U.S. Canadian Border	*8000 MAA–17500
§ 95.1001 Direct Routes-U.S. Puerto Rico Routes		
A319		
Is Added to Read		
BETIR, PR FIX	THANK, PR FIX	11000
A523		
Dorado, PR NDB *1500–MOCA	Coraf, PR FIX	*2000
Coraf, PR FIX *1500–MOCA	Vermo, PR FIX	*2000
Vermo, PR FIX *1300–MOCA	Thank, PR FIX	*2000
Thank, PR FIX *1300–MOCA	Grann, PR FIX	*2000
B891		
Pokeg, BI FIX	Gradi, BI FIX	4000
Gradi, BI FIX	Watrs, OA FIX	10000
Watrs, OA FIX	Grann, PR FIX	10000
B892		
Mayaguez, PR VOR/DME	Antex, RP FIX	4000
G432		
Is Amended by adding		
Grann, PR FIX *1300–MOCA	Thank, PR FIX	*2000
Thank, PR FIX *1300–MOCA	Vermo, PR FIX	*2000

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 378—Effective Date, September 16, 1993]

From	To	MEA
Vermo, PR FIX *1500–MOCA	Coraf, PR FIX	*2000
Coraf, PR FIX *1500–MOCA	Dorado, PR NDB	*2000
H100		
	Is Added to Read	
Borinquen, PR VORTAC	Limon, PR FIX	4000
Route 6		
	Is Amended To Read in Part	
Coraf, PR FIX *1300–MOCA	Coqui, PR FIX	*3000
Coqui, PR FIX *3000–MRA **1300–MOCA	*Inham, PR FIX	**5000
*Inham, PR FIX *3000–MRA **1300–MOCA	Idaho, PR FIX	**15000
Route 9		
*Carib, PR FIX *2500–MRA **1200–MOCA	Vermo, PR FIX	**13000
	Bahama Routes	
G446		
	Is Added to Read	
Grand Turk, BI VORTAC	Pamms, BI FIX	2000
Pamms, BI FIX	Besas, BI FIX	6000
	Atlantic Routes	
A555		
	Is Amended by Adding	
Grand Turk, BI VORTAC *1500–MOCA	Cocbu, BI FIX	*2000
Cocbu, BI FIX *1300–MOCA	Gradi, BI FIX	*1000
Gradi, BI FIX *1300–MOCA	Hardy, PR FIX	*2000
Hardy, PR FIX *1300–MOCA	Idaho, PR FIX	*2000
Idaho, PR FIX *1500–MOCA	Dorado, PR NDB	*2000
	Is Amended to Read in Part	
Stirr, BF FIX	Looks, BF FIX	2000
	§ 95.6008 VOR Federal Airway 8 Is Amended to Read in Part	
Lucer, CA FIX *8000–MOCA	Bulgy, CA FIX	*9000
Bulgy, CA FIX *7000–MOCA	Hector, CA VORTAC	*9000
	§ 95.6012 VOR Federal Airway 12 Is Amended To Read in Part	
San Marcus, CA VORTAC *6000–MCA PALMDALE VORTAC, W BND.	Palmdale, CA VORTAC	9000
Palmdale, CA VORTAC	Helde, CA FIX	
	E BND	7500
	W BND	6000
	§ 95.6013 VOR Federal Airway 13 Is Amended to Read in Part	
Duluth, MN VORTEC	Weman, MN FIX	4000
Weman, MN FIX	Bypor, MN FIX	5000
Bypor, MN Fix	U.S. Canadian Border	4000
	§ 95.6021 VOR Federal Airway 21 Is Amended to Read in Part	
Lucer, CA FIX *8000–MOCA	Bulgy, CA FIX	*9000
Bulgy, CA FIX *7000–MOCA	Hector, CA VORTAC	*9000
	§ 95.6027 VOR Federal Airway 27 Is Amended to Read in Part	
Newport, OR VORTAC	Cutel, OR FIX	
	N BND	8000
	S BND	3000
Cutel, OR FIX	Danes, OR FIX	
	N BND	8000
	S BND	5000
	§ 95.6052 VOR Federal Airway 52 Is Amended to Read in Part	
Central City, KY VORTAC	Bowling Green, KY VORTAC	2400
	§ 95.6106 VOR Federal Airway 106 Is Amended to Read in Part	
Rashe, PA FIX	Selinsgrove, PA VORTAC	14000
	§ 95.6113 VOR Federal Airway 113 Is Amended to Read in Part	
Boise, ID VORTAC	Pluto, ID FIX	
	SW BND	9700
	NE BND	12500
Pluto, ID FIX	Salmon, ID VOR/DME	12500
	§ 95.6148 VOR Federal Airway 148 Is Amended to Read in Part	
Hayes Center, NE VORTEC *4500–MOCA	North Platte, NE VORTAC	*4900

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 378—Effective Date, September 16, 1993]

From	To	MEA
§ 95.6165 VOR Federal Airway 165 Is Amended to Read in Part		
Deschutes, OR VORTAC	Bottl, OR FIX	
	NW BND	12500
	SE BND	7000
Bottl, OR FIX	Elkes, OR FIX	12500
Maver, OR FIX *3600–MOCA	Rawer, OR FIX	*5000
§ 95.6194 VOR Federal Airway 194 Is Amended to Read in Part		
Raleigh/Durham, NC VORTAC	Tar River, NC VORTAC	2500
§ 95.6198 VOR Federal Airway 198 Is Amended to Read in Part		
Tallahassee, FL VORTAC *5000–MRA	*Lloyd, FL FIX	2000
Lloyd, FL FIX	Greenville, FL VORTAC	2000
§ 95.6219 VOR Federal Airway 219 Is Amended to Read in Part		
Sioux City, IA VORTAC *3200–MOCA	Ritta, IA FIX	*4500
Ritta, IA FIX	Milss, IA FIX	9000
Milss, IA FIX *8000–MRA	*Gruve, IA FIX	8000
Gruve, IA FIX	Fairmont, MN VOR/DME	8000
§ 95.6224 VOR Federal Airway 224 Is Amended to Read in Part		
Marquette, MI VOR/DME	Eston, MI FIX	10000
Eston, MI FIX	Schoolcraft County, MI VOR/DME	2500
§ 95.6283 VOR Federal Airway 283 Is Amended to Read in Part		
Lucer, CA FIX *8000–MOCA	Bulgy, CA FIX	*9000
Bulgy, CA FIX *7000–MOCA	Hector, CA VORTEC	*9000
§ 95.6310 VOR Federal Airway 310 Is Amended to Read in Part		
Raleigh/Durham, NC VORTEC	Tar River, NC VORTAC	2500
§ 95.6316 VOR Federal Airway 316 Is Amended to Read in Part		
Ecker, MI FIX *2300–MOCA	Sault Ste Marie, MI VORTAC	*2800
§ 95.6413 VOR Federal Airway 413 Is Amended to Read in Part		
Gopher, MN VORTAC	Brainerd, MN VORTAC	4000
§ 95.6442 VOR Federal Airway 442 Is Amended to Read in Part		
Aples, CA FIX *8300–MOCA	Hector, CA VORTAC	*1000
§ 95.6452 VOR Federal Airway 452 Is Amended to Read in Part		
Cheez, OR FIX	Mansn, OR FIX.	
	SE BND	#*11000
	NW BND	#*8000
*7400–MOCA		
#MEA is established with a gap in navigation signal coverage		
Mansn, OR FIX *9800–MOCA	Mixup, OR FIX	*1100
Mixup, OR FIX	Klamath Falls, OR VORTAC	
	NW BND	1100
	SE BND	9100
§ 95.6509 VOR Federal Airway 509 Is Amended to Read in Part		
Hulla, FL FIX	Hallr, FL FIX	3000
§ 95.6510 VOR Federal Airway 510 Is Amended to Read in Part		
Dayle, MN FIX	Gopher, MN VORTAC	4000
§ 95.6537 VOR Federal Airway 537 Is Amended to Read in Part		
Greenville, FL VORTEC *1500–MOCA	Moultrie, GA VOR/DME	*5000

Airway segment		Changeover points	
From	To	Distance	From
§ 95.8003 VOR Federal Airways Changeover Points			
V–12 Is Amended by Adding			
Palmdale, CA VORTAC	Hector, CA VORTAC	60	Palmdale.
V–113 Is Amended to Read in Part			
Boise, ID VORTAC	Salmon, ID VOR/DME	36	Boise.
V–219 Is Amended by Adding			
Sioux City, IA VORTAC	Fairmont, MN VOR/DME	74	Sioux City.
V–442 Is Amended by Adding			
Hector, CA VORTAC	Parker, CA VORTAC	#41	Hector.
#Use the Needles (EED) VORTAC from the Cop to the Clipp Int			

Airway segment		Changeover points	
From	To	Distance	From
V–445 is Amended by Adding			
Bettles, AK VORTAC	Fairbanks, AK VORTAC	#85	Bettles.
#Use the Nenana (ENN) VORTAC from the Cop to the Rampa Int			
V–452 is Amended to Read in Part			
Eugene, OR VORTAC	Klamath Falls, OR VORTAC	67	Eugene.

[FR Doc. 93–20774 Filed 8–25–93; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 27415; Amdt. No. 1560]

Standard Instrument Approach Procedures: Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

For Purchase—

Individual SIAP copies may be obtained from:

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

By Subscription—

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

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

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

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

The Rule

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

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

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

for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Approaches, Standard Instrument, Incorporation by reference.

Issued in Washington, DC on August 18, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

NFDC TRANSMITTAL LETTER

Effective	State	City	Airport	FDC No.	SIAP
07/12/93	IA	Milford	Milford/Fuller	FDC 3/3723	VOR/DME–A Orig.
07/28/93	CA	Camarillo	Camarillo	FDC 3/4156	VOR Rwy 26 Amdt 3A.
07/29/93	NJ	Millville	Millville Muni	FDC 3/4203	VOR Rwy 9 Amdt 3.
08/01/93	TX	Houston	Houston Intercontinental	FDC 3/4286	ILS Rwy 8 Amdt 18.
08/01/93	TX	Houston	Houston Intercontinental	FDC 3/4287	ILS Rwy 9 Amdt 3.
08/01/93	TX	Houston	Houston Intercontinental	FDC 3/4289	ILS Rwy 27 Amdt 1.
08/01/93	TX	Houston	Houston Intercontinental	FDC 3/4291	ILS Rwy 32R Amdt 9.
08/03/93	FL	Marianna	Marianna Muni	FDC 3/4321	NDB–C Amdt 2.
08/03/93	FL	Marianna	Marianna Muni	FDC 3/4322	VOR–A, Amdt 10.
08/03/93	FL	Marianna	Marianna Muni	FDC 3/4323	VOR–B, Amdt 3.
08/03/93	OK	Sand Springs	William R. Pogue Muni	FDC 3/4338	VOR–A Amdt 1.
08/04/93	GA	Columbus	Columbus Metropolitan	FDC 3/4357	ILS Rwy 5 Amdt 23A.
08/04/93	GA	Donalsonville	Donalsonville Muni	FDC 3/4358	VOR/DME–A Amdt 2.
08/05/93	AK	King Salmon	King Salmon	FDC 3/4383	RADAR–1 Amdt 8.
08/11/93	FL	New Port Richey	Tampa Bay Executive	FDC 3/4495	VOR–A Amdt 1.
08/11/93	FL	Orlando	Orlando Intl	FDC 3/4496	RADAR–1 Amdt 5.
08/11/93	FL	Orlando	Orlando Intl	FDC 3/4500	ILS Rwy 17 Amdt 1.
08/11/93	FL	Tampa	Peter O. Knight	FDC 3/4493	NDB Rwy 3 Amdt 10.
08/11/93	FL	Tampa	Tampa Intl	FDC 3/4494	VOR Rwy 9 Amdt 7.
08/11/93	FL	Tampa	Tampa Intl	FDC 3/4497	NDB Rwy 36L Amdt 13.
08/11/93	FL	Tampa	Tampa Intl	FDC 3/4498	NDB Rwy 18L Amdt 32.
08/11/93	FL	Tampa	Tampa Intl	FDC 3/4499	LOC BC Rwy 36R Amdt 19.
08/11/93	MA	Boston	General Edward Lawrence Logan Intl.	FDC 3/4518	ILS/DME–2 Rwy 27 Orig.
08/11/93	ME	Waterville	Waterville Robert Lafleur	FDC 3/4504	ILS Rwy 5 Amdt 1.
08/11/93	MO	Kansas City	Kansas City Downtown	FDC 3/4492	ILS Rwy 19 Amdt 20.
08/11/93	MO	Kansas City	Kansas City Downtown	FDC 3/4523	ILS Rwy 3 Amdt 1A.
29JUL93	OR	Klamath Falls	Klamath Falls Intl	FDC 3/4305	ILS Rwy 32 Amdt 19A.

[FR Doc. 93–20677 Filed 8–25–93; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 27414; Amdt. No. 1559]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

Incorporation by reference—approved by the Director of the Federal Register

on December 31, 1980, and reapproved as of January 1, 1982.

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

For Examination—

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

For Purchase—

Individual SIAP copies may be obtained from:

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

By Subscription—

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

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

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

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

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

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC on August 13, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

2. Part 97 is amended to read as follows:

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

. . . Effective November 11, 1993

Huntsville, AL, Huntsville Intl Carl T. Jones Field, ILS RWY 18L, Amdt. 2
Warren, AR, Warren Muni, NDB RWY 3, Amdt. 1
Arcata/Eureka, CA, Arcata, ILS RWY 32, Amdt. 28
Los Angeles, CA, Los Angeles Intl, ILS RWY 24R, Amdt. 21
Santa Monica, CA, Santa Monica Muni, VOR–A, Amdt. 10
Eagle, CO, Eagle County Regional, LOC–B, Amdt. 1
Eagle, CO, Eagle County Regional, LOC/DME–C, Amdt. 1
Las Vegas, NM, Las Vegas Muni, VOR RWY 20, Amdt. 5
Las Vegas, NM, Las Vegas Muni, VOR RWY 2, Amdt. 10
Brownfield, TX, Terry County, NDB RWY 2, Amdt. 1
Palestine, TX, Palestine Muni, VOR/DME RWY 17, Amdt. 2
Palestine, TX, Palestine Muni, NDB RWY 17, Amdt. 2
Palestine, TX, Palestine Muni, NDB RWY 35, Amdt. 6
Jackson, WY, Jackson Hole, VOR–A, Amdt. 6
Jackson, WY, Jackson Hole, VOR/DME RWY 36, Amdt. 3
Jackson, WY , Jackson Hole, ILS RWY 18, Amdt. 6
Sheridan, WY, Sheridan County, VOR/DME RWY 31, Amdt. 6

Sheridan, WY, Sheridan County, ILS/DME RWY 31, Amdt. 5

. . . Effective October 14, 1993

Yuma, AZ, Yuma MCAS/Yuma Intl, VOR/DME RWY 17, Orig.
Los Angeles, CA, Los Angeles Intl, ILS RWY 6L, Amdt. 9
Rialto, CA, Rialto Muni/Miro Fld, NDB–A, Amdt. 4
Oneida, TN, Scott Muni, VOR/DME–A, Amdt. 5
Oneida, TN, Scott Muni, SDF RWY 23, Amdt. 4
Oneida, TN, Scott Muni, NDB RWY 23, Amdt. 4
Kerrville, TX, Kerrville Muni/Louis Schreiner Field, VOR/DME RNAV RWY 12, Amdt. 2
Kerrville, TX, Kerrville, Muni/Louis Schreiner Field, VOR–A, Amdt 2.
Kerrville, TX, Kerrville Muni/Louis Schreiner Field, LOC RWY 30, Amdt. 3
Kerrville, TX, Kerrville Muni/Louis Schreiner Field, NDB RWY 30, Amdt. 3
Marlin, TX, Marlin, VOR/DME–A, Amdt. 5

. . . Effective September 16, 1993

Sand Point, AK, Sand Point, NDB/DME–A, Amdt. 4
Sand Point, AK, Sand Point, NDB/DME–B, Orig.
Sand Point, AK, Sand Point, NDB RWY 13, Orig.
Sand Point, AK, Sand Point, NDB RWY 15, Orig.–A CANCELLED
Sand Point, AK, Sand Point, NDB/DME RWY 33, Amdt. 2A, CANCELLED
Mesa, AZ, Falcon Fld, NDB–A, Orig.
Mesa, AZ, Falcon Fld, NDB–C, Amdt. 2, CANCELLED
Los Angeles, CA, Los Angeles Intl, ILS RWY 7R, Amdt. 2
Bridgeport, CT, Igor I. Sikorsky Memorial, VOR RWY 6, Amdt. 20
Bridgeport, CT, Igor I. Sikorsky Memorial, VOR RWY 24, Amdt. 14
Bridgeport, CT, Igor I. Sikorsky Memorial, VOR RWY 29, Amdt. 1
Bridgeport, CT, Igor I. Sikorsky Memorial, ILS RWY 6, Amdt. 8
Danbury, CT, Danbury Muni, VOR–A, Amdt. 7
Danbury, CT, Danbury Muni, LOC RWY 8, Amdt. 1
Danbury, CT, Danbury Muni, VOR/DME RNAV RWY 8, Amdt. 3
Danbury, CT, Danbury Muni, VOR/DME RNAV RWY 26, Amdt. 4
Windsor Locks, CT, Bradley International, ILS RWY 6, Amdt. 30
Ormond Beach, FL, Ormond Beach Muni, VOR RWY 17, Orig.
Griffith, IN, Griffith-Merrillville, VOR RWY 8, Amdt. 6
Atchison, KS, Amelia Earhart, VOR/DME RNAV RWY 16, Amdt. 3
Rangeley, ME, Rangeley Muni, NDB–A, Amdt. 3
Rangeley, ME, Rangeley Muni, NDB–B, Orig.
Worcester, MA, Worcester Muni, LOC RWY 29, Amdt. 1
Worcester, MA, Worcester Muni, NDB RWY 11, Amdt. 18
Worcester, MA, Worcester Muni, NDB RWY 29, Amdt. 10
Worcester, MA, Worcester Muni, ILS RWY 11, Amdt. 19
Camdenton, MO, Camdenton Memorial, VOR–A, Amdt. 3
Berlin, NH, Berlin Muni, VOR/DME RWY 18, Amdt. 1
Berlin, NH, Berlin Muni, VOR–B, Amdt. 1
Berlin, NH, Berlin Muni, NDB–A, Amdt. 10, CANCELLED
Berlin, NH, Berlin Muni, NDB RWY 18, Orig.
New York, NY, John F. Kennedy Intl., ILS RWY 22L, Amdt. 22
Saranac Lake, NY, Adirondack Regional, VOR RWY 9, Orig.
Saranac Lake, NY, Adirondack, VOR RWYs 5 & 9, Amdt. 11, CANCELLED
Schenectady, NY, Schenectady County, ILS RWY 4, Amdt. 3
Syracuse, NY, Syracuse Hancock Intl, VOR RWY 14, Amdt. 20
Syracuse, NY, Syracuse Hancock Intl, NDB RWY 28, Amdt. 27
Syracuse, NY, Syracuse Hancock Intl. ILS RWY 10, Amdt. 8
Syracuse, NY, Syracuse Hancock Intl, ILS RWY 28, Amdt. 31
Wahpeton, ND, Harry Stern, NDB RWY 33, Amdt. 4
Dayton, OH, James M. Cox Dayton Intl, ILS RWY 6L, Amdt. 6
Willoughby, OH, Willoughby Lost Nation Muni, NDB RWY 27, Amdt. 11
Claremore, OK, Claremore Muni, VOR/DME–A, Orig.
Claremore, OK, Claremore Muni, VOR/DME–B, Orig.
Philadelphia, PA Northeast Philadelphia, ILS RWY 24, Amdt. 10
Newport, RI, Newport State, LOC RWY 22, Amdt. 6
North Kingstown, RI, Quonset State, ILS RWY 16, Amdt. 6
Providence, RI, Theodore Francis Green State, ILS/DME RWY 34, Amdt. 7
Dallas-Fort Worth, TX, Dallas/Fort Worth International, Converging ILS RWY 17R, Amdt. 4
Dallas-Fort Worth, TX, Dallas/Fort Worth International, ILS RWY 17R, Amdt. 17
West Point, VA, West Point Muni, VOR–A, Amdt. 3
Winchester, VA, Winchester Regional, NDB–A, Orig.
Eau Claire, WI, Chippewa Valley Regional, VOR–A, Amdt. 21
Eau Claire, VI, Chippewa Valley Regional, LOC/DME BC RWY 4, Amdt. 7
Eau Claire, WI, Chippewa Valley Regional, NDB RWY 22, Amdt. 6
Eau Claire, WI, Chippewa Valley Regional, ILS RWY 22, Amdt. 6
Wisconsin Rapids, WI, Alexander Field South Wood County, VOR/DME–A, Amdt. 8
Wisconsin Rapids, WI, Alexander Field South Wood County, SDF RWY 2, Amdt. 3
Wisconsin Rapids, WI, Alexander Field South Wood County, NDB RWY 2, Amdt. 4
Wisconsin Rapids, WI, Alexander Field South Wood County, NDB RWY 29, Amdt. 7

[FR Doc. 93–20687 Filed 8–25–93; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8417]

RIN 1545–AQ53

Limitation on Passive Activity Losses and Credits—Technical Amendments to Regulations; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains a correction to the temporary regulations (T.D. 8417), which was published in the **Federal Register** for Friday, May 15, 1992 (57 FR 20747). The temporary regulations relate to the limitation on passive activity losses and credits.

EFFECTIVE DATE: May 15, 1992.

FOR FURTHER INFORMATION CONTACT: Donna J. Welch, (202) 622–3080 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The document that is the subject of this correction adopted as final regulations changes to the regulations under section 469 of the Internal Revenue Code, as amended. The regulations also revised the temporary regulations to reflect where portions have been adopted as final.

Need for Correction

As published, T.D. 8417 contains an error which may prove to be misleading and is in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.469–1T(e)(5) is amended by removing the reference "§ 1.469–1(e)(5)" and adding the

reference "§ 1.469–2(d)(2)(xii)" in its place.

Jackie Burgess,

Alternate Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–20514 Filed 8–25–93; 8:45 am]

BILLING CODE 4830–01–U

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendment.

SUMMARY: This rule amends the Cuban Assets Control Regulations (the "Regulations") to add an interpretation concerning transactions related to the provision of telecommunications service between Cuba and the United States. The Cuban Democracy Act ("CDA") authorizes telecommunications service between Cuba and the United States and provides for the licensing of payments to Cuba. This rule interprets existing statements of licensing policy contained in the Regulations to permit authorization of payments for such service on a case-by-case basis. In addition, this rule interprets licensing policy governing the authorization of travel transactions to permit authorization, on a case-by-case basis, of travel transactions related to negotiation and performance of telecommunications agreements between Cuba and the United States. In addition, a recently assigned number is added to the Paperwork Reduction Act notice and other technical corrections are made to the Regulations.

Because the Regulations involve a foreign affairs function, Executive Order 12291 and the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601 •T3et seq.•T1 does not apply.

EFFECTIVE DATE: August 26, 1993.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter, Chief of Licensing (tel.: 202/622–2480) or William B. Hoffman, Chief Counsel (tel.: 202/622–2410) Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION: Section 1705(e) of the Cuban Democracy Act of 1992, Public Law 102–484, sections 1701–12, October 23, 1992, 106 Stat. 2575, 22 U.S.C. 6001–6010, (the "CDA"), concerns telecommunications service between the United States and Cuba. Section 1705(e) indicates that the President may provide for the issuance of licenses for the full or partial payment to Cuba of amounts owed to Cuba as a result of the provision of telecommunications services authorized pursuant to the CDA. Executive Order 12854 of July 4, 1993, 58 FR 36587 (July 7, 1993), delegates to the Secretary of the Treasury responsibility for such licensing.

On July 22, 1993, Richard C. Beaird, Acting U.S. Coordinator and Director, Bureau of International Communications and Information Policy, U.S. Department of State, in a letter to James H. Quello, Chairman, Federal Communications Commission ("FCC"), announced general policy guidelines for implementing the telecommunications provisions of the CDA (the "July 22 letter"). In a notice issued by the FCC, this letter was made publicly available. Applicants interested in securing authorization for the provision of telecommunications services between the United States and Cuba were informed in the FCC notice that applications for such authorization must be submitted to the Departments of Treasury and State as well as the FCC.

Section 515.418 is added to the Regulations to clarify that § 515.542(c), which indicates that licenses for transactions related to FCC-approved telecommunications services will be issued on a case-by-case basis, applies to all transactions related to payment to Cuba for telecommunications services between the United States and Cuba under the CDA and the guidelines contained in the July 22 letter.

Section 515.560(b) was recently amended (58 FR 34709, June 29, 1993) to expand the categories of travel for which transactions will be considered for authorization on a case-by-case basis. Travel for purposes related to "transmission of information" was one of the categories added to this section. An interpretation is added at § 515.417(b) to indicate that travel related to the negotiation or performance of telecommunications agreements will be considered for authorization under § 515.560(b).

Section 515.901 is amended to add a recent control number related to the collection of information in §§ 515.703 and 515.704.

List of Subjects in 31 CFR Part 515

Administrative practice and procedure, Cuba, Travel restrictions.

For the reasons set forth in the preamble, 31 CFR part 515 is amended as set forth below:

PART 515—CUBAN ASSETS CONTROL REGULATIONS

1. The authority citation for part 515 is revised to read as follows:

Authority: 50 U.S.C. App. 5; secs. 1701–12, Pub. L. 102–484, 106 Stat. 2575 (22 U.S.C. 6001–6010); 22 U.S.C. 2370(a); Proc. 3447, 27 FR 1085, 3 CFR 1959–1963 Comp., p. 157; E.O. 9193, 7 FR 5205, 3 CFR 1938–1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR 1943–1948 Comp., p. 748, E.O. 12854, 58 FR 36587 (July 7, 1993).

Subpart D—Interpretations

2. Section 515.418 is added to subpart D to read as follows:

§ 515.418 Transactions related to telecommunications.

(a) Section 515.542(c) provides that specific licenses may be issued for transactions incident to the receipt or transmission of communications between the United States and Cuba. Pursuant to § 515.542(c), licenses may be issued for payment to Cuba for full or partial payment of amounts due Cuba as a result of the provision of telecommunications services provided such services and payments are approved by the Federal Communications Commission and are consistent with policy guidelines governing telecommunications between the United States and Cuba established to implement the Cuban Democracy Act of 1992.

(b) Section 515.560(b) provides, in part, that licenses will be issued in appropriate cases for transactions for travel related to the transmission of information. Pursuant to § 515.560(b), licenses may be issued on a case-by-case basis for travel transactions related to travel for negotiation or performance of telecommunications agreements for service between the United States and Cuba.

Subpart E—Licenses, Authorizations, and Statements of Licensing

3. Section 515.563(b) is amended by adding the term "daughter-in law" after the term "son-in-law" in the last sentence of the section.

4. In § 515.569, in paragraph (b), the reference to "§ 515.560(j)" is corrected to read "§ 515.560(g)", and in paragraph (c), in the first sentence, the reference to "(j)" is corrected to read "(g)".

Subpart I—Miscellaneous Provisions

5. Section 515.901 is revised by adding the following sentence to the end thereof:

§ 515.901 Paperwork Reduction Act notice.

* * * Information collection requirements in §§ 515.703 and 515.704 have been approved by the Office of Management and Budget under the Paperwork Reduction Act and assigned control number 1505–0145.

Dated: August 20, 1993.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: August 20, 1993.

John P. Simpson,

Acting Assistant Secretary (Enforcement).

[FR Doc. 93–20670 Filed 8–23–93; 11:31 am]

BILLING CODE 4810–25–W

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 2

RIN 3067–AC01

Organization, Functions, and Delegations of Authority

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule revises the existing FEMA regulation on organization, functions and delegations of authority relating to financial management. It describes the organization of the Office of Financial Management and the general course and method by which that office's functions are channeled and determined. It revises delegations of authority by the Director to the Chief Financial Officer.

EFFECTIVE DATE: August 26, 1993.

FOR FURTHER INFORMATION CONTACT: Arthur E. Curry, Financial Policy Officer, Office of Financial Management, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3718.

SUPPLEMENTARY INFORMATION: This regulation revises 44 CFR part 2, first promulgated March 22, 1982. The revisions are made pursuant to the Chief Financial Officers Act, 31 U.S.C. 901 et seq., and reflect the current organization and internal practices of the Office of Financial Management.

This document relates to FEMA's organization and internal practices. Further, it is not a substantive rule, and it makes no substantial changes in existing arrangements. Hence, notice and public comment have been omitted and the rule is effective immediately upon publication in the **Federal Register**.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Director of FEMA certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the rule relates to the internal organization and operations of FEMA, and will have no direct effect on small business or governmental entities. Accordingly, no regulatory flexibility analysis has been prepared.

Regulatory Impact Analysis

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

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 2

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

PART 2—[AMENDED]

Accordingly, 44 CFR part 2 is amended as follows:

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

Authority: Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412; E.O. 12673, 54 FR 12571, 3 CFR, 1989 Comp., p. 214.

2. Section 2.23 is revised to read as follows:

§ 2.23 Office of Financial Management.

This office reports directly to the head of the Agency regarding financial management matters and is headed by the Chief Financial Officer. It oversees all financial management activities relating to the programs and operations of the Agency. It develops, operates, and maintains an integrated Agency accounting and financial management system, including internal and external financial reporting, and oversees the internal control guidance and review program. It directs, manages, and provides policy guidance and oversight of Agency financial management personnel, activities, and operations. It prepares the annual report described in 31 U.S.C. 902(a)(6) to the Director of FEMA and to the Office of Management and Budget. It oversees and is responsible for the formulation and execution of the budget of the Agency, accounts for actual expenditures, and prepares and submits to the Director of FEMA and operating units timely performance reports. It reviews, on a biennial basis, the fees, royalties, rents, and other charges imposed by the Agency for services and things of value it provides, and makes recommendations on revising those charges to reflect costs incurred by the Agency in providing those services and things of value.

3. Section 2.68 is revised as follows:

§ 2.68 Chief Financial Officer.

The Chief Financial Officer is delegated the following basic authority and functions:

(a) Supervise the activities and functions of the Office of the Financial Management and oversee all financial management activities relating to the programs and operations of the Agency.

(b) Direct, manage, and provide policy guidance and oversight of the Agency financial management personnel, activities and operations.

(c) Establish and maintain an integrated Agency accounting and financial management system, including financial reporting and internal controls which—

(1) Complies with applicable accounting principles, standards, and requirements and standards prescribed by the Office of Management and Budget, the General Accounting Office, and the Department of the Treasury;

(2) Provides for complete, reliable and timely information; which is prepared on a uniform basis and which is responsive to the financial management needs of the Agency; and,

(3) Complies with any other requirements applicable to such systems.

(d) Prepare and submit a financial statement which conforms to the requirements of 31 U.S.C. 902 and 3515. Develop and implement the 5-year financial management plan as required by 31 U.S.C. 902(a)(5).

(e) Develop the Agency's financial management plans and budgets, and review legislative proposals and other programmatic proposals to provide advice to the Director on the financial implications of such proposals.

(f) Develop and implement Agency asset management systems, including systems for cash management, credit management, debt collection, and property and inventory management and control.

(g) Review on a biennial basis the fees, royalties, rents and other charges imposed by the Agency for services and things of value it provides, and make recommendations to the Director on revising those charges to reflect actual costs incurred by the Agency in providing those services and things of value. Premiums and other policy holder charges that relate to the issuance of policies (National Flood Insurance and Crime Insurance programs) are set by the Federal Insurance Administrator pursuant to Federal law and regulation.

(h) Develop, operate and maintain an Administrative Fund Control System that provides, for accurate and timely data on the status of each account. This Administrative Fund Control System shall comply with appropriate statutory requirements and regulations issued by General Accounting Office, Office of Management and Budget, the Department of the Treasury, and other central administrative agencies.

(i) Establish and maintain the appropriate accounts designated by the Department of the Treasury, the General Accounting Office, and Office of Management and Budget and such subsidiary records as may be necessary for accounting, audit and management purposes. Establish and maintain controls for appropriations and other special limitations required by law. Maintain reliable accounting records that will be the basis for preparing and supporting the budget requests of the Agency, controlling the execution of the budget and providing financial information required by law and regulation.

(j) Oversee the implementation of internal control systems which conform with rules, circulars, and other directives issued by General Accounting Office, Office of Management and Budget, and the Department of the Treasury. Report to the Director, as required by law and regulation, whether the Agency's internal control systems and other financial systems and processes comply with applicable law and regulation.

(k) Develop and implement administrative standards and cost principles for the Agency's assistance programs in conformity with rules, circulars, and other directives that are issued by the General Accounting Office, the Office of Management and Budget, and the Department of the Treasury.

(l) Develop and maintain procedures for approving requisitions for disbursing funds, reports of current accounts rendered by disbursing officers, and other financial and accounting documents involving FEMA, the General Accounting Office, the Department of the Treasury, and the Office of Management and Budget.

(m) Certify to the General Accounting Office any charge against any officer or agent entrusted with public property, arising from any loss and accruing by this person's fault, to the Government as to the property so entrusted to this person.

(n) Approve all expenditures and receipt all vouchers and other documents necessary to carry out FEMA's appropriations and programs.

(o) Certify that all required documents, information and approvals respecting fiscal transactions are present; verify or cause to be verified the accuracy of the financial computations, the consistency of the information included in the various documents; and determine, or cause to be determined, that the financial transactions of the Agency are in strict accordance with the law, regulations and decisions.

(p) Authorize officers and employees to certify vouchers.

(q) Receive and credit amounts received to the applicable appropriation of FEMA or to the miscellaneous receipts account.

(r) Request cashier designation and resolution from the Department of the Treasury, and designate cashiers to serve in FEMA.

(s) Approve invitational travel for the Office of Financial Management.

(t) The Chief Financial Officer shall have access to records and documents as required by 31 U.S.C. 902(b)(1)(A), (1)(B), and (1)(C). Access to records and documents is subject to the limitations in 31 U.S.C. 902(b)(2).

Dated: August 19, 1993.

James L. Witt,

Director.

[FR Doc. 93-20747 Filed 8-25-93; 8:45 am]

BILLING CODE 6718-01-P

44 CFR Part 64

[Docket No. FEMA-7583]

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: James Ross MacKay, Acting Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646-2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the fourth column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally

enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Federal Insurance Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, Federal Regulation, February 17, 1981, 3 CFR, 1981 Comp., p. 127. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

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

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Regular Program Conversions				
Region II				
New York: Lyme, town of, Jefferson County.	360343	Apr. 27, 1977, Emerg.; April 15, 1986, Reg.; Sept. 2, 1993, Susp.	Sept. 2, 1993	Sept. 2, 1993
Region IX				
Hawaii: Kauai County, unincorporated areas.	150002	Apr. 2, 1971, Emerg.; Nov. 4, 1981, Reg.; Sept. 2, 1993, Susp.	Sept. 2, 1993	Do.
Region II				
New York:				
Chatham, town of, Columbia County ..	361314	Oct. 26, 1975, Emerg.; Dec. 15, 1982, Reg.; Sept. 15, 1993, Susp.	Sept. 15, 1993	Sept. 15, 1993.
Freeport, village of, Nassau County ...	360464	Nov. 26, 1971, Emerg.; Feb. 14, 1976, Reg.; Sept. 15, 1993, Susp.	Sept. 15, 1993	Do.
Moreau, town of, Saratoga County	360723	Aug. 11, 1975, Emerg.; June 15, 1984, Reg.; Sept. 15, 1983, Susp.	Sept. 15, 1993	Do.
Philadelphia, village of, Jefferson County.	360348	June 24, 1975, Emerg.; Feb. 15, 1985, Reg.; Sept. 15, 1993, Susp.	Sept. 15, 1993	Do.

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region IV				
Tennessee: Erin, city of, Houston County .	470213	Apr. 23, 1974, Emerg.; July 17, 1986, Reg.; Sept. 15, 1993, Susp.	Sept. 15, 1993	Do.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

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

Issued: August 18, 1993.

Donald L. Collins,

Assistant Administrator, Federal Insurance Administration.

[FR Doc. 93–20746 Filed 8–25–93; 8:45 am]

BILLING CODE 6718–21–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 21 and 76

[MM Docket No. 92–264, DA 93–1006]

Broadcast Services; Cable Television Act

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the decision text and the final regulations adopted in the Report and Order segment of the Commission's Report and Order/Further Notice of Proposed Rule Making (*Report and Order*) in MM Docket No. 92–264, found at 58 FR 42013, August 6, 1993 (FR Doc. 93–18652). The Report and Order adopted regulations interpreting and implementing the antitrafficking and cross-ownership provisions of the Cable Television Consumer Protection and Competition Act of 1992 (1992 Cable Act).

EFFECTIVE DATE: August 26, 1993.

FOR FURTHER INFORMATION CONTACT: Jacqueline Chorney, Mass Media Bureau (202) 632–6990.

SUPPLEMENTARY INFORMATION:

Background

The text and the regulations that are the subject of these corrections amend the Commission's Rules to implement the cable/Multichannel Multipoint Distribution Service (MMDS) and the cable/satellite master antenna television service (SMATV) cross-ownership restrictions mandated by the 1992 Cable Act. The action was one of several Commission decisions taken to comply with and to implement provisions of the 1992 Cable Act.

Need for Correction

As published, the summarized decision and the associated final regulations contain errors which have caused some confusion and are therefore in need of clarification.

Correction of Publication

Accordingly, paragraph 31 of the summarized decision published on August 6, 1993, and found at 58 FR 42017, column 1, is corrected to read as follows:

31. The 1992 Cable Act amends section 613(a) of the Communications Act, to add a cable/MMDS and a cable/SMATV cross-ownership restriction. The cross-ownership provision addresses Congress' concern that the common ownership of different means of video distribution may reduce competition and limit the diversity of voices available to the public. Section 613 of the 1992 Cable Act also authorizes the Commission to waive the statutory cross-ownership requirements to the extent necessary to "ensure all significant portions of a franchise area are able to obtain video programming." Section 613 further directs the Commission to waive all cable/MMDS and cable/SMATV cross-ownership interests existing as of October 5, 1992, the date of enactment of the 1992 Cable Act. Accordingly, the Commission will waive all cable/MMDS and cable/SMATV cross-ownership interests existing as of that date.

Additionally, the publication of August 6, 1993, of the final regulations which were the subject of FR Doc. 93–18652, is corrected as follows:

§ 21.912 [Corrected]

Paragraph 1. On pages 42018, the third column, and 42019, the first column, § 21.912, the amendatory language and the rule text for § 21.912 are corrected to add new paragraphs (e)(1) and (e)(2) to read as follows:

Section 21.912 is amended by revising paragraphs (a), (b), and (c), and the notes following paragraph (c), by removing paragraph (d), redesignating paragraphs (e) through (g) as (d) through (f), by revising the first sentence of newly designated paragraph (f), and by adding paragraphs (e) (1) and (2) to read as follows:

§ 21.912 Cable television company eligibility requirements.

* * * * *

(e) * * *

(1) Applications filed by cable operators, or affiliates, for MMDS channels prior to February 8, 1990, will not be subject to the prohibitions of this section. Except as provided in paragraph (e)(2) below, applications filed on February 8, 1990, or thereafter will be returned. Lease arrangements between cable and MDS entities for which a lease or a firm agreement was signed prior to February 8, 1990, will also not be subject to the prohibitions of this section. Except as provided in paragraph (e)(2) below, leases between cable operators, or affiliates, and MDS/MMDS station licensees, conditional licensees, or applicants executed on or before February 8, 1990, or thereafter are invalid.

(2) Applications filed by cable operators, or affiliates for MDS channels after February 8, 1990, and prior to October 5, 1992, will not be subject to the prohibition of this section, if, pursuant to the then existing overbuild or rural exceptions, the applications were allowed under the then existing cable/MMDs cross-ownership prohibitions. Lease arrangements between cable operators and MDS entities for which a lease or firm agreement was signed after February 8, 1990, and prior to October 5, 1992, will not be subject to the prohibitions of this section, if, pursuant to the then existing rural and overbuild exceptions, the lease arrangements were allowed.

* * * * *

§ 76.502 [Corrected]

Par. 2. On page 42020, in the second column, in § 76.502, paragraph (i)(1), line three, "a completed FCC (Form 345)" is corrected to read "a completed FCC (Form 394)".

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 93–20690 Filed 8–25–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 88–21; Notice 6]

RIN 2127–AC88

Federal Motor Vehicle Safety Standards; Bus Emergency Exits and Window Retention and Release

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final Rule, date for early optional compliance.

SUMMARY: On November 2, 1992, NHTSA published a final rule amending Federal Motor Vehicle Safety Standard No. 217, Bus Window Retention and Release, by revising the minimum requirements for school bus emergency exits and improving access to school bus emergency doors. The new requirements will become effective on May 2, 1994. NHTSA has recently been informed that states are requesting school bus manufacturers to produce new buses complying with the new requirements before their May 2, 1994 effective date.

Manufacturers are having difficulty in both certifying compliance with the current requirements of Standard No. 217 and satisfying these requests. Because the new requirements increase the number of emergency exits on some school buses and do not decrease the number of emergency exits on any school buses, NHTSA has decided that it is in the interest of safety that the manufacturers be permitted to comply with the new requirements instead of the existing ones.

EFFECTIVE DATE: The amendments to Section 571.217 (49 CFR 571.217), published at 57 FR 49413, November 2, 1992, and 57 FR 57020, December 2, 1992, continue to be effective May 2, 1994.

Vehicles manufactured before May 2, 1994, may voluntarily comply on August 20, 1993, with those rules' amendments instead of the requirements currently in effect.

FOR FURTHER INFORMATION CONTACT: Charles R. Hott, NRM–15, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–0247.

SUPPLEMENTARY INFORMATION: On November 2, 1992, NHTSA published a final rule amending Federal motor vehicle safety standard No. 217, Bus Window Retention and Release, by revising the minimum requirements for school bus emergency exits and improving access to school bus emergency doors (57 FR 49413). That final rule will become effective on May 2, 1994. A technical amendment to the November 2, 1992 final rule was published on December 2, 1992 (57 FR 57020).

NHTSA has recently been informed that states are requesting that school bus manufacturers produce new buses complying with the new requirements before their May 2, 1994 effective date. Manufacturers are having difficulty in certifying compliance with the current requirements of Standard No. 217 while, at the same time, satisfying these requests. For example, S5.4.2.1(b) of Standard No. 217 currently states:

> * * * A vertical transverse plane tangent to the rearmost point of a seat back shall pass through the forward edge of a side emergency door.

In the November 2, 1992 final rule, the agency amended the requirements concerning clearance to a side emergency door in S5.4.2.1(a)(2)(i) as follows:

> * * * no portion of a seat or restraining barrier shall be installed within the area bounded by the opening of a side emergency exit door, a vertical transverse plane tangent to the rearward edge of the door opening frame, a vertical transverse plane parallel to that plane at a distance of 30 centimeters forward of that plane, and a longitudinal vertical plane passing through the longitudinal centerline of the bus.

Manufacturers can comply with the existing requirement while voluntarily complying with the new requirement but only at the cost of lost passenger seating capacity. The problem occurs because the existing requirement references the front edge of a side emergency door's opening area, while the new requirement references the rear edge. The practical effect of the existing requirement is that no portion of a seat may be located opposite the forward part of the emergency exit opening, although a restraining barrier or the front portion of a seat could be located opposite the rearward part of the opening. Conversely, under the new requirement, no portion of a seat may be located opposite the rearward part of the opening, although a restraining barrier or the rear portion of a seat could be located opposite the forward part of the opening. The reference by these requirements to opposite edges of a side emergency door means that manufacturers complying with the existing requirement while also attempting to comply voluntarily with the new requirement cannot place any portion of a seat adjacent to the door. As a result, for each side emergency door on a school bus, there is a loss of capacity of at least 3 seating positions.

NHTSA has decided that manufacturers should have the option of complying with the existing requirements of Standard No. 217 or with those requirements as amended by the November 2, 1992 final rule. The agency is taking this action for several reasons. First, since the emergency exit access resulting from compliance with either requirement is sufficient, the agency concludes that the additional access gained from attempting to comply with both requirements is unnecessary. Second, the new requirements increase the number of emergency exits on some school buses, and do not decrease the number of emergency exits on any school buses. Thus, some buses manufactured to comply with the new requirements will have more emergency exits than they would if they had been manufactured to meet the existing requirements. Third, whether or not a particular bus complying with the new requirements will have more exits, allowing early compliance with the new requirements will allow states and school bus manufacturers to obtain school buses complying with those requirements at an earlier date than is currently possible and without the loss of seating capacity.

NHTSA finds for good cause that notice and opportunity for comment are unnecessary. NHTSA also finds for good cause that this final rule can be effective immediately. This final rule imposes no duties or responsibilities on any party. Manufacturers may continue to comply with the current requirements until the previously established effective date of the November 2, 1992 final rule. As an alternative, this final rule gives manufacturers the option of complying instead with the requirements of Standard No. 217, as amended by the November 2, 1992 final rule, which will become effective May 2, 1994.

Accordingly, under the authority of 15 U.S.C. 1392, 1401, 1403, and 1407, and the delegation of authority at 49 CFR 1.50, the amendments to § 571.217 (49 CFR 571.217) published at 57 FR 49413, November 2, 1992, and 57 FR 57020, December 2, 1992, continue to be effective May 2, 1994. Vehicles manufactured before May 2, 1994, may voluntarily comply on August 20, 1993,

with this rule's amendments in lieu of the requirements currently in effect.

Rulemaking Analyses and Notices

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

NHTSA has examined the impact of this rulemaking action and determined that it is neither "major" within the meaning of E.O. 12291, nor "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. This final rule gives manufacturers the option of complying with either the current requirements of Standard No. 217, or the requirements of Standard No. 217, as amended by the November 2, 1992 final rule, which will be effective May 2, 1994. Accordingly, this final rule will not impose any costs on manufacturers.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. As explained above, this final rule imposes no costs on manufacturers.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (P.L. 96–511), the agency notes that there are no requirements for information collection associated with this final rule.

National Environmental Policy Act

NHTSA has also analyzed this final rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

Executive Order 12612 (Federalism)

Finally, NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Issued on August 20, 1993.

Howard M. Smolkin,

Executive Director.

[FR Doc. 93–20648 Filed 8–25–93; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 920494–3207; I.D. 101392B]

Taking and Importing of Marine Mammals; Listing of Eastern Spinner Dolphin as Depleted

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

ACTION: Final determination.

SUMMARY: NMFS has determined that the eastern stock of spinner dolphin is below the maximum net productivity level (MNPL) and, therefore, is depleted as defined by the Marine Mammal Protection Act (MMPA). This determination is based on a review of the best available information.

EFFECTIVE DATE: August 26, 1993.

FOR FURTHER INFORMATION CONTACT: Michael Payne, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910, (301) 713–2322.

SUPPLEMENTARY INFORMATION:

Background

The stock of eastern spinner dolphin, *Stenella longirostris orientalis*, a subspecies of the spinner dolphin, is endemic to the Eastern Tropical Pacific (ETP) (Perrin 1990). An extensive database on the distribution of this subspecies has been compiled from almost 25 years of observations by observers on tuna purse-seine and research vessels in the ETP. The eastern spinner dolphin is distributed over a large triangular region, with the northern point of the triangle off the coast of Baja California (24°N. lat.), the southern point just south of the equator off the coast of Peru, and the offshore point at about 12°N. lat., 135°W. long. (Fig. 1). The core range of the subspecies occurs from near the coast of Mexico and Central America, extending about 1,000 km offshore (8–15° N. lat. and 90–125° W. long.) (Perrin *et al.* 1985; Perrin 1990; Perrin *et al.* 1991).

The status of the eastern spinner dolphin has been at issue for many years. Discussion since 1976 regarding the abundance and the status of eastern spinner dolphins relative to historical population levels was reviewed at 57 FR 27010, June 17, 1992. Amendments to the MMPA in 1984 required that NMFS conduct a 5-year survey (referred to as the Monitoring of Porpoise Stocks surveys, MOPS) to estimate the abundance of ETP dolphin stocks, including the eastern spinner dolphin. Based largely on the estimates of abundance and the status of dolphin stocks analyses that followed the MOPS surveys, NMFS was petitioned to list the eastern spinner dolphin as a depleted species or population under the MMPA on August 2, 1991. NMFS published a notification of receipt of this petition and a determination that this petition presented substantial information on November 5, 1991 (56 FR 56502) indicating that the petitioned action may be warranted, and a request for comments. NMFS proposed to list the eastern spinner dolphin as depleted under the MMPA on June 17, 1992 (57 FR 27010).

A preliminary population estimate from the MOPS surveys (at Wade 1991), and the status of the eastern spinner dolphin, were revised (at Wade, in press) as a result of the comments of the methodology delivered during a November 18–22, 1991, workshop on the status of ETP dolphin stock (DeMaster and Sisson, 1992), and discussion and comments since that meeting. The best data available on abundance, mortality and population dynamics (at Wade, in press) indicate that the population of eastern spinner dolphin is 44 percent of pre-exploitation population size. NMFS, therefore, has determined that the eastern stock of spinner dolphin is below MNPL, and therefore depleted as defined by the MMPA.

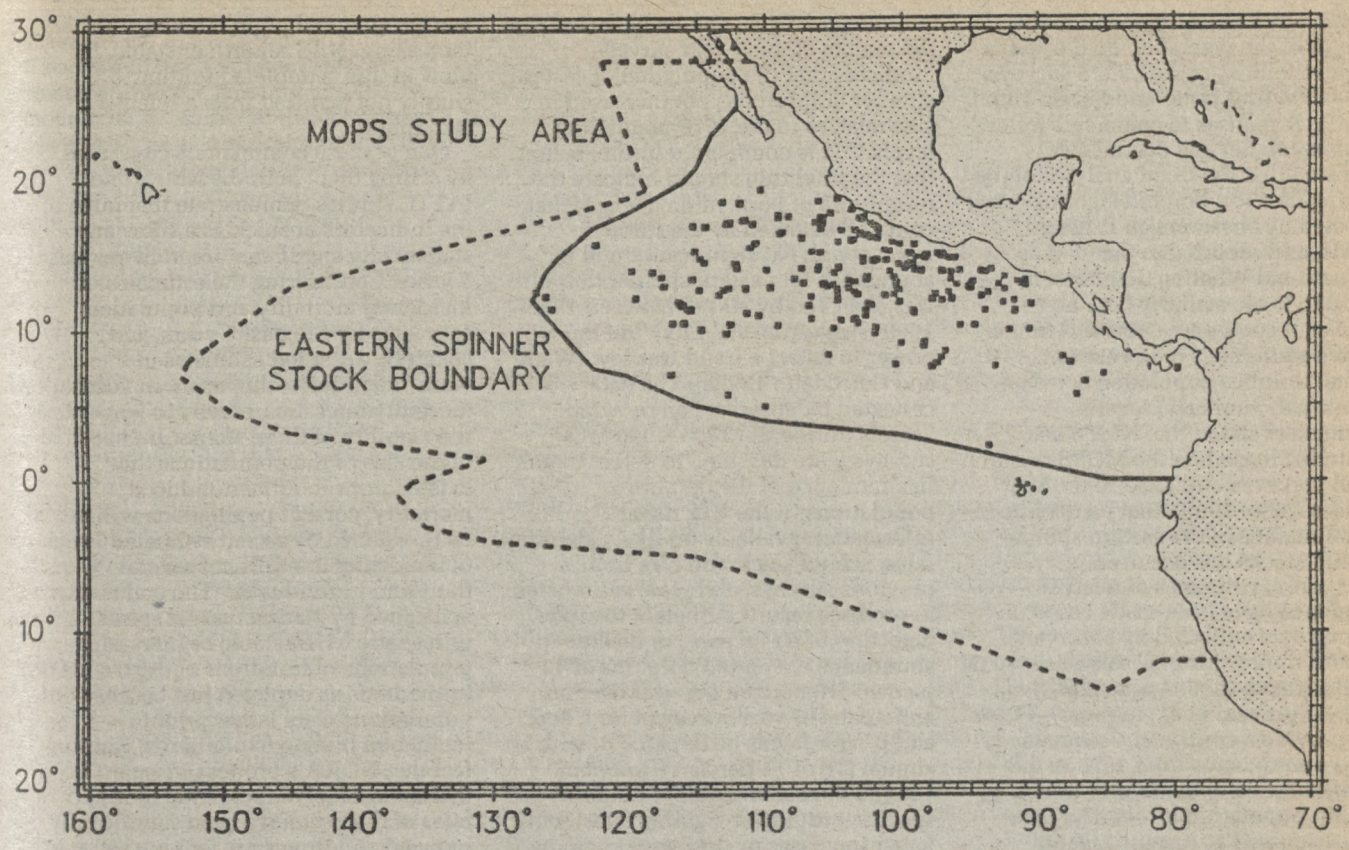


Figure 1. Distribution of the eastern stock of spinner dolphin in the eastern Tropical Pacific. Squares represent positions of all sightings from the MOPS surveys (1986-1990) used in the abundance estimate (a total of 236 sightings). The outer dotted line represents the MOPS study area, and the inner solid line represents the area occupied by the eastern stock of spinner dolphin.

Definition of Depleted under the MMPA

Section 3(1) of the MMPA (16 U.S.C. 1362(1)) defines the term "depletion" or "depleted" as meaning any case in which:

(A) The Secretary, after consultation with the Marine Mammal Commission [MMC] and the Committee of Scientific Advisors on Marine Mammals * * * determines that a species or population stock is below its optimum sustainable population;

(B) A State, to which authority for the conservation and management of a species or population stock is transferred * * *, determines that such species or stock is below its optimum sustainable population; or

(C) A species or population stock is listed as an endangered species or a threatened species under the Endangered Species Act of 1973.

Section 3(8) (16 U.S.C. 1362(8)) of the MMPA defines optimum sustainable population (OSP) as:

> With respect to any population stock, the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element.

NMFS regulations at 50 CFR 216.3 clarify the definition of OSP as:

> "a population size which falls within a range from the population level of a given species or stock which is the largest supportable within the ecosystem [K] to the population level that results in MNPL. NMPL is the greatest net annual increment in population numbers or biomass resulting from additions to the population due to reproduction and/or growth less losses due to natural mortality."

Comments and Responses on the Notification of Receipt of Petition and the Proposed Rule to List Eastern Spinner Dolphins as Depleted Under the MMPA.

NMFS requested written comments following notice of receipt of the petition (56 FR 56502, Nov. 5, 1991) and following the proposed listing of the eastern spinner dolphin as depleted (57 FR 27010, June 17, 1992). Many of the issues raised in the comments received by NMFS have been previously discussed at the annual status of ETP

dolphin stocks meetings, and in the minutes of the workshop on the status of stocks following the MOPS surveys, 1985–1990 (DeMaster and Sisson 1992). Specific responses to comments follow.

Comment: Several commenters suggested that the trend analyses of the sighting data (on dolphin sighting rates) collected by observers on fishing vessels, and reported to the International Whaling Commission (IWC), indicate stability (i.e., no significant trends are apparent) in the relative abundance of the eastern spinner dolphin population between 1976–1990. Similarly, several commenters stated that NMFS has concluded (based on the MOPS research vessel surveys conducted in the ETP between 1986–1990), that no decline in the abundance of the eastern spinner dolphin stocks has occurred.

Response: Estimates of relative abundance have been made based on sighting data collected by observers onboard tuna fishing vessels (Anganuzzi and Buckland 1989, Anganuzzi *et al.*, 1991, Anganuzzi *et al.*, in press). These data provide a continuous sequence of relative abundance from 1975 to the present necessary to monitor trends in dolphin population levels. The data were discussed at Anganuzzi and Buckland (1989) and DeMaster *et al.* (1992).

Between 1975 and 1989, Anganuzzi *et al.* (1991) found that the only 5-year period with a significant decline in relative abundance of eastern spinner dolphins was from 1975 to 1979. The decline followed years of high mortality associated with the purse-seine yellowfin tuna industry. Anganuzzi *et al.* (1991) suggest that the minimum abundance of the eastern spinner dolphin was reached in the early 1980s. No significant trend in the population of eastern spinner dolphins has been determined since the late 1970s, and the population level of the eastern spinner dolphins in 1990 is not considered significantly different from that in the late 1970s (Anganuzzi *et al.*, in press). This would indicate that the eastern spinner dolphin population remained relatively stable during the last decade. This does not imply the population is within its OSP range, but rather that the population was depleted due to mortality caused by the tuna fishery in the 1960s and early 1970s, and has remained relatively constant over the last 15 years. The appearance of population stability below the OSP is likely due to the similarity in rates of net production and fishery-related mortality, and difficulties in detecting rates of change on the order of 2 percent per year.

Comment: One commenter stated that the results of the 5-year surveys "indicate that the population of eastern spinner dolphin has not increased in size relative to the 1979 population levels." This commenter further stated that the final rule should indicate the magnitude of population changes that could be detected by the surveys.

Response: No significant trend in abundance for eastern spinner dolphins was observed by NMFS between 1986–1990 (suggesting stability), but the power to detect a trend was low (Wade and Gerrodette 1992a). The data collected by observers on research vessels during the 1986–1990 MOPS surveys were designed to detect trends in abundance of the dolphin populations in the ETP using information available on likely sighting rates, school sizes, and CVs from previous surveys, and were anticipated to produce results sufficient to allow detection of an increase or decline in abundance of spotted dolphins of 41 percent (10 percent per year over an anticipated 6-year survey period, at α and β error levels of 10 percent, with an annual CV of 14 percent (Holt *et al.* 1987). For eastern spinner dolphins (a species with lower sighting rates), only larger increases or decreases could be detected (Holt *et al.* 1987).

It is not surprising, therefore, that, from 1986 to 1990, no statistically significant change in abundance could be detected using MOPS data. However, it should be noted that the lack of a statistically significant trend does not necessarily mean that the population has not declined. The data do not warrant any conclusion that no impact is occurring because the statistical power of detecting even a large decline during a 5-year period, given the observed variability of the estimates, is low (Gerrodette 1987). Nonetheless, it is this lack of a detectable change that has resulted in conclusive-sounding statements that there have been no detectable declines in abundance during this 5-year period.

Comment: Several commenters opposed the proposed designation of the eastern spinner dolphin as depleted. Several stated that, based on the observer trend data, the eastern spinner stock is at or above levels that will ensure continued survival. They stated further that, considering current estimates of the size of the populations, recruitment rates (and magnitude), and recent incidental mortality rates, listing these stocks as depleted is inappropriate. NMFS's justification is based primarily on abstract criteria (K, OSP, MNPL). Independent scientific review indicates, however, that the ETP marine mammal populations are either increasing (NAS report), or stable. In view of this, a depleted finding is simply not justified from a scientific standpoint.

One of these commenters continued by stating that "both the NMFS and IATTC studies demonstrate that none of the indicators of stock size show any statistically significant trend in the least 5 years. Considering the estimates of incidental mortality and population estimates for the past 5 years, and generally accepted estimates of recruitment rates, the recent incidental mortality rates are unlikely to jeopardize the viability of these stocks. Irrespective of the size of the populations that existed prior to human-induced mortality, current populations will not be threatened by recent estimated levels of incidental mortality of several thousand individuals." The commenter continued by stating that "it seems unrealistic to list stable or increasing populations of hundreds of thousands of individuals as depleted just because the populations were larger prior to incidental human exploitation. The key fact that NOAA's proposals neglect is that the excessive incidental mortality rates of the past have been significantly reduced and things are looking better in the ETP."

Response: NMFS agrees with the statement that eastern spinner stocks may be at levels that ensure continued survival (57 FR 47620, Oct. 19, 1992), and that the situation in the ETP with respect to dolphin stocks is encouraging.

Several commenters pointed out that fishery-induced mortality is being rapidly reduced (by 80 percent between 1986 and 1991), is currently lower than the most conservative estimate of the maximum net productivity rate or recruitment to the stocks, and continues to be reduced. The fishery-related mortality of eastern spinner dolphins in 1990–1991 decreased to <1 percent of the eastern spinner dolphin populations, levels that are considered sustainable. Minimum viable population levels (see Soule 1987) for the eastern spinner dolphin population have been estimated by NMFS using Goodman's model for estimating mean time of persistence (Goodman 1987), an expected range of annual growth rates between 0.9 and 1.06, and an assumption of a population containing hundreds of thousands of animals. Furthermore, U.S. and international efforts to reduce dolphin mortality in the purse-seine fishery for tuna, and promote dolphin conservation, have been, or will be, implemented. The result indicates that the population is

extremely likely to persist over the next 100 years.

Therefore, NMFS is in partial agreement with the commenters. There is no immediate threat to the continued existence of the eastern spinner dolphin population. However, none of the points discussed above address the issue of depletion as defined in the MMPA. Although current trends indicate that the population may be stable, it is stable at a level considerably less than the historic level. As discussed above, mortality of ETP dolphins in the purse-seine fishery has been high since the inception of the fishery, and NMFS has concluded that the best scientific information indicates that a reduction of greater than 40 percent relative to initial population size has occurred in the population of eastern spinner dolphins, that the population is below the level of maximum net productivity, and that the population has been, and continues to be, at levels considered depleted under the MMPA (see also proposed rule at 57 FR 27010, June 17, 1992).

Comment: Several commenters referred to recent studies suggesting that the MNPL for marine mammals is between 60 and 80 percent of carrying capacity for marine mammal populations, and that this should be noted.

Response: Historically, MNPL has been expressed as a range of values (generally 50–70 percent of K) determined by estimating what size stock in relation to the original stock size will produce the maximum net increase in population (42 FR 12010, Mar. 1, 1977). The midpoint of this range (60 percent) has been used to determine whether ETP dolphin stocks were depleted (42 FR 64548, Dec. 27, 1977). For ETP dolphins, the 60 percent value was supported in the final rule governing the taking of marine mammals incidental to commercial fishing operations (45 FR 72178, Oct. 31, 1980) and Wade (in press) considered 0.60 the best working value of MNPL currently available for the eastern spinner dolphin.

Comment: One commenter indicated that it is very difficult to assess the importance of in-migration into the sample area when defining a decline in species abundance at-sea, and asked "if eastern spinner dolphins are killed in the central part of their range, do animals from the peripheral areas tend to move in, thus obscuring the decline in abundance? The effect becomes especially difficult [to determine] if there is hybridization as a result." The commenter continued "that some data from Perrin [Perrin *et al.* 1991] indicate that these things are likely and that the depletion of the base population may therefore be even greater than simple abundance figures can show. So I [commenter] think that the depletion of the eastern spinner dolphin is likely to be worse, rather than better, than the base data suggest. The submissions rightly show that depletion in these long-lived animals that produce few young can happen at remarkably low exploitation levels * * * all of these things make me feel that the submission is timely, and conservatively expressed."

Response: This comment has been addressed at 57 FR 47620, October 19, 1992; therefore it will be briefly summarized at this time. The introgression of genes from the pantropical spinner dolphin (*S.l. longirostris*) into traditional eastern spinner dolphin habitat could conceivably delay the recovery of the eastern spinner dolphin or could possibly prevent a return to historic levels (Perrin *et al.* 1991). Although the information needed to evaluate this concern is presently not available, a reduction of mortality associated with the purse-seine fishery should make the eastern spinner dolphin less vulnerable to genetic "swamping" from less-exploited populations of spinner dolphins.

Comment: Several commenters stressed that listing a species can only be accomplished on the basis of the best available scientific and commercial information. They continued that the petitions regarding the status of ETP dolphins rely principally upon two documents, DeMaster *et al.* (1992) and Wade and Gerrodette (in press), although it would appear that the best scientific information available is that which followed the critical review of these manuscripts by NMFS and others at the November 1991 workshop. In view of the high quality of recent data, several commenters further suggested that the analyses recommended by the Workshop participants be completed prior to the determination of listing, and that interested parties review and comment on the new data.

Response: Although the review was not complete at the time of the receipt of the petitions, comments and suggested analytical changes received by NMFS at the 1991 Workshop and since (summarized at Wade, in press) were incorporated into the assessment of the eastern spinner dolphin population prior to being relied upon in this final determination.

Comment: One commenter noted that section 115(b)(1) of the MMPA requires NMFS to prepare a conservation plan for any species or stock designated as depleted unless it determines that such a plan will not promote the conservation of the species or stock. The commenter recommended that NMFS indicate in the final rule whether it intends to prepare a conservation plan for the eastern spinner dolphin. The commenter continued that if NMFS does not prepare such plans, it should explain its rationale for determining that the plans would not promote the conservation of the stocks and should describe what actions it intends to take (e.g., continued monitoring) in response to the depletion findings.

Response: Section 115 of the MMPA does not require that a conservation plan be prepared concurrently with a final depleted listing. Also, existing regulatory mechanisms protecting ETP dolphins under the MMPA preclude the immediate need for a conservation plan. Furthermore, in a series of intergovernmental meetings convened under the auspices of the Inter-American Tropical Tuna Commission (IATTC) in 1991 and 1992, nations harvesting tuna in the ETP have agreed to limit dolphin mortality to levels approaching zero. The nations have committed to (1) achieving 100-percent observer coverage; (2) identifying alternative fishing methods that would not involve the encirclement of dolphins and, therefore, would not result in dolphin mortality associated with purse-seine techniques; (3) reducing dolphin mortality; and (4) developing and implementing a dolphin conservation program in 1992 and subsequent years (MMC 1992; 57 FR 21081, May 18, 1992).

On April 12, 1991, the three largest U.S. tuna canners announced that they would no longer purchase tuna caught in association with dolphins. The combined effects of prohibiting sundown sets, applying skipper performance standards, increased observer coverage, lower mandated mortality rates, negotiations with, and efforts of, non-U.S. fleets, and research into alternative fishing methods have resulted in a reduction in the mortality rate for eastern spinner dolphins to less than 1 percent per year. With the currently small U.S. fleet, only two to six vessels fishing on dolphins, and the cooperation of other countries that fish on dolphins in the ETP, future dolphin mortality due to tuna purse-seining is expected to decline further.

Finally, the International Dolphin Conservation Act (Public Law 102–523) was enacted on October 26, 1992. This act amended the MMPA to authorize the United States to enter into an international agreement to establish a global moratorium to prohibit

harvesting of tuna through the use of purse-seines deployed on or to encircle dolphins for at least 5 years beginning on March 1, 1994.

In summary, U.S. and international efforts to reduce dolphin mortality in the purse-seine fishery for tuna, and promote dolphin conservation, have been, or are being, implemented. These protective measures are considered adequate to protect the species from further declines within the foreseeable future, and NMFS therefore determines that a conservation plan would not further promote the conservation of the species. As a result, NMFS does not plan to prepare a conservation plan at this time.

Comment: One commenter noted that section 104(h)(3)(B) of the MMPA requires NMFS to modify the incidental take quotas and/or the requirements for gear and fishing practices applicable under the general permit issued to the American Tunaboat Association if it "determines, on the basis of the best scientific information available, that the incidental taking of marine mammals * * * is having a significant adverse effect on a marine mammal population stock * * *." The commenter stated that NMFS, in the final rule, should review the available information and provide its rationale for determining that taking incidental to the ETP tuna fishery is or is not having a significant adverse effect on these stocks.

Response: A depletion determination does not, as a matter of law, require modification of the general permit. It is indisputable that the purse-seine fishery for yellowfin tuna has had adverse impacts on dolphin stocks. However, it appears that eastern spinner dolphin mortality in this fishery has been reduced in recent years to levels considered sustainable. Therefore, at this time, it does not appear that a modification of the general permit is needed.

Status Determination Under the MMPA

Eastern Spinner Dolphin Incidental Mortality From Wade (in press)

Initial estimates of dolphin kill from the yellowfin tuna fishery in the ETP were provided by Smith (1983), Lo and Smith (1986) for 1973–1978, and by Wahlen (1986) for 1973–1978, in each case with associated standard errors. Kill estimates for 1979–87, with associated standard errors, have also been published (IATTC 1989). However, Lo and Smith (1986) reported total dolphin kill and did not divide it into stock categories, while Wahlen (1986) reported kill estimates by stock, but only for the U.S. tuna vessel fleet. Therefore, Wade (in press) divided the kill estimates of Lo and Smith (1986) by the same stock proportions used in Smith (1983), and adjusted the estimates of Wahlen (1986) using the estimated total number of sets, as reported in Punsley (1983). Wahlen (1986) reported the estimated number of sets by the U.S. fleet. Wade (in press) multiplied the kill estimate in each year from Wahlen (1986) by the ratio of the sets made by the entire fleet to the sets made by the U.S. fleet to produce an estimate of the total number of eastern spinner dolphins killed in each year (Table 1).

TABLE 1.—ESTIMATES OF FISHERIES KILL, IN THOUSANDS, BY YEAR FOR THE EASTERN STOCK OF SPINNER DOLPHIN. CV IS THE COEFFICIENT OF VARIATION OF THE KILL ESTIMATE.[1]

Year	Mortality	CV
1959	14.3	.32
1960	124.3	.31
1961	138.8	.28
1062	56.2	.25
1963	62.4	.22
1964	101.4	.20
1965	119.6	.20
1966	97.2	.15
1967	66.8	.16
1968	59.5	.15
1969	106.0	.15
1970	107.4	.15
1971	58.4	.17
1972	87.4	.16
1973	18.4	.16
1974	17.8	.11
1975	17.1	.11
1976	14.7	.12
1977	1.8	.12
1978	1.1	.11
1979	1.5	.24
1980	1.1	.20
1981	2.3	.28
1982	2.6	.33
1983	.7	.38
1984	6.0	.52
1985	8.9	.16
1986	19.4	.19
1987	10.4	.11
1988	18.8	.09
1989	15.2	.11
1990	5.4	.18
1991	5.9	.13

[1] Sources for the estimates are (1) 1959–72 from Lo and Smith (1986), using the stock proportions of Smith (1983); (2) 1973–78 from Wahlen (1986), adjusted for number of sets of total fleet in Punsley (1983); (3) 1979–87 from Anon. (1989), 1988–1990 from Hall and Boyer (1990, 1992). Table from 1959–1987 found at Wade (in press).

Wade (in press) discussed the following potential sources of bias in the kill estimates:

(1) Observer effects on kill rate have been suggested by Wahlen and Smith (1985). This would bias estimates of mortality downward, as the kill rate on tuna vessels with observers would be less than the kill rate on unobserved tuna vessels.

(2) The lack of participation in data collection by some countries during some years may have biased kill rates, especially if significant differences in kill rates existed between countries.

(3) The moderate amount of data collected in 1971 was considered potentially biased because most of the boats with observers were smaller and older, and may have had a higher mortality-per-set (Edwards 1989; Lo and Smith 1986). Similarly, the small amount of data available collected prior to 1970 was not collected by observers placed on tuna vessels for that purpose. Some data from 1964 were reported by a fisherman, while other data from 1964 and data from 1966 and 1968 were observed by scientists on board tuna vessels for the purpose of collecting other types of data (Smith and Lo 1983). Random placement of observers on tuna vessels began in 1972 (Edwards 1989). However, the mortality-per-set did not differ greatly in those years from the data collected in 1972 (Lo and Smith 1986). The mortality-per-set for the pooled 1964–1972 data was virtually identical to the mortality-per-set in 1972 alone, when observers were placed in an unbiased fashion, a predictable result given the similarity in mortality-per-set between years and the greater quantity of data in 1972. Therefore, the fisheries kill estimates for 1959–1971 were essentially estimated from the mortality rate that existed in 1972 and from what were thought to be accurate estimates of the number and type of sets made in each year (Punsley 1983).

Mortality-per-set has declined over time, declining most consistently following the passage of the MMPA in 1972 (Smith 1983). There is no evidence that mortality-per-set was lower from 1959–1971 than it was in 1972. If anything, mortality may have been higher, especially before use of the back-down procedure had become widespread and well practiced.

Thus, three major sources of bias in the fisheries kill estimates, the lack of observations of mortality-per-set in many years prior to 1972, the possible effects on fishing behavior of having an observer aboard, and the lack of participation in data collection by some countries for some time periods, all suggest that if the kill estimates were biased, they would be negatively biased. If it can be assumed that mortality-per-set has declined since the beginning of the fishery, which all information suggests, the kill estimates prior to 1972

were likely under-estimates of the true kill.

Abundance of Eastern Spinner Dolphins

Smith (1979) and Holt and Powers (1982) estimated abundance of eastern spinner dolphins in 1979 using pooled data from research and fishing vessels. Both Holt and Powers (1982) and Wade and Gerrodette (1992) used line-transect analysis methods (Burnham *et al.* 1980) to estimate abundance. However, the relatively low number of sightings that resulted from the 1979 survey required an analysis technique that involved pooling sightings of different stocks and species of dolphin in order to estimate the abundance of each stock (Holt and Powers 1982). Approximately 75 percent of the 1979 survey was concentrated within 1,000 km of the coast, whereas the range of the eastern stock of spinner dolphin is up to 2,000 km from the coast (Perrin *et al.* 1985). The 1979 survey provided very little coverage of the western half of this range (Holt and Powers 1982).

Data collected during the 1986–1990 MOPS surveys covered approximately five times more area than did the 1979 survey. Sample sizes show the large difference in the quantity of data, as a total of 285 schools containing eastern spinner dolphins were recorded during the MOPS surveys, versus a total of only 41 schools during the 1979 survey. The large increase in the quantity of data made the MOPS estimates of abundance more precise for this stock, while the increased coverage of the stock range reduced potential bias due to geographical variation in abundance. Therefore, to examine trends in abundance, a revised analysis for each of the 5 years of MOPS data was undertaken in which annual estimates of abundance for each stock were made only from sightings of that stock (Wade and Gerrodette 1992). These estimates were considered to be less biased estimates of abundance than earlier estimates available for eastern tropical Pacific dolphins (Anon. 1992).

Two major differences between the analytical techniques used by Wade and Gerrodette (1992) and by Holt and Powers (1982) were discussed by Wade (in press): (1) Wade and Gerrodette estimated the effective strip width (i.e., 2.0/f(0); Burnham *et al.* 1980) for each stock separately, rather than estimating a single effective strip width from sightings of all species of dolphins. The effective strip width varied substantially between the different dolphin stocks, ranging from a low of 2.5 km to a high of 11.9 km, indicating that the Holt and Powers (1982) technique may have introduced considerable bias by pooling across different stocks and species; and (2) Holt and Powers (1982) estimated the abundance of each stock by making a pooled estimate for each species, and then divided the species estimate between the stocks of that species according to the relative size of the area occupied by each stock. For example, an estimate of spinner dolphin abundance was made by pooling sightings of eastern spinner dolphins with whitebelly spinner dolphins, a different morphological form that is distributed further offshore and partially overlaps the area occupied by the eastern spinner dolphin (Perrin *et al.* 1985, Perrin *et al.* 1991). Then the abundance estimate for the eastern spinner dolphin was made by multiplying this pooled estimate by the ratio of the area occupied by the eastern spinner dolphin to the sum of that area plus the area also occupied by the whitebelly spinner dolphin. This approach would only be unbiased if the two stocks had exactly the same density (number of animals per unit area) within their respective stock areas. There is no reason to assume this is true; therefore, an analysis based solely on sightings of eastern spinner dolphin pooled across years, as in Wade and Gerrodette (1992), is likely to be less biased.

Other differences summarized by Wade (in press) were that all size schools rather than only schools greater than 15 animals were used. Schools with only a "minimum" rather than "best" estimate of school size were not tested. Unidentified dolphin schools were not used in the estimate of school size. School size was not weighted as had been previously done in some of the years. The truncation of the perpendicular distance distribution was changed from 3.7 to 7.4 km. Bootstrap re-sampling was continued until the total distance was matched, and the number of bootstrap iterations was increased from 100 to 200.

Pooled Abundance Estimate by Wade (in press): Wade (in press) applied the methods of Wade and Gerrodette (1992) to all 5 years of data together rather than separately for each year. The estimate of population abundance (N) of eastern spinner dolphins was computed for each stratum in the MOPS survey area by line-transect methods (Burnham *et al.* 1980) and described in Wade (in press). Only sightings from a stratum were used to calculate the density, and therefore abundance, within the stratum. Abundance estimates for each stratum were summed across all four strata to get a total estimate for the stock. The only change in methodology by Wade (in press) from Wade and Gerrodette (1992) involved the calculation of f(0) (see Wade, in press, for further details on the calculation of f(0)).

Eastern spinner and whitebelly spinner dolphins (*S. l. orientalis* X *S. l. longirostris*) partially overlap in range, but can be distinguished from each other by their color pattern and morphology (Perrin 1990; Perrin *et al.* 1991). There were a small number of sightings of spinner dolphins in the area of overlap between the two stocks that were, for various reasons, unidentified to stock. Wade (in press) prorated those sightings to the eastern stock of spinner dolphin, using the estimated proportion of spinner dolphin in the overlap area that were from the eastern stock (at Wade and Gerrodette 1992). Similarly, Wade (in press) prorated sightings of unidentified dolphins to the eastern stock using the estimated proportion of dolphins that were from the eastern stock in each stratum. Wade added the prorated portions of unidentified spinner and unidentified dolphin to the original estimate to give a final estimate of abundance.

The abundance estimate based solely on the 5 years of the MOPS surveys (236 sightings) was estimated to be 391,200 to 754,200 for each of the 5 years of the MOPS surveys, with CVs of 0.37–0.42 (Wade and Gerrodette 1992). The average abundance estimate over the 5 years of the survey period was 588,500. The pooled estimate of Wade (in press), which incorporated the review and comments of the methodology delivered during the November 1991 workshop, was 568,100. Adding in prorated numbers of unidentified spinner and unidentified dolphin sightings resulted in a final estimate of 632,700 with a CV of 0.167 (Wade, in press) (Table 2). The abundance estimate from Wade (in press) represents the best (least biased and most precise) abundance estimate currently available for eastern spinner dolphin.

TABLE 2.—ESTIMATE OF ABUNDANCE (IN THOUSANDS OF ANIMALS) OF THE EASTERN STOCK OF SPINNER DOLPHIN (STENELLA LONGIROSTRIS ORIENTALIS) FROM THE MONITORING OF PORPOISE STOCKS SURVEYS (1986–90). STRATA ARE IDENTIFIED AT WADE (IN PRESS).[1]

	Total	Inshore	Middle	West
Abundance estimates:				
From eastern spinner schools	568.0	364.8	160.2	43.1
Prorated from unid. spinner	15.4	9.0	6.0	0.4
Prorated from unid. dolphins	49.2	37.5	10.9	0.8
Final estimate	632.7	.....	.....	.....
Standard error	105.7	.....	.....	.....
Coefficient of variation	0.167	.....	.....	.....
Upper 95% confidence limit	778.9	.....	.....	.....
Lower 95% confidence limit	403.2	.....	.....	.....

[1] From Wade (in press).

Potential Bias in Current Abundance Estimate: Any bias in the estimate of current abundance could also bias the estimate of relative population size. Wade and Gerrodette (1992) discuss a number of sources of potential bias when applying line-transect theory to the MOPS survey data. Several potential sources of bias do not appear to have a major effect, if any. Independent observer experiments indicate that few schools (and no large schools) were missed on the trackline, an important assumption.

Aerial photographs have confirmed that little bias have been introduced by the observer's estimate of school size (Gerrodette and Perrin 1992). One partially unresolved issue is that of vessel avoidance by the dolphin schools, which would bias the estimate downwards, although there is some evidence that this has not been a major problem (Au and Perryman 1982; Hewitt 1985). Additionally, mean school size is likely over-estimated due to the decreased probability of detection of small schools at larger perpendicular distances (Drummer and McDonald 1987). Although some stocks in the MOPS surveys appeared to be biased by as much as 20 percent by this problem, not all stocks were (Wade and Gerrodette 1992a), including the eastern stock of spinner dolphin. Finally, the distribution of the eastern spinner dolphin is well known (Perrin *et al.* 1985) and well within the MOPS study area (Fig. 1), so that it can be concluded that the abundance estimate applies to the entire population. Therefore, it appears that the estimate of abundance did not contribute any major bias to the estimate of relative population size, and the effect of the precision of the abundance estimate was accounted for in the calculation of the confidence intervals.

Historical Abundance Estimate: One method for determining a population's status relative to MNPL is to estimate its historical abundance, meaning its abundance prior to significant fisheries mortality, which is assumed to be equivalent to the equilibrium population size (i.e., carrying capacity). Then the current population size is compared with the MNPL for the population, given the estimate of equilibrium population size (Gerrodette and DeMaster 1990). Smith (1983) described a method for back-calculating historical population size (N_h) for *Stenella* spp. dolphins from estimates of the current population size (N_c), the historical kill in the tuna fishery, the maximum net recruitment rate (R_m), and the maximum net productivity level (MNPL). Smith used this technique to estimate historical abundance for the eastern spinner dolphin, resulting in estimates of relative population size (N_c/N_h) for 1979 ranging from 0.17 to 0.25.

Back-calculation estimates of historical abundance are sensitive to estimates of current abundance (Smith and Polacheck 1979; Wade 1991). The revised abundance estimate by Wade (in press) was sufficiently different from the 1979 estimate to justify a re-estimation of historical population size for the eastern stock of spinner dolphin. Additionally, estimates of the historical kill rate by the purse-seine fishery have also been revised since Smith (1983), although these revised estimates did not differ greatly from other previous estimates (Lo and Smith 1986; Wahlen 1986). Therefore, Wade estimated the historical population size for the eastern spinner dolphin using the same methods and the same ranges for the parameters R_m and MNPL as Smith (1983), but with revised abundance and fishery mortality estimates. This resulted in new estimates of relative population size (N_c/N_h) for this stock.

Confidence limits for the estimates of relative population size were calculated using Monte Carlo simulation methods (Buckland, 1984). These confidence limits only incorporated uncertainty due to sampling error of the current population estimate and the mortality estimates. They did not incorporate uncertainty in the model parameters R_m and MNPL. Confidence intervals were calculated for all parameter combinations.

Population Model: Wade (in press) duplicated the methods of Smith (1983), using the relationship

$$N_{t+1} = N_t - K_t + R_t\left(N_t - \tfrac{1}{2}K_t\right) \quad (1)$$

where
N_t=population abundance in year t
K_t=fisheries kill in year t
R_t=net recruitment rate in year t

Density-dependence is incorporated into the equation through the net recruitment rate, which is defined as

$$R_t = R_m\left[1 - \left(\frac{N_t}{N_h}\right)^z\right] \quad (2)$$

where
R_m=maximum net recruitment rate
Z=shape parameter that sets the maximum net productivity level (MNPL)
N_h=historical population size (assumed to be the equilibrium population size)

For any value of R_m and MNPL, z can be calculated as in Polacheck (1982). The first equation can be solved for N_t as a function of N_{T+1}, R_t, and K_t. Therefore, by specifying an initial population size, the number of animals killed in each year, the maximum net recruitment rate, and the maximum net productivity level, these two equations can be iteratively solved for N_h.

Smith (1983) used values for R_m of 0.0, 0.03, and 0.06, which were thought to encompass the range of the possible values of R_m for Stenellid dolphins. No direct estimate of net reproductive rate (R) exists for eastern spinner dolphins due to the difficulty in estimating survival rates. The calving interval has been estimated to be approximately 3 years (Perrin and Reilly 1984). The age

of sexual maturity (ASM) has been reported as 5 years (Perrin and Henderson 1984). However, Wade (in press) cited a new study using a much larger data set that estimated ASM for the eastern spinner dolphin to be approximately 10 years. This is similar to the estimate of approximately 11 years for the congener northern spotted dolphin, *Stenella attenuata* (Chivers and Myrick 1992; Myrick *et al.* 1986), which is found in the same region of the ETP.

There are no estimates of survival rates for eastern spinner dolphin. Therefore, estimating the net reproductive rate for eastern spinner dolphin requires using estimates of survival rates from another dolphin population. Among the best estimates of survival rates for a delphinid come from a long-term study of known individuals of a coastal population of bottlenose dolphin, *Tursiops truncatus*, with estimates of adult and calf survival of 0.96 and 0.80, respectively (Wells and Scott 1992). From Reilly and Barlow (1986), those survival rates in combination with a calving interval of 3 years and an ASM of 9 years results in an R of 0.03. The maximum survival rates considered by Reilly and Barlow (1986), with the same calving interval (3 years) and ASM (9 years), resulted in an R of 0.05. If the eastern stock of spinner dolphin was below half its equilibrium population size in 1979 (as suggested by Smith 1983) then its net reproductive rate should have been very close to its maximum, R_m. Therefore, Wade (in press) considered 0.04 as the best estimate of R_m currently available for the eastern spinner dolphin, with 0.06 the greatest value of R_m possible. These are the same range of values as in Smith (1983).

Values used by Smith (1983) for MNPL were 0.50, 0.65, and 0.80 (Wade expressed these MNPL values as a fraction of the equilibrium population, corresponding to z values of 1.0, 2.482, and 11.216, respectively). No direct estimate of MNPL exists for the eastern spinner dolphin. Fowler (1984) gave evidence that MNPL was greater than 0.50 for cetaceans, and a value of 0.60 is currently being used for management of cetaceans under the MMPA (45 FR 64548, Oct. 31, 1980). Values of z were used so that MNPL ranged from 0.50 to 0.80 (the same range as in Smith 1983), using increments of 0.01, for a total of 31 values. The exact value of z necessary to give the specified MNPL for any value of R_m was calculated as in Polacheck (1982).

Potential Bias in the Population Model: Bias could be introduced in the final status determination by model misspecification, meaning that an inappropriate model was used. A fairly simple model was used, which probably does not capture some of the complexity of dolphin population dynamics, but it has been shown by simulation that a simple model can perform equally well as a more complex model for this type of analysis (Lankester and Cooke 1987). What was important here was whether the model correctly captured the major behavioral dynamic of the population relevant to estimating relative population size. The most important dynamic that the model correctly contained was the relatively low upper limit on population growth that results from the biological constraints of the spinner dolphin's life history (Reilly and Barlow 1986). There is certainly some environmental variance in dolphin population growth that is not incorporated into this model, but these biological constraints prevent there from being large positive fluctuations in growth rate. Any strong impact of environmental influence could only be in the negative direction, which would lead to this model overestimating relative population size.

Of more concern may be the lack of age-structure in the model, which could potentially bias the results (Goodman 1984). The age-distribution of the spotted dolphin (*S. attenuata*) kill for the years 1974 to 1983 was heavily biased towards mature animals (Barlow and Hohn 1984). If the age-distribution of the kill of eastern spinner dolphin was similar to this for all years, then the simple model used would have overestimated relative population size. Removing proportionally more mature animals, whose reproductive value was highest, would have temporarily reduced the growth rate of the population and caused the population to decline for a longer period of time than predicted by the simple model. Therefore, any bias introduced by the population model would likely lead to an over-estimate of relative population size.

Relative Population Size by Smith (1983) Compared to Those by Wade (in Press)

Population estimates of the eastern spinner dolphin population prior to 1979 were calculated by Smith (1983) (methods described therein), using 1979 abundance estimates (from combined research vessel and fishing vessel data, and from research vessel data alone), pooled kill-rate data collected by observers prior to (and including) 1972, then extrapolated back to 1959 for the years when no kill rate data were collected (at Smith 1983). For all parameter values of R_m and MNPL equal to those in Smith (1983), estimates of relative population size were higher in the analysis by Wade. For example, for R_m=0.03 and MNPL=0.65, Smith (1983) reported a relative population size of 0.20 versus a result of 0.42 by Wade. The different results must be due to either the revised estimates of abundance and kill or to the fact that the Wade (in press) analysis was considering the population size in 1988 rather than 9 years earlier in 1979, because these were the only differences between the analyses. Most of the difference can be shown to be due to the much higher estimate of current population size, while the lower revised kill estimates also contributed to a higher estimate of relative population size. Repeating the back-calculation of Smith (1983) from 1979, but using the revised population and kill estimates of Wade (in press), resulted in nearly the same estimate of relative population size. For example, for R_m=0.03 and MNPL=0.65, a back-calculations from 1979 as opposed to 1988 resulted in a current estimate of relative population size of 0.41 versus 0.42, while Smith (1983) reported a value of 0.20. The difference was not due to the different starting year, as the model trajectories, except at the highest growth rates, indicated little change in the population size between 1979 and 1988. This is in agreement with independent results by Buckland *et al.* (1992), who indicated little difference in relative population size between those 2 years. Therefore, the difference in the results between Wade (in press) and those of Smith (1983) should not be interpreted as a recovery in the population between 1979 and 1988. The new, higher estimates of status should instead be interpreted as a revision of the estimate of relative population size, due mostly to the improved abundance estimate available from the MOPS surveys.

The new estimates of relative population size, while higher than Smith (1983), were still below MNPL for all parameter combinations. Because the range of parameter values used encompassed what is possible for a spinner dolphin, the results of Wade (in press) indicate that the population of eastern spinner dolphin is currently well below what its population size was in 1959. With R_m0.04 and MNPL=0.60, the population was estimated to be at 44 percent of its historical size. Even using the maximum value of R_m of 0.06, the population in 1988 was estimated to be from 43 percent (MNPL=0.50) to 58 percent (MNPL=0.80) of its size in 1959 (Wade, in press).

Contours of relative population size (N_c/N_h) as a function of R_m and MNPL (calculated by Wade, in press) ranged from 0.35 to 0.55. Relative population size increased with both R_m (growth rate) and MNPL (the amount of non-linearity in the density-dependence response). The lowest relative population size was 0.32, for the case of R_m=0.00, (i.e., no net growth in the population before fisheries kill is included). The highest relative population size was 0.58 for the case of the highest growth rate and MNPL (0.06 and 0.80, respectively). The influence of MNPL was greater at higher growth rates, as relative population size increased by approximately 0.02 for every increase of 0.10 in MNPL at R_m=0.02, but increased by approximately 0.05 for every increase of 0.10 in MNPL at R_m=0.06. There were no combinations of parameter values such that relative population size was estimated to be above MNPL.

Final Determination Under the MMPA

A pooled estimate of abundance from recent (1986–1990) research vessel surveys was used in combination with estimates of fisheries kill from tuna vessel observer data to estimate the historical population size for the eastern stock of spinner dolphin, using a back-calculation technique (Wade, in press). Estimates of relative population size were calculated using a range of values for the maximum net recruitment rate and the maximum net productivity level (MNPL).

The new estimates of relative population size, while higher than Smith's (1983), were still below MNPL for all parameter combinations. The difference between the results of Smith (1983) and Wade (in press) was due mostly to the use of a new, better estimate of abundance, rather than to a recovery of the population between 1979 and 1988.

Using the best data available on abundance, kill, and population dynamics, the population size in 1988 of the eastern spinner dolphin was estimated to be below MNPL. Because the range of parameter values used encompassed all those possible for a spinner dolphin, the results of Wade indicate that the population of eastern spinner dolphin is still well below what its population size was in 1959. Using what may be considered the best parameter values, R_m=0.04 and MPPL=0.60, the population was estimated to be at 44 percent of its historical size. Even using the maximum value of R_m of 0.06, the population in 1988 was estimated to be from 43 percent (MNPL=0.50) to 58 percent (MNPL=0.80) of its size in 1959 (Wade, in press). However, a growth rate higher than 0.04 is very unlikely, as the population would have shown a substantial increase from 1979 to the present, rather than remaining at the same level, as reported in Buckland *et al.* (1992). Estimates of relative population size were all below the value of MNPL used to calculate each estimate (Wade, in press). Calculation of confidence limits for relative population size indicated that the precision of the estimates of relative population size was sufficient to make a status determination (Wade, in press).

Although there were uncertainties associated with this analysis, especially with the early kill data, the results indicated that the eastern spinner dolphin population was well below historical abundance in 1988. The fisheries kill that has occurred from 1988 to 1991 makes it highly unlikely that the population has experienced any significant recovery since 1988 (Wade, in press). Additionally, Buckland *et al.* (1992) indicate no recovery has occurred since 1979 to the present. Most uncertainties in Wade (1992) would lead to over-estimates of relative population size suggesting that the population may be at a lower level than indicated here.

Therefore, NMFS has determined that the eastern spinner dolphin population is below OSP, and by definition, the eastern spinner dolphin is depleted under the MMPA.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this final rule is exempt from the requirements of Executive Orders 12291 and 12612, the Paperwork Reduction Act, and the Regulatory Flexibility Act, because section 115(a)(2) of the MMPA requires listing decisions to be based solely on the basis of the best scientific information available.

A designation of depletion in this instance, which is similar to a listing action under ESA section 4(a), is categorically excluded by NOAA Administrative Order 216–6 from the requirement to prepare an environmental assessment or an environmental impact statement under the National Environmental Policy Act.

References

References are provided upon request, see **ADDRESSES.**

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Imports, Indians, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

Dated: August 20, 1993.

Gary Matlock,

Acting Deputy Assistant Administrator For Fisheries.

For the reasons set out in the preamble, 50 CFR part 216 is amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. In § 216.15, a new paragraph (e) is added to read as follows:

§ 216.15 Depleted species.

(e) Eastern spinner dolphin (*Stenella longirostris orientalis*).

[FR Doc. 93–20692 Filed 8–25–93; 8:45 am]
BILLING CODE 3510–22–M

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50 CFR Part 285

[Docket No. 920407–2519; ID# 081993A]

Atlantic Tuna Fisheries; Atlantic Bluefin Tuna

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure of the school Atlantic bluefin tuna component of the Angling category in waters off Delaware and states south.

SUMMARY: NMFS closes the fishery for school Atlantic bluefin tuna conducted by Angling category fishermen in the waters off Delaware and states south. Closure of this fishery is necessary because the annual adjusted quota of 61.5 metric tons (mt) of school Atlantic bluefin tuna allocated for this subcategory in waters off Delaware and states south has been attained. The intent of this action is to prevent overharvest of the quota established for this fishery.

EFFECTIVE DATE: The closure is effective from 0001 hours local time August 23 through December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Kevin B. Foster, 508–281–9260, or Aaron E. King, 301–713–2347.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) regulating the harvest of Atlantic bluefin

tuna by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285.

Section 285.22(d)(2) of the regulations provides for an adjusted annual quota of 61.5 mt of school Atlantic bluefin tuna to be harvested from waters off Delaware and states south by individuals in the Angling category. The Assistant Administrator for Fisheries, NOAA (AA), is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the catch of Atlantic bluefin tuna will equal any quota under § 285.22. The AA is further authorized under § 285.20(b)(1) to prohibit fishing for, or retention of, Atlantic bluefin tuna by those fishing in the category subject to the quota when the catch of tuna equals the quota established under § 285.22. The AA has determined, based on the reported catch, that the adjusted annual quota of school Atlantic bluefin tuna for those fishing in waters off Delaware and states south will be attained by August 23, 1993. Fishing for, retaining, or possessing any school Atlantic bluefin tuna in the closed area must cease at 0001 hours local time on August 23, 1993. In addition, landing any school Atlantic bluefin tuna in or from the closed area is prohibited.

Classification

This action is required by 50 CFR 285.20(b)(1) and complies with E.O. 12291.

Authority: 16 U.S.C. 971 *et seq.*

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: August 20, 1993.

Richard H. Schaefer,

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

[FR Doc. 93–20657 Filed 8–20–93; 4:43 pm]

BILLING CODE 3510–22–P

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50 CFR Part 625

[Docket No. 930815–3215; I.D. 080593F]

Summer Flounder Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule.

SUMMARY: The Secretary of Commerce (Secretary) amends the regulations implementing the Summer Flounder Fishery Management Plan (FMP). This emergency interim rule allows two or more states, under mutual agreement and with the concurrence of the Regional Director, to transfer or combine summer flounder commercial quota. It is designed to prevent adverse economic and social impacts that would otherwise result in substantial damage to portions of the commercial fishing industry for summer flounder.

EFFECTIVE DATE: This emergency interim rule is effective from August 23, 1993, through November 24, 1993.

ADDRESSES: Copies of documents supporting this action, including the environmental assessment, may be obtained from: Richard B. Roe, Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930–3799.

FOR FURTHER INFORMATION CONTACT: Hannah Goodale, Fishery Policy Analyst, 508–281–9101.

SUPPLEMENTARY INFORMATION: The summer flounder fishery is managed under the FMP, which was developed jointly by the Atlantic States Marine Fisheries Commission (ASMFC) and the Mid-Atlantic Fishery Management Council (Council) in consultation with the New England and South Atlantic Fishery Management Councils. The management unit for the FMP is summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the Canadian border. Implementing regulations are authorized by the Magnuson Fishery Conservation and Management Act (Magnuson Act), and are found at 50 CFR part 625. The regulations were amended on November 30, 1992 (57 FR 57358, December 4, 1992) by the final rule to implement Amendment 2 to the FMP, and on August 26, 1993 (58 FR 40072, July 27, 1993), by the final rule to implement Amendment 3 to the FMP. These regulations imposed several management measures, including an annual commercial quota allocated to the states on a percentage basis.

This action is consistent with items (2) and (3) within the description of "Emergency Justification" of the Policy Guidelines for the Use of Emergency Rules published at 57 FR 375 on January 6, 1992, to address economic and social issues which require immediate action that would otherwise result in substantial damage to portions of the commercial fishing industry in the summer flounder fishery.

Background

The summer flounder resource has been managed since 1988 under an FMP developed jointly by the Council and ASMFC. Amendment 2 to the FMP enacted comprehensive management measures that include an annual commercial quota. The total annual quota is divided among eleven coastal states on a percentage basis, with the percentages based on average state shares of the annual coastwide total of commercial landings for the period 1980–1989. State percentage shares of the quota are based on these historic landings so that each state receives an initial allocation in the same proportion as past landings to overall landings for the period 1980–1989.

In recent years, however, vessel landing patterns have changed, in some cases significantly, from the period of time used to establish the state allocations. In response to this, state fisheries agencies have requested an FMP change to enable them to transfer or combine quota with NMFS approval. At its July meeting, the Council voted to adopt Amendment 5 to the Summer Flounder FMP to enact this change. The Council also voted to request emergency implementation of Amendment 5 in order to allow the State of Virginia the opportunity to seek a quota transfer prior to implementation of Amendment 5.

Data indicate that the amount of summer flounder landed in Virginia by vessels from North Carolina has increased steadily through the period 1990–93. It appears that concerns about the safety of passage through Oregon Inlet (the passage into Albermarle Sound and such traditional ports as Wanchese) have caused vessels to land in Virginia rather than North Carolina more frequently than in the past. In addition, in 1992 and 1993 vessels fished farther north than usual to avoid the requirement to use turtle excluder devices (TEDs) in the waters off of North Carolina. Many of these vessels landed in Virginia.

Virginia subdivided its State quota into quarterly quotas. This change caused the first quarter quota to be harvested quickly. The State transferred quota from its fourth quarter to allow the fishery to remain open. Recent landings projections indicate that the fourth quarter quota will be harvested in less than a week after opening of the fishery on October 1. The Council has requested emergency action to enable states to transfer or combine quota. This emergency action would enable Virginia to seek a quota transfer from another state and prevent needless economic harm to the Virginia industry while Amendment 5 proceeds.

A quota transfer or combination transaction will require separate

requests from two or more states. One state or more will agree to transfer a certain amount of quota and another state or more will agree to accept the same amount. The requests are to be conveyed in writing to the Regional Director and must be signed by an appropriate official of the state involved. The Regional Director will consider the requests under the criteria outlined in § 625.20(f) and will notify the states making the request of the disposition of it within ten working days of the written submission.

The transfer or combination of quota does not revise the coastwide commercial quota or alter the handling of quota overages specified in § 625.20(d) (2) and (3). Transfers and combinations remain in effect only for the calendar year of enactment.

In the case of quota transfer, the recipient state will be responsible for a quota overage and it will be deducted from the following year's quota for that state. In the case of quota combination, an overage will be deducted in the following year from the quotas of all participant states, with the deduction made in the same proportion as their contribution to the combined quota. For example, states A and B combine quota, with state A contributing 70 percent and state B contributing 30 percent of the combined quota amount. If there is a quota overage, 70 percent of the overage will be deducted from the following year's quota for state A and 30 percent will be deducted from the following year's quota for state B.

Classification

The Secretary has determined that this rule is necessary to respond to an emergency situation and is consistent with the Magnuson Act and other applicable law.

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

This rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior public comment.

The Secretary finds for good cause that the reasons justifying promulgation of this rule on an emergency basis also make it impracticable and contrary to the public interest to provide notice and opportunity for comment or to delay for 30 days the effective date of these emergency regulations under the provisions of section 553 (b) and (d) of the Administrative Procedure Act. Failure to implement emergency measures would preclude state transfers of quota that could be made to prevent premature closure of the fishery in Virginia in October and needlessly harm the fishing industry in that State.

List of Subjects in 50 CFR Part 625

Fisheries, Reporting and recordkeeping requirements.

Dated: August 20, 1993.

Gary Matlock,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR part 625 is temporarily amended from August 23, 1993, through November 24, 1993.

PART 625—SUMMER FLOUNDER FISHERY

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

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

2. Section 625.20(f) is added to read as follows:

§ 625.20 Catch quotas and other restrictions.

* * * * *

(f) *Quota transfers and combinations.* Any state implementing a state commercial quota for summer flounder may apply to the Regional Director to transfer part or all of its annual quota to one or more states. Two or more states implementing a state commercial quota for summer flounder may apply to the Regional Director to combine their quotas, or part of their quotas, into an overall regional quota. Applications for transfer or combination of commercial quotas for summer flounder must be in writing and signed by the principal state official with marine fishery management responsibility and expertise, or his/her previously named designee, for each state involved. The application must certify that all pertinent state requirements have been met. Each letter must contain the name of each state involved in the transaction and the amount of quota to be transferred. Any transfer or combination made pursuant to this paragraph is valid only for the calendar year in which it is made and does not alter any state's percentage share of the overall quota specified in paragraph (d) of this section.

(1) Within ten working days following receipt of an application, the Regional Director must notify the appropriate state officials of the disposition of the request. The Regional Director will consider the following criteria in the evaluation of requests to transfer or combine quota.

(i) The transfer or combination will not preclude the overall annual quota from being fully harvested;

(ii) The transfer addresses an unforeseen variation or contingency in the fishery; and

(iii) The transfer is consistent with the objectives of the FMP and Magnuson Act.

(2) The transfer or combination of quota will be effective upon filing a notification with the Office of the Federal Register.

(3) A state may not submit a request to transfer or combine quota if a request to which it is party is pending before the Regional Director. It may submit a new request when it receives notice that the Regional Director has disapproved the previous request or when notification of the transfer or combination of quota has been filed at the **Federal Register.**

(4) If states combine quota and there is a quota overage for the states involved in the combination of quota, at the end of the fishing year, the overage will be deducted from the following year's quota for each of the states involved in the combined quota. The deduction will be proportional, based on each state's relative share of the combined quota for the previous year.

[FR Doc. 93–20699 Filed 8–23–93; 12:57 pm]

BILLING CODE 3510–22–M

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50 CFR Part 675

[Docket No. 921185–3021; I.D. 082393A]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure

SUMMARY: NMFS is closing directed fishing for pollock by operators of trawl vessels using nonpelagic trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the total 1993 Pacific halibut bycatch mortality allowance for the trawl pollock/Atka mackerel/"other species" fishery has been reached.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), August 25, 1993, through 12 midnight, A.l.t., December 31, 1993.

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

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the

Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The 1993 Pacific halibut bycatch mortality allowance for the trawl pollock/Atka mackerel/"other species" fishery, which is defined at § 675.21(b)(1)(iii)(F), is 1,257 metric tons (58 FR 14524, March 18, 1993).

The Director of the Alaska Region, NMFS, has determined, in accordance with § 675.21(c)(1)(iv), that the 1993 Pacific halibut bycatch mortality allowance for the trawl pollock/Atka mackerel/"other species" fishery has been reached. Therefore, NMFS is prohibiting directed fishing for pollock by trawl vessels using nonpelagic trawl gear, in the BSAI from 12 noon, A.l.t., August 25, 1993, through 12 midnight, A.l.t., December 31, 1993.

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

Classification

This action is taken under § 675.21 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: August 23, 1993.

David S. Crestin,

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

[FR Doc. 93–20743 Filed 8–25–93; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 58, No. 164
Thursday, August 26, 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.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 122

Business Loans—Defense Economic Assistance

AGENCY: Small Business Administration (SBA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation would implement section 7(a)(21) of the Small Business Act ("Act"), enacted on September 4, 1992, which authorizes SBA to make or guarantee loans to businesses which have been detrimentally affected by the closure or substantial reduction of a Department of Defense installation.

DATES: Comments must be submitted on or before September 27, 1993.

ADDRESSES: Comments may be mailed to Charles R. Hertzberg, Assistant Administrator for Financial Assistance, Small Business Administration, 409 3rd Street SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Charles R. Hertzberg, 202/205–6490.

SUPPLEMENTARY INFORMATION: Section 7(a)(21) of the Act (Pub. L. 102–366, 106 Stat. 997—998, 15 U.S.C. 636(a)(21)) was enacted on September 4, 1992. Under this proposed regulation SBA would make direct or guaranteed loans to assist a small business concern that has been, or can reasonably be expected to be, detrimentally affected by the closure or substantial reduction of a Department of Defense (DOD) installation. SBA would also be authorized to assist an eligible business detrimentally affected by the termination, or substantial reduction, of a DOD program on which such small business was a prime contractor or subcontractor (or supplier) at any tier.

Under this proposed regulation, the Agency would also be authorized to make or guarantee loans to a qualified individual who seeks to establish, or acquire, and operate a small business concern in an area that has been or can reasonably be expected to be detrimentally affected by such closure or substantial reduction. For purposes of this subsection of the Act, "qualified individual" would be defined to be: (1) A member of the Armed Forces of the United States, honorably discharged from active duty involuntarily or pursuant to a program providing bonuses or other inducements to encourage voluntary separation or early retirement; or (2) a civilian DOD employee involuntarily separated from Federal service or retired pursuant to a program offering inducements to encourage early retirement; or (3) an employee of a prime contractor, subcontractor, or supplier at any tier of a DOD program whose employment is involuntarily terminated (or voluntarily terminated pursuant to a program offering inducements to encourage voluntary separation or early retirement) due to the termination (or substantial reduction) of a DOD program.

In recognition that greater risk may be associated with a loan to an applicant under this program, the proposed rule would resolve any reasonable doubts concerning the small business concern's proposed business loan for transition to nondefense-related markets in favor of the loan applicant when SBA makes any determination regarding the sound value of the proposed loan. In order to determine "sound value", SBA will consider such factors as quality of the product or service, technical qualifications of the applicant's management and employees, sales projections and the applicant's financial status.

Because the Act requires SBA to resolve any credit doubts in favor of the loan applicant under this program, the proposed regulation would not authorize any loan under this program to be made under the certified lenders program (where the lender is entitled to a three day review by SBA) or the preferred lenders program (where the lender has authority to commit the Agency's guaranty without submitting any paperwork to SBA for review).

Compliance With Executive Orders 12291, 12612, and 12778, the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., and the Paperwork Reduction Act, 44 U.S.C. ch. 35.

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, SBA certifies that this proposed rule, if promulgated in final form, will not have a significant impact on a substantial number of small entities.

SBA certifies that this proposed rule, if promulgated in final, will not constitute a major rule for the purposes of Executive Order 12291, since the proposed changes are not likely to result in an annual effect on the economy of $100 million or more.

The proposed rule, if promulgated in final, would not impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. chapter 35.

This proposed rule, if promulgated as final, would not have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

Further, for purposes of Executive Order 12778, SBA certifies that this proposed rule, if promulgated in final, is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of that Order.

(Catalog of Federal Domestic Assistance Programs, No. 59.012, Small business loans.)

List of Subjects in 13 CFR Part 122

Loan programs—business.

Pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA proposes to amend Part 122, chapter I, title 13, Code of Federal Regulations, as follows:

PART 122—BUSINESS LOANS

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

Authority: 15 U.S.C. 634(b)(6), 636(a), 636(m).

2. New §§ 122.62 through 122.62–4 would be added to added as follows:

§ 122.62 Defense Economic Transition Assistance Under Section 7(a)(21) of the Act.

§ 122.62–1 General rule.

(a) *Business.* The Act authorizes SBA to make direct or guaranteed loans to assist a small business concern that has been (or can reasonably be expected to be) detrimentally affected by:

(1) *Closure.* The closure (or substantial reduction) of a Department of Defense installation; or

(2) *Termination.* The termination (or substantial reduction) of a Department of Defense program on which such

small business was a prime contractor or subcontractor (or supplier) at any tier.

(b) *Qualified Individual.* Under this program, SBA is authorized to make direct or guaranteed loans to a qualified individual who seeks to establish (or acquire) and operate a small business concern.

§ 122.62–2 Qualified Individual.

Qualified individual, for purposes of this program, is:

(a) *Military Status.* A member of the Armed Forces of the United States, honorably discharged from active duty involuntarily or pursuant to a program providing bonuses or other inducements to encourage voluntary separation or early retirement; or

(b) *Civilian Status.* A civilian employee of the Department of Defense involuntarily separated from Federal service or retired pursuant to a program offering inducements to encourage early retirement; or

(c) *Contractor or Supplier.* An employee of a prime contractor, subcontractor, or supplier at any tier of a Department of Defense program whose employment is involuntarily terminated (or voluntarily terminated pursuant to a program offering inducements to encourage voluntary separation or early retirement) due to the termination (or substantial reduction) of a Department of Defense program.

§ 122.62–3 Repayment ability.

Recognizing that greater risk may be associated with a loan to an applicant under this program, any reasonable doubts concerning the small business concern's proposed business plan for transition to nondefense-related markets shall be resolved in favor of the loan applicant when making any determination regarding the sound value of the proposed loan. In order to determine "sound value", SBA will consider such factors as quality of the product or service, technical qualifications of the applicant's management and employees, sales projections and the applicant's financial status.

§ 122.62–4 Loan Making Authority.

Any defense economic assistance loan made by a participating lender cannot be made under the Certified Lenders Program pursuant to part 120, subpart E of these regulations, or under the Preferred Lenders Program pursuant to part 120, subpart D of these regulations.

Dated: July 30, 1993.

Erskine B. Bowles,

Administrator.

[FR Doc. 93–20389 Filed 8–25–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 93–ASO–13]

Proposed Establishment of Class E Airspace; Courtland, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at Courtland, Alabama. A Standard Instrument Approach Procedure (SIAP) for Runway 13 at the Industrial Airpark has been developed and controlled airspace from 700 feet to 1200 feet AGL is needed to contain IFR operations at the airport. The intended effect of this proposal is to provide adequate Class E airspace to contain IFR operations within controlled airspace. If approved, the operating status of the airport would change from VFR operations to include IFR operations concurrent with publication of the SIAP.

DATES: Comments must be received on or before: November 10, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 93–ASO–13, Manager, System Management Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, room 652, 3400 Norman Berry Drive, East Point, Georgia 30344; telephone (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Patterson, Airspace Section, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia; telephone (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–ASO–13." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, System Management Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of the Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Courtland, Alabama. A SIAP based on the Muscle Shoals Very High Frequency Omnidirectional Range (VOR) has been established to serve the Industrial Airpark Airport. Controlled airspace extending from 700 feet to 1200 feet AGL is needed to contain IFR operations at the airport. The intended effect of this proposal is to provide adequate Class E airspace for IFR operators executing the VOR Rwy 13 SIAP at Industrial Airpark Airport. The coordinates for this airspace docket are based on North American Datum 83. Designations for Class E airspace extending upward from 700 feet or more above the surface are published in paragraph 6005 of FAA Order 7400.9A dated June 17, 1993 and effective September 16, 1993, which is incorporated by reference in 14 CFR

71.1 effective September 16, 1993 (58 FR 36298, July 6, 1993). The Class E airspace designation listed in this document would be published subsequently in the Order. If approved, the operating status of the airport would change from VFR operations to include IFR operations concurrent with publication of the SIAP.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 in effect as of September 16, 1993, as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Para. 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO AL E5 Courtland, AL [New]

Industrial Airpark, Airport, AL
(lat. 34°39'46" N, long. 87°20'30" W)

That airspace extending upward from 700 feet above the surface within 6.5-mile radius of the Industrial Airpark Airport, excluding that airspace within the Muscle Shoals Class E airspace.

* * * * * *

Issued in East Point, Georgia, on August 12, 1993.

Walter E. Denley,

Acting Manager, Air Traffic Division Southern Region.

[FR Doc. 93–20681 Filed 8–25–93; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Ch. I

Implementing the Mammography Quality Standards Act of 1992—Roles in Improving Mammography Services; Public Conference

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public conference.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public conference to discuss the development of mammography quality standards as required under the Mammography Quality Standards Act of 1992 (the MQSA). FDA intends to issue regulations to implement the MQSA to ensure safe, reliable, and accurate mammography on a nationwide level.

DATES: The public conference will be held on September 20 and 21, 1993, from 8 a.m. to 5 p.m., and on September 22, 1993, from 8 a.m. to 1 p.m. Plenary sessions, September 20, 1993, 9 a.m. to 12 m., and September 22, 1993, 8 a.m. to 1 p.m.; breakout sessions, September 20, 1993, 1:30 p.m. to 5 p.m., and September 21, 1993, 9 a.m. to 5 p.m. Registration is required by September 13, 1993.

ADDRESSES: The public conference will be held at the Sheraton Reston Hotel, 11810 Sunrise Valley Dr., Reston, VA 22091. For registration materials, contact Sociometrics, Inc., 8300 Colesville Rd., suite 550, Silver Spring, MD 20910, 301–608–2151 or 1–800–729–0890 (FAX 301–608–3542). There is a registration fee of $60.00. Conference facility space is limited; therefore, interested persons should preregister by September 13, 1993. Public participation is welcomed.

FOR FURTHER INFORMATION CONTACT: Amy S. Birgensmith, Center for Devices and Radiological Health, Food and Drug Administration (HFZ–240), rm. 216, 1901 Chapman Ave., Rockville, MD 20857, 301–443–2436.

SUPPLEMENTARY INFORMATION: Enacted by Congress in October 1992, the MQSA is intended to ensure that mammography is reliable and safe. The MQSA makes it unlawful for any facility to provide mammography services after October 1, 1994, unless it is accredited by an approved, private, nonprofit organization or State body and has received Federal certification. The MQSA requires the development of quality standards relating to equipment and personnel for all mammography facilities, the accreditation and certification of each facility, and annual inspections to ensure compliance.

In June 1993, FDA was delegated authority for implementing the MQSA. FDA's Center for Devices and Radiological Health is responsible for implementation of the MQSA.

Major topics planned for discussion include: (1) The MQSA's scope, intent, and purpose; (2) FDA's plans for implementation; and (3) development of quality standards as aforementioned. Time will be provided for conference participants to identify issues and make recommendations for incorporation into the drafting of quality standards. Agenda items are subject to change as priorities dictate.

Public discussion at this meeting is intended to lay the groundwork for more extensive consideration of the quality standards by the National Mammography Quality Assurance Advisory Committee, as required by MQSA. FDA is in the process of soliciting nominations for advisory committee membership (58 FR 41793, August 5, 1993) and expects to hold the first advisory committee meeting later this calendar year.

Dated: August 20, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–20632 Filed 8–25–93; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[FI–22–92]

RIN 1545–AR10

Dividends Received Deduction Holding Period Reduced for Periods Where Risk of Loss Diminished; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations that would determine when a taxpayer must reduce its holding period of stock for purposes of the dividends received deduction because it has diminished its risk of loss by holding a position in substantially similar or related property.

DATES: The public hearing will be held on Wednesday, September 28, 1993, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Tuesday, September 14, 1993.

ADDRESSES: The public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Requests to speak and outlines of oral comments should be submitted to the Internal Revenue Service, P.O. Box 7604 Ben Franklin Station, Attn: CC:DOM:CORP:T:R [FI–22–92], room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), 202–622–7190, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 246(c)(4)(C) of the Internal Revenue Code. These proposed regulations appeared in the **Federal Register** for Thursday, May 27, 1993 (58 FR 30727).

The rules of § 601.601 (a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Tuesday, September 14, 1993, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Jackie Burgess,

Alternate Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–20513 Filed 8–25–93; 8:45 am]

BILLING CODE 4830–01–P

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26 CFR Part 48

[PS–52–93]

RIN 1545–AR92

Diesel Fuel Excise Tax

AGENCY: Internal Revenue Service, Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice invites written comments from the public on issues that the Internal Revenue Service may address in proposed regulations relating to the dyeing of diesel fuel destined for a nontaxable use. All materials submitted will be available for public inspection and copying.

DATES: Written comments must be submitted by September 27, 1993.

ADDRESSES: Send comments to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, room 5228, Attn: CC:DOM:CORP:T:R (PS–52–93), Washington, DC 20044. In the alternative, comments may be hand delivered to: CC:DOM:CORP:T:R (PS–52–93), Internal Revenue Service, room 5228, 1111 Constitution Ave., NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Frank Boland, (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 13242 of the Omnibus Budget Reconciliation Act of 1993 revises the federal diesel fuel tax, effective January 1, 1994. Generally, under revised section 4081 of the Internal Revenue Code, the diesel fuel tax will be imposed in the same manner as the present gasoline excise tax. However, tax will not apply to diesel fuel that the Secretary determines is destined for a nontaxable use and that is indelibly dyed (or dyed and marked) in accordance with regulations that the Secretary prescribes.

The Service invites comments from the public on any issue that should be addressed in regulations relating to the federal diesel fuel tax. The Service is particularly interested in receiving comments on the following matters.

1. The type (or types) and concentration of dye to be used to identify diesel fuel destined for a nontaxable use.

2. The type and concentration of markers (if any) to be added to diesel fuel destined for a nontaxable use.

3. Whether the dye used in the Environmental Protection Agency's diesel desulfurization program to identify high-sulfur diesel fuel also should be allowed to be used to identify low-sulfur diesel fuel destined for a nontaxable use.

4. The type of labeling that should be required on retail diesel fuel pumps and other delivery facilities where dyed fuel is dispensed.

5. Any additional rules that are needed to assure that buyers and sellers of diesel fuel will know whether the fuel is dyed, including rules regarding coding of invoices, recordkeeping, information reporting, etc.

Stuart Brown,

Associate Chief Counsel (Domestic).

[FR Doc. 93–20621 Filed 8–25–93; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–4698–3]

Hazardous Air Pollutant List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt of petition.

SUMMARY: This document documents the receipt of a petition by AlliedSignal, Inc, BASF Corporation, and DSM Chemicals North America, Incorporated, to remove the compound caprolactam (CAS No. 105–60–2) from the Hazardous Air Pollutant list in section 112(b)(1), 42 U.S.C. 7412(b)(1). The EPA has determined that the data submitted in this petition will support an assessment of risks associated with the current peak and annual average emissions and related exposures to the people living in the vicinity of caprolactam emitting facilities. In addition, the submitted data will support an assessment of the environmental impacts associated with emissions to the ambient air and impacts associated with the subsequent cross-media transport of those emissions. The EPA must respond to this petition within 18 months. Comments will be solicited at the time of proposal of the decision on the petition. With this document, the EPA is formally announcing an open request for additional data, beyond that filed in the petition, on sources, emissions, exposure, health effects and environmental impacts associated with caprolactam.

DATES: Additional data will be accepted if received on or before October 25, 1993.

ADDRESSES: *Data Submissions:* Additional data should be submitted (in duplicate if possible) to: Pam J. Smith, Docket Clerk, Office of Air Quality Planning and Standards, MD–13, U.S. EPA, Research Triangle Park, North Carolina 27711.

Documents. A copy of the petition is available in room 922, 411 West Chapel Hill Street in Durham, North Carolina and will be available for public inspection and copying between 8:30 a.m. and 4:30 p.m. Eastern Standard Time (EST), Monday through Friday. A reasonable fee may be charged for copying. In addition, the industry has made copies of the petition available to the public in key locations where caprolactam is produced and used. The public may call the industry help line at 800–441–8784 between 8:30 a.m. and 4:30 p.m. EST, Monday through Friday for exact locations.

FOR FURTHER INFORMATION CONTACT: Dr. Nancy B. Pate, Pollutant Assessment Branch, Emission Standards Division (MD–13), U. S. EPA, Research Triangle Park, North Carolina 27711, telephone (919) 541–5347.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

Petitions to add or delete chemicals from the Hazardous Air Pollutant list are allowed under section 112(b)(3)(A) of the Clean Air Act, 42 U.S.C 7412(b)(3)(A). Any person may petition the Administrator to modify, by addition or deletion, the list of hazardous air pollutants. Based upon the information presented by the petitioner and any other pertinent information, the Administrator may grant or deny a petition. A petitioner seeking to delete a substance must provide information to demonstrate that there is adequate data on the health and environmental effects of the substance to determine that emissions, ambient concentrations, bioaccumulation, or deposition of the substance may not reasonably be anticipated to cause any adverse effects to human health or the environment through inhalation or other routes of exposure.

II. Background

On July 19, 1993 the EPA received a petition from AlliedSignal, Inc, BASF Corporation, and DSM Chemicals North America, Incorporation ("Petitioners"), to remove caprolactam (CAS No. 105–60–2) from the Hazardous Air Pollutant list in section 112(b)(1), 42 U.S.C. 7412(b)(1). After receipt of a petition, the EPA determines if the data submitted in the petition will support a valid risk assessment of the human health and environmental impacts associated emissions of a section 112(b)(1) listed pollutant. The EPA has determined that the data submitted in this petition will support an assessment of risks associated with the current peak and annual average emissions and related exposures to the people living in the vicinity of caprolactam emitting facilities. In addition, the submitted data will support an assessment of the environmental impacts associated with emissions to the ambient air and impacts associated with the subsequent cross-media transport of those emissions.

III. Description of Petition

The petition states that these Petitioners comprise 100 percent of the U.S. caprolactam producers and caprolactam by-product ammonium sulfate manufacturers, 88 percent of the Nylon 6 fiber producers, and 72 percent of the Nylon 6 plastic producers, and the only major supplier of Nylon 6 films. The petition contains the following information:

(A) Identification and location of all facilities producing or using caprolactam;

(B) Estimated current and future air emissions of caprolactam, atmospheric modeling and monitoring data supporting the estimation of peak short-term and annual average ambient concentrations, estimates of the number people potentially exposured to those concentrations and estimated deposition of caprolactam to the land and surface water.

(C) Documentation of a literature search conducted within 6 months prior to the petition filing, including identification of the data bases searched, the search strategy, and printed results.

(D) Printed copies of all human, animal, *in vitro*, or other toxicity studies cited in the literature search. In addition, the petition contains unpublished occupational health data and studies collected over 20 years at the AlliedSignal facility in Hopewell, Virginia.

(E) Printed copies of environmental effect data characterizing the fate of caprolactam when it is released into the atmosphere. This information includes atmospheric residence time, solubility, phase distribution, vapor pressure, octanol/water partition coefficient, particle size, adsorption coefficients, information on atmospheric transformations, potential degradation or transformation products, and bioaccumulation potential.

(F) List of all support documents in the petition.

IV. Petition Availability

A copy of the complete petition is available in room 922 at 411 West Chapel Hill Street, Durham, NC. It is available for public inspection and copying between 8:30 a.m. and 4:30 p.m. EST, Monday through Friday. A reasonable fee may be charged for copying. Contact the Docket Clerk at 919–541–5319 for access information on the electronic availability of a summary of the petition contents and the names and locations of the producers and users with the potential to emit caprolactam. In addition, the industry has made copies of the petition available to the public in key locations where caprolactam is produced and used. The public may call the industry help line at 800–441–8784 between 8 a.m. and 4:30 p.m. EST, Monday through Friday for exact locations.

V. Request for Additional Data

Comments will be solicited at the time of proposal of the decision on the petition. However, with this notice, the EPA is requesting, from the public any additional data, beyond that filed in the petition, on sources, emissions, exposure, health effects and environmental impacts. Data existing in the current petition should not be submitted. Additional data should be submitted (in duplicate if possible) to: The Docket Clerk, Office of Air Quality Planning and Standards, MD–13, Research Triangle Park, NC 27711. To determine what data have been filed in the petition and to avoid submitting duplicative data, the public may call the Docket Clerk at 919–541–5319 or the industry help line at 800–441–8784 between 8 a.m. and 4:30 p.m. EST, Monday through Friday.

(Authority: 42 U.S.C. 7412)

Dated: August 17, 1993.

Michael Shapiro,

Acting Assistant Administrator.

[FR Doc. 93–20597 Filed 8–25–93; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 300

[FRL–4697–8]

National Oil and Hazardous Substance Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete Mowbray Engineering Company site

from the National Priorities List (NPL): request for comments.

SUMMARY: EPA, Region IV, announces its intent to delete the Site from the NPL and requests public comment on this action. The NPL constitutes appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of Alabama have determined that all appropriate CERCLA actions have been implemented and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the State have determined that remedial activities conducted at the Site to date have been protective of public health, welfare, and the environment.

DATES: Comments on the Notice of Intent to Delete the Site from the NPL should be submitted no later than September 27, 1993.

ADDRESSES: Comments may be mailed to: Jane Stone Spann, Remedial Project Manager, South Superfund Remedial Branch, Waste Management Division, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Comprehensive information on this Site is available through the EPA Region IV public docket, which is located at EPA's Region IV office and is available for viewing by appointment only from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays. Requests for appointments or copies of the background information from the regional public docket should be directed to the EPA Region IV docket office.

The address for the regional docket office is: Ms. Debbie Jourdan, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, Telephone No.: (404) 347–2930.

Background information from the regional public docket is also available for viewing at the Site information repository located at the following address: Greenville Public Library, 309 Fort Dale Street, Greenville, Alabama 36037, (205) 382–3216.

FOR FURTHER INFORMATION CONTACT:

Ms. Jane Stone Spann, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 347–2643.

SUPPLEMENTARY INFORMATION:

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I. Introduction

EPA, Region IV, announces its intent to delete the Site from the NPL, which constitutes appendix B of the NCP, and requests comments on this proposed deletion. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed Remedial Actions in the event that conditions at the site warrant such action.

EPA will accept comments concerning this Site for thirty (30) calendar days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how the site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), releases may be deleted from the NPL where no further response is appropriate. In making this determination, EPA will consider, in consultation with the State, whether any of the following criteria have been met:

(i) EPA, in consultation with the State, has determined that responsible or other parties have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and EPA, in consultation with the State, has determined that no further cleanup by responsible parties is appropriate; or

(iii) Based on a remedial investigation, EPA, in consultation with the State, has determined that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

In addition to the above, for all Remedial Actions which result in hazardous substances, pollutants, or contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure, it is EPA's policy to review all remedial actions at a site and ensure that all appropriate action has been taken to ensure that the site remains protective of public health and the environment, and meets EPA's deletion criteria as outlined on the previous page. EPA must also assure that five-year reviews will continue to be conducted at the site until no hazardous substances, pollutants, or contaminants remain above levels that allow for unlimited use and unrestricted exposure. States may conduct five-year reviews under/pursuant to Cooperative Agreements or Superfund State Contracts with EPA, and submit five-year review reports to EPA.

III. Deletion Procedures

EPA Region IV will accept and evaluate public comments before making a final decision to delete. Comments from the local community may be the most pertinent to deletion decisions. The following procedures were used for the intended deletion of this Site:

(1) EPA has agreed to conduct five-year reviews at this Site. (2) EPA has recommended deletion and has prepared the relevant documents. (3) The State has concurred with the deletion decision. (4) Concurrent with this National Notice of Intent to Delete, a local notice has been published in local newspapers and has been distributed to appropriate federal, state, and local officials, and other interested parties. (5) The Region has made all relevant documents available in the Regional Office and local Site information repository.

Deletion of a site from the NPL does not itself, create, alter, or revoke any individual rights or obligations. The NPL is designated primarily for information purposes and to assist Agency management. As mentioned in Section II of this Notice, 40 CFR 300.425(e)(3) states that deletion of a site from the NPL does not preclude eligibility for future Fund-financed response actions.

The comments received during the notice and comment period will be evaluated before the final decision to delete. The Region will prepare a Responsiveness Summary, which will address the comments received during the public comment period.

A deletion occurs after the EPA Regional Administrator places a notice in the **Federal Register**. The NPL will reflect any deletions in the next final update. Public notices and copies of the Responsiveness Summary will be made available to local residents by Region IV.

IV. Basis for Intended Site Deletion

The following Site summary provides the Agency's rationale for the intention to delete this Site from the NPL.

The Site is located approximately 40 miles southwest of Montgomery in the town of Greenville, Alabama. The Site encompasses a 2.7 acre tract situated diagonally across from the now bankrupt Mowbray Engineering Company (MEC) facility at 300 Beeland Street, Greenville. The MEC facility repaired and reconditioned electrical transformers, and from 1955 to 1974, emptied waste Polychlorinated Biphenyl (PCB) transformer oil on the ground behind the plant. The contaminated oil entered a stormwater drainage system which discharged into a swamp across Beeland Street to the southwest of the property. In 1974, MEC began collecting the waste oil for recycling in underground storage tanks located in the rear of the property. In 1985, the company, and its owner, Norman Parker, filed bankruptcy petitions under Chapter 7 of the U.S. Bankruptcy Code.

The Site was proposed for addition to the National Priorities List (NPL) in **Federal Register** 47 FR 58476, on December 30, 1982, after major fish kills, in 1975 and 1980, and a removal action in August, 1981. The U.S. EPA performed extensive sampling in February, 1981, which determined the extent of the PCB contamination in the soil, and resulted in the removal action. The Hazard Ranking System listed groundwater as the main concern at the site due to a nearby inactive public water supply well. Final listing was published in **Federal Register**, No. 47 FR 40658, on September 8, 1983.

In 1985, the EPA contracted Camp, Dresser, and McKee to complete a Remedial Investigation and Feasibility Study (RI/FS) to determine the nature and extent of the contamination and to explore potential remedies. The results of the Remedial Investigation concluded that PCBs were the only contaminant of concern, although low levels of phenols, chloroform, dichloroethane, and trichloroethanes were detected. The PCB's were detected in groundwater sampling at 2.4 µg/1, considerably above the MCL level of 0.5 µg/1 for groundwater.

The Record of Decision (ROD), issued by EPA, Region IV, on September 25, 1986, selected alternatives consistent with the recommendation in the Feasibility Study. The alternative selected included the following: Excavation, removal, and disposal of the underground storage tanks located on the MEC property; treatment and storage of the waste oils in the swamp and in the tanks; drainage diversion of surface runoff into the swamp; excavation of soils with PCB's above 25 ppm with either off-site incineration, on-site incineration, or on-site solidification/stabilization (incineration with an infrared incinerator was the preferred option); grading and revegetation; proper closure of the abandoned city water well; and operation and maintenance activities including the diversion ditches, revegetated area, and possibly monitoring the solidified matrix.

EPA community relations activities at the Site included a public meeting held in 1986 announcing the Agency's Proposed Plan for Remediation at the Site. Public comments received during a 30-day comment period were received and addressed in the Responsiveness Summary. The EPA issued a press release in the local newspaper in the summer of 1987, notifying the public that the Remedial Action phase of the project was beginning. Throughout the construction period, nearby residents were kept informed as to project schedules and potential temporary construction nuisances.

Remedial activities were begun by HazTech on June 6, 1987, and construction completed on August 20, 1987. Remedial activities at the site included solidification/stabilization of approximately 2500 cubic yards of PCB contaminated soil (monolith), capping the resulting monolith, construction of a diversion ditch, fencing off the swamp area, grading and revegetating the swamp area, closure of the abandoned city well, excavation, removal, and disposal of the underground storage tanks, removal of abandoned transformers, disposal/treatment of all waste oils. Confirmatory sampling was conducted after each segment of the RA and confirmed that cleanup goals of less than 25 ppm had been achieved.

The State did not concur in EPA's selection of remedy and, therefore, there was no agreement for the conduct of Operation and Maintenance at the Site. EPA unsuccessfully tried to enlist the county to undertake Operation & Maintenance (O&M). In November, 1988, while struggling with the issue of O&M and an acceptable way to delist the site, EPA uncovered thousands of invoices which evidenced extensive business dealings between MEC and approximately 100 businesses engaged in electric power generation. On December 12, 1988, notice/information request/demand letters were issued to Potentially Responsible Parties (PRPs) which led to the formation of a steering committee. An agreement was reached in principle in December, 1989, and a Consent Decree signed in October, 1990, requiring the PRPs to perform O&M activities.

It is EPA's policy to conduct consecutive Five Year Reviews if hazardous materials remain on site above the levels that allow unlimited use and unrestricted exposure. The first Five Year Review of the Site was conducted by Roy F. Weston, Inc. and documented in a report dated February, 1993. This report found that the remedial activities appeared to be performing well with structures in good condition and PCB contamination remaining controlled within the solidified matrix and cover material. The PRPs continue to perform O&M activities as required by the ROD and Consent Decree and recommended in the Five-Year Review. The next Five-Year Review will be conducted before June 30, 1997. EPA, with concurrence of the State, has determined that all appropriate Fund-financed responses under CERCLA at the Site have been completed, and that no further cleanup by responsible parties is appropriate.

Dated: July 26, 1993.

John R. Barker,

Acting Regional Administrator, USEPA Region IV.

[FR Doc. 93–20730 Filed 8–25–93; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket No. 93–233; DA 93–992]

Cable Television Service; List of Major Television Markets

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission invites comments on its proposal, initiated by a request filed by Agape Church, Inc. ("Agape"), to amend the Commission's Rules to change the designation of the Little-Rock, Arkansas television market to include the community of Pine Bluff, Arkansas. This action is taken to test the proposal for market hyphenation through the record established based on comments filed by interested parties.

DATES: Comments are due on or before September 23, 1993, and reply comments are due on or before October 8, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Alan E. Aronowitz, Mass Media Bureau, Policy and Rules Division, (202) 632–7792 or James A. Hudgens, Office of Plans and Policy, (202) 653–5940.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–233, adopted August 9, 1993, and released August 19, 1993. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Washington, DC 20037.

Synopsis of the Notice of Proposed Rule Making

1. The Commission, in response to a Petition for Rulemaking filed by Agape Church, Inc., licensee of KVTN(TV), Pine Bluff, Arkansas, proposed to amend Section 76.51 of the Rules to change the designation of the Little-Rock, Arkansas television market to include the community of Pine Bluff, Arkansas.

2. In evaluating past requests for hyphenation of a market, the Commission has considered the following factors as relevant to its examination: (1) The distance between the existing designated communities and the community proposed to be added to the designation; (2) whether cable carriage, if afforded to the subject station, would extend to areas beyond its Grade B signal coverage area; (3) the presence of a clear showing of a particularized need by the station requesting the change of market designation; and (4) an indication of benefit to the public from the proposed change. Each of these factors helps the Commission to evaluate individual market conditions consistent "with the underlying competitive purpose of the market hyphenation rule to delineate areas where stations can and do, both actually and logically, compete."

3. Based on the facts presented, the Commission believes that a sufficient case for redesignation of the subject market has been set forth so that this proposal should be tested through the rulemaking process, including the comments of interested parties. It appears from the information before us that Station KVTN and stations licensed to communities in the Pine Bluff and Little Rock television markets do compete for audiences and advertisers throughout much of the proposed combined market area, and that sufficient evidence has been presented tending to demonstrate commonality between the proposed community to be added to a market designation and the market as a whole. Moreover, Agape's proposal appears to be consistent with the Commission's policies regarding redesignation of a hyphenated television market.

Initial Regulatory Flexibility Analysis

4. The Commission certify that the Regulatory Flexibility Act of 1980 does not apply to this rulemaking proceeding because if the proposed rule amendment is promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. A few television licensees will be affected by the proposed rule amendment. The Secretary shall send a copy of this Notice of Proposed Rule Making, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Public Law No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

Ex Parte

5. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, provided they are disclosed as provided in the Commission's Rules. *See generally* 47 CFR 1.1202, 1.1203 and 1.1206(a).

Comment Dates

6. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before September 23, 1993, and reply comments on or before October 8, 1993. All relevant and timely comments will be considered before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

7. Accordingly, this action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by § 0.283 of the Commission's Rules.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 93–20691 Filed 8–25–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB97

Endangered and Threatened Wildlife and Plants; Proposed Reclassification of Mirabilis Macfarlanei (MacFarlane's Four-o'clock) From Endangered to Threatened Status

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to reclassify the plant *Mirabilis macfarlanei* (MacFarlane's four-o'clock), a species listed as endangered in 1979, from endangered to threatened status. This action is proposed due to improvement in the status of this species and the discovery of additional colonies. *Mirabilis macfarlanei* now occurs in 18 colonies in Idaho and Oregon. In addition, the species meets the minimum goals for reclassification identified in the *Mirabilis macfarlanei* Recovery Plan. This rule is proposed under the Endangered Species Act of 1973 as amended (Act), and is based on a review of all information currently available for the species. The proposed change in classification reflects an improvement in status and will not significantly alter the protection of this species under the Act. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by October 25, 1993. Public hearing requests must be received by October 12, 1993.

ADDRESSES: Comments should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, 4696 Overland Road, room 576, Boise, Idaho 83705. The complete file for this proposed rule is available for public inspection by appointment, during normal business hours, at the same address.

FOR FURTHER INFORMATION CONTACT: Robert L. Parenti, at the above address (208–334–1931).

SUPPLEMENTARY INFORMATION:

Background

Mirabilis macfarlanei was named for Ed MacFarlane, a boatman on the Snake River, who pointed out the plant on the Oregon side of the Snake River to Rollins and Constance in 1936; these botanists described the species later that year (Constance and Rollins 1936). Records indicate MacFarlane's four-o'clock was collected in the Hells Canyon area in 1939. In 1947, a population was discovered by R.J. Davis, an Idaho botanist, near the confluence of Skookumchuck Creek and the Salmon River in Idaho. Futile searches for *Mirabilis macfarlanei* from 1947 to mid-1970's led botanists to consider it possibly extinct. In May 1977, a small extant colony was found along the Snake River near Cottonwood Landing on the Oregon side of the River. In 1979, the Skookumchuck population was rediscovered on Bureau of Land Management (Bureau) lands (Heidel 1979), and in 1980, a large colony was discovered on Bureau and private lands in the Long Gulch area above the Salmon River, Idaho County, Idaho.

Since 1983, 15 additional colonies have been located, bringing the total number of extant colonies to 18, encompassing approximately 150 acres. Seven colonies are on the banks and canyonland slopes above the Snake River, Idaho County, Idaho, and seven colonies are on the banks and canyonland slopes above the Salmon River, Idaho County, Idaho. Two colonies are on the banks and canyonland slopes above the Snake River, Wallowa County, Oregon, and two colonies are on canyonland slopes above the Imnaha River, Wallowa County, Oregon. These colonies generally occur on talus slopes within canyonland corridors above the rivers.

Three out of 14 colonies (21 percent) of *Mirabilis macfarlanei* in Idaho are located on private lands in Idaho County, Idaho. Four colonies (29 percent) are on Bureau lands in Idaho County, Idaho. Seven colonies (50 percent) are within the Idaho side of Hells Canyon National Recreation Area in Idaho County, Idaho; these seven colonies are managed by the Wallowa-Whitman National Forest in Oregon.

Three out of four colonies (75 percent) of *Mirabilis macfarlanei* in Oregon are located within the Oregon side of Hells Canyon National Recreation Area in Wallowa County, Oregon; these three colonies are managed by the Wallowa-Whitman National Forest in Oregon. One colony (25 percent) in Oregon is located on private land in Wallowa County, Oregon. There are approximately 6,300 plants in Idaho, and 2,300 in Oregon (Johnson, Bureau of Land Management, and Stein, Forest Service, pers. comms., 1992).

Mirabilis macfarlanei is a member of the four-o'clock family (Nyctaginaceae). It is a perennial with a stout, deep-seated taproot. The stems are freely branched, swollen at the nodes so that the plant forms hemispherical clumps 6–12 decimeters (24 to 47 inches (in)) in diameter. The leaves are opposite, somewhat succulent, green above and glaucescent (with a whitish or bluish cast) below. The lower leaves are orbicular or ovate-deltoid in shape and become progressively smaller toward the top of the stem. The inflorescence is a four- to seven-flowered cluster subtended by an involucre. The flowers are striking due to their large size, up to 25 millimeters (mm) (1 in) long and 25 mm (1 in) wide, and showy magenta color. They are funnel-form in shape with a widely expanding limb. The flower is five-merous, with five stamens (male reproductive structures) generally exerted. Flowering is from early May to early June, with mid-May usually being the peak flowering period. *Mirabilis macfarlanei* is most closely related to *Mirabilis greenei* Wats. of the Klamath (Siskiyou) region of California and Oregon (Constance and Rollins 1936).

No other species of *Mirabilis* occur in Hells Canyon, and no member of the regional flora resembles Macfarlane's four-o'clock. This large plant is easily recognized by its large, green, succulent leaves that are oppositely arranged on the stem. The cluster of large, magenta flowers is unlike anything else in the flora of the northwest (Moseley, Idaho Department of Fish and Game, pers. comm., 1992). The generic name, *Mirabilis*, for MacFarlane's four-o'clock in Latin means wondrous. It is a fitting name for one of the most striking members of the four-o'clock genus.

Mirabilis taxa in the United States are mainly restricted to the southwest, so it is quite unusual for *Mirabilis macfarlanei* to exist as far north as west central Idaho and northeast Oregon. It is conjectured that the genus expanded northward in a period of warmer climate. With climates cooling, the species or its predecessor was, in essence, "trapped" (Stebbins 1979). The Salmon River and Snake River canyonland areas in northeastern Oregon and west central Idaho provide some of the longest growing seasons and mildest winter conditions of any mountainous region east of the Cascades. *Mirabilis macfarlanei* is in a canyonland corridor where the climate is regionally warm and dry with precipitation occurring mostly in a winter-to-spring period. If *Mirabilis macfarlanei* originated in the north in a warmer period and its path of retreat with cooling climate was cut off by less favorable conditions, the warmer climate (such as near Riggins, Idaho, in the Salmon River Canyon) would explain the restricted distribution of the species.

The colonies of *Mirabilis macfarlanei* usually grow as scattered plants on open, steep (50 percent) slopes of sandy soils, generally having west to southeast aspects. However, during the 1984 season a colony was discovered having an east aspect. Talus rock underlies the soil in which the plants are rooted. There are a variety of soils that support this plant throughout its range. Even though sandy soils support the larger populations of *Mirabilis macfarlanei*, they are quite susceptible to displacement by wind and water erosion.

The plant community is in a transition zone between *Agropyron spicatum—Poa sandbergii* and *Rhus glabra—Agropyron spicatum*, consisting of *Agropyron spicatum* (bluebunch wheatgrass), *Bromus tectorum* (cheatgrass), *Sporobolus cryptandrus* (sand dropseed), *Phacelia heterophylla* (scorpion weed), *Lomatium dissectum* (desert parsley), *Celtis reticulata* (hackberry), *Rhus glabra* (smooth sumac), *Achillea millefolium* (yarrow), and *Chrysothamnus nauseosus* (rabbit bush) (Daubenmire 1970, Franklin and Dyrness 1973). Near Long Gulch, Idaho, an *Agropyron spicatum—Poa sandbergii* community existed; however, the latter species have been replaced by the exotic *Bromus tectorum* (Johnson 1984).

From 1936 to 1979, *Mirabilis macfarlanei* was known only from 3 sites with approximately 20 to 25 individual plants. *Mirabilis macfarlanei* was added to the Federal List of Endangered and Threatened Plants on October 26, 1979 (44 FR 61912).

At the time of listing, *Mirabilis macfarlanei* colony estimates were based upon sparse data. Prior to listing, several professional and amateur botanists were active in searching the canyonlands in Idaho and Oregon without success. This led botanists to believe that the plant was extremely rare and perhaps extirpated from likely areas in Idaho and Oregon.

The 1985 *Mirabilis macfarlanei* Recovery Plan includes the following primary subobjective for reclassification and delisting the species: When a total of 10 colonies (5 colonies, or any

combination of 10, in each of 2 geographically distinct and isolated populations) are protected and managed to assure their continued existence.

Specific criteria for reclassifying from endangered to threatened: *Mirabilis macfarlanei* may be considered for reclassification to threatened when 4 of the colonies in each population meet the above criteria. The objectives will be reevaluated should new colonies be discovered or new conditions identified.

The objectives have been reevaluated based on additional information. The colonies that are being protected and managed meet the criteria for reclassification from endangered to threatened. An updated Recovery Plan will be prepared reflecting data obtained since the plant was listed in 1979.

Based on the best current estimates available, there are now 18 *Mirabilis macfarlanei* colonies with a total of approximately 8,600 plants. Monitoring at specific sites indicate the plant is stable showing little or no decline. Also, there are no indications that there has been an appreciable increase in plant numbers at the sites monitored. However, climatic conditions have often dictated the trends on any given year for *Mirabilis macfarlanei*. Even through 6 to 7 years of drought, the plant has not shown any appreciable decline. The plants may be smaller and produce fewer flowers during dry years, but the colonies seem to maintain themselves until favorable growing conditions return. It has been suggested that a greater threat may exist for colonies that occur in less than 1 acre (Johnson, pers. comm., 1992). However, those colonies found in the 1990 and 1991 seasons, in areas less than 1 acre, appeared to be vigorous, with one being reported as exceptionally vigorous. Several sites were reported as having from 35 to 60 percent immature or juvenile plants, suggesting that some recruitment is occurring. In addition, many of the small sites identified have many acres of potential habitat (Mancuso and Moseley 1991). Continued searches in the rugged country where this plant is found will probably lead to the discovery of more colonies (Moseley, pers. comm., 1992).

Previous Federal Action

Federal involvement with *Mirabilis macfarlanei* began with section 12 of the Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. The Service published a notice in the July 1, 1975, **Federal Register** (40 FR 27823) of its acceptance of this report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act and of its intent to review the status of the plant taxa named therein. In this notice, *Mirabilis macfarlanei* was treated as under petition for listing as endangered. The Service published a proposed rule in the June 16, 1976, **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant taxa to be endangered species pursuant to section 4 of the Act. This list, including *Mirabilis macfarlanei*, was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. On June 16, 1976, the Service published a proposed rulemaking in the **Federal Register** (41 FR 24523) that included *Mirabilis macfarlanei*. On October 26, 1979, *Mirabilis macfarlanei* was listed as an endangered species in a final rule published by the U.S. Fish and Wildlife Service (44 FR 61912).

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. The Service's listing regulations (50 CFR part 424) provide for a review of the following five factors when reclassifying (or listing or delisting) a species (50 CFR 424.11). These factors and their application to *Mirabilis macfarlanei* Const. and Roll. (MacFarlane's four-o'clock) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

In 1979, when *Mirabilis macfarlanei* was listed as endangered, this species was threatened by grazing, its close proximity to a hiking trail, potential collecting, fungus, and a limited number of populations. Since that time, studies have shown that moderate to light grazing does not affect the plant. In addition, the Forest Service and the Bureau of Land Management have modified their grazing practices. The Forest Service has cattle removed from grazing allotments in and near where *Mirabilis* occurs in April before the plant starts to grow. Through the cooperation of a private landowner, the Forest Service has fenced the only *Mirabilis* population on private land in Oregon. In Idaho, the Bureau of Land Management fenced a major portion of one of the largest populations of *Mirabilis* known. The Bureau has also removed grazing from an area immediately outside the fenced exclosure. A private landowner adjacent to the Bureau's unfenced area has reduced grazing to assist in the conservation of *Mirabilis macfarlanei*. Grazing on other Bureau lands has been reduced to protect the plant (Scott Riley, Bureau of Land Management, pers. comm., 1992). The Oregon population identified in the 1979 listing next to a hiking trail along the Snake River in Hells Canyon still exists. Although the population is still unprotected from casual collecting or trampling, there is no apparent decline of the species at that location. However, since Hells Canyon is designated as a National Recreation Area, there is still a potential for increased recreational use of the river trail and potential trampling and collecting. The fungus identified as a threat in the 1979 listing has never been reported again as a threat. There are still several small populations, but many more of them. The smaller populations reported in recent surveys have been identified as vigorous to extremely vigorous. Also, as new sites have been found, population sizes have increased considerably.

Studies were conducted by the Bureau of Land Management between 1981 and 1983 to determine the effect of domestic grazing on *Mirabilis macfarlanei* in the Long Gulch and John Day sites of Idaho (Johnson 1984). The study was conducted under a cattle grazing treatment and no cattle grazing treatment (exclosure) scenario. The exclosure was a 45-acre plot in the Long Gulch site. The grazing treatment was on Bureau land between the Long Gulch and John Day sites. The Idaho sites historically were used for fall and spring range by sheep and cattle, most recently cattle. The primary grazing period is in the spring, late March to early June. This coincides with the peak flowering time for *Mirabilis macfarlanei*, which is from the middle of May to early June. Bureau studies indicate that *Mirabilis macfarlanei* can be adversely affected by high grazing pressure and concentrations of livestock (Johnson 1984). However, moderate to light grazing has caused no detrimental impact to the plant (Johnson, pers. comm., 1992). Tueller and Tower (1979) found in their study of exclosure sites previously subjected to heavy utilization of grasses and forbs by livestock that continued protection favors good growth and high yields. No *Mirabilis macfarlanei* plants were noted

on moderate sloped areas (less than 20 percent) that were historically used by livestock for loafing and concentration areas (Johnson 1984). Cattle trampling damage to plants was observed in the grazed area, but appeared limited. The presence of livestock trampling the ground and causing soil erosion is also a potential hazard. However, minimal erosion was noticed in the Hells Canyon populations even though there was some grazing (Mancuso and Moseley 1991).

During the period of settlement, much of the Salmon River was overgrazed by domestic animals, and a decline of range condition and climax vegetation took place. Presently the Bureau has reduced grazing on Bureau lands to a point where the plant is not affected. In the John Day site, the private landowner has reduced grazing in a cooperative effort to protect *Mirabilis macfarlanei* plants and habitat (Riley, Bureau of Land Management, pers. comm., 1992).

In Oregon, the Forest Service has two grazing allotments in the vicinity where *Mirabilis macfarlanei* plants are found. However, one allotment in the Tyron Bar area has not been grazed for 12 years. It is unlikely that the allotment will be filled. In the second area, the West Kurry Divide 1, 2, and 3, grazing is incidental due to the lack of water. The Forest Service has also initiated a policy that requires removing grazing from *Mirabilis* sites before the plant starts to grow in April (Stein, pers. comm., 1992). In addition, the Forest Service was given permission by the landowner to fence the only privately owned land containing *Mirabilis macfarlanei* (Stein, pers. comm., 1992). Currently, the canyonlands in both Idaho and Oregon where *Mirabilis* occurs are better managed for grazing, and general range improvement has taken place.

Additional threats identified in the Hells Canyon National Recreation Area during a 1991 survey include resumed prospecting or mining near the "Mine Gulch" population. Habitat destruction due to vehicular travel over claims along with surface disturbance could contribute to degradation of habitat in mining areas. Widening along Road #493 in the vicinity of the Kurry Creek population causes surface disturbance and possibly materials falling on plants due to earth movement. Livestock damage identified earlier was also observed during the 1991 survey, but appeared minimal. In addition, there was increased weedy invasion in many areas because of previous grazing pressures (Mancuso and Moseley 1991). At the present time, 60 to 70 percent of the populations of *Mirabilis macfarlanei* on Federal lands are directly or indirectly protected.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Increased collecting pressure is a foreseeable problem if the sites become known. The collection of plant material could easily cause extirpation from many of the colonies, especially the smaller ones. Other species of *Mirabilis* are cultivated and prized as garden ornamentals. *Mirabilis macfarlanei* is an attractive plant with a very showy magenta flower. A statement made in Hitchcock *et al.*'s (1973) *Flora of the Pacific Northwest* recommends that the "rather attractive" plants are worth a try in the wild garden, which places the plant in further jeopardy. *Flora of the Pacific Northwest* is the definitive text on flora of the area and is widely read by botanists and commercial plant collectors.

C. Disease or Predation

Mule deer prefer forbs, and some utilization of *Mirabilis* has been observed (Johnson 1984). In the West-Kurry Divide 3 site, some disturbance apparently was caused by wildlife use (deer, rabbits) but the population is not particularly threatened by this use (Mancuso and Moseley 1991). Domestic livestock have also been observed in the vicinity of *Mirabilis* plants. In addition, domestic livestock hoof prints and droppings have been observed near plants that have been eaten, suggesting that cattle may also utilize *Mirabilis* plants. However, grazing is better managed, and general range improvement in several areas with *Mirabilis* has taken place since the original listing. See discussion under Factor A above.

As described in the 1979 final rule listing *Mirabilis macfarlanei* as an endangered species, at least two species of fungi had been observed on the vegetative parts of the plants in Idaho. Current information does not mention nor reference fungi species affecting plant parts.

Since the time of listing, insect depredation has been shown to be detrimental to *Mirabilis macfarlanei*. A lepidopteran (*Lithariapteryx*) has been discovered feeding on the buds and leaves of *Mirabilis macfarlanei* (Baker 1983). Examination of some of the nearly-open flowers revealed ovaries eaten away, as well as other floral and vegetative parts. In addition, a second group of depredating insects, including at least two species of spittle bugs, was so abundant on certain plants as to cause the complete dieback of all emergent parts (Baker 1983). In many cases, there was a stunting and general unthriftiness of plants with sizeable numbers of spittle bugs feeding on them (Baker 1983, 1984). However, this is not the case at all sites.

D. The Inadequacy of Existing Regulatory Mechanisms

To date, HMP's have been developed and implemented for *Mirabilis macfarlanei* for three populations on Bureau lands in Idaho to provide protection and quality habitat for the species. The three HMP's are for the Long Gulch, Skookumchuck, and Lucile Caves areas in Idaho County, Idaho, along the Salmon River. The Long Gulch Habitat Management Plan (HMP) area, which includes 45 acres, was fenced in 1981 to exclude cattle grazing. Monitoring studies that began in 1983 used the fenced area to evaluate and compare an ungrazed area with nearby grazed lands. The Skookumchuck HMP, which includes 28 acres located between Highway 95 and the old highway, was developed primarily as a protection mechanism against herbicide use in the immediate area. In addition, seasonal monitoring of *Mirabilis macfarlanei* is conducted within the Skookumchuck HMP to determine the trends of a small population. The Lucile Caves HMP was developed to monitor the success of transplanting plants in the area and for use as a research area. Monitoring of the Lucile Caves transplant project indicates that the transplanted colony has remained static.

Under the Oregon Endangered Species Act (ORS 564.100–564.135) and pursuant regulations (OAR 603, Division 73), the Oregon Department of Agriculture has listed *Mirabilis macfarlanei* as endangered (OAR 603–73–070). This statute prohibits the "take" of State-listed plants on State-owned or State-leased lands only. *Mirabilis macfarlanei* also occurs on privately owned lands where the plant is not protected from actions the landowner may take that would adversely affect the species. However, some landowners in Idaho and Oregon have cooperated with the Bureau and the Forest Service to assist in the conservation of *Mirabilis macfarlanei*.

Currently, Idaho has not passed legislation to protect endangered or threatened plants or developed an official State list of such plants. See Factor A above for measures taken by the Bureau and Forest Service to protect the species.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Most of the natural communities in the Pittsburg portion of Hells Canyon have been degraded by the invasion of weedy species, many of them annuals. Most of this degradation has been fostered by many years of intensive domestic grazing pressures (Mancuso and Moseley 1991). Undesirable plants, especially *Bromus tectorum*, have increased as a result of overgrazing (Johnson 1984). Because of exotic species invasion, the germination, growth, and development of native plants are often impeded. Continued weedy invasion by exotics has been an ongoing problem for *Mirabilis macfarlanei* and many other native plant species. As a result, the inhibition of *Mirabilis macfarlanei* growth and development has been noted (Baker 1983).

A study was initiated to study the allelopathic (interference) affects of *Bromus tectorum* on *Mirabilis jalapa* (Peruvian four-o'clock). Preliminary studies indicate that *Bromus tectorum* inhibits the germination, growth, and development of *Mirabilis jalapa* plants. Other selected plants used in laboratory studies showed inhibition similar to *Mirabilis jalapa* (Owen 1984). Field studies indicated *Mirabilis macfarlanei* is affected when growing with dense stands of *Bromus tectorum* (Baker 1983; Johnson, pers. comm., 1992). This is especially true during the earlier stages of growth. These studies may have management implications for *Mirabilis macfarlanei*.

To date, low seed viability for *Mirabilis macfarlanei* has been reported; therefore, viable sexual propagation may be very low (Johnson 1984). Low seed viability reduces genetic variability within the species. Primary reproduction of *Mirabilis macfarlanei* is rhizomatous, and plants are long-lived. Because *Mirabilis macfarlanei* plant colonies appear to be static after 12 years of data, "natural" increases are very slow or non-existent.

Indiscriminate herbicide spraying by State spray crews would have adverse effects on the small number of *Mirabilis macfarlanei* plants located on an Idaho colony downslope from Highway 95. In addition, using insecticides for insect control is detrimental to many of the known pollinators of this species.

Remaining colonies of *Mirabilis macfarlanei* with small numbers of plants are subject to stochastic events that could destroy the colonies because of their small size. Species that are reduced to very small numerical levels may also be subject to the additional threat of poor genetic viability. Their small numbers may reduce their ability to adapt to environmental changes or events that may cause their extirpation.

This species has been the focus of a 12-year recovery program, and has benefited from management and research accomplishments. The number of colonies that have been located in Idaho and Oregon since listing represents a six-fold increase in the number of known colonies due to new discoveries. In addition, the number of known individuals has increased from 25 to 30 plants when listed to approximately 8,600 plants in 1991.

Permanent plots for monitoring populations of *Mirabilis macfarlanei* along the Snake River in Oregon were established in 1990 and 1991 in Hells Canyon along the Snake River on land managed by the Wallowa-Whitman National Forest. The emphasis in Oregon is on monitoring population trends. A population model to determine population viability will be developed (Kaye *et al.* 1990). Specific parameters monitored in Idaho and Oregon include: (1) Numbers, (2) cover, (3) average height, (4) flowering plants, (5) phenology, (6) climatic data, (7) deer, elk, and cattle use days, and (8) other vegetation trend data. Permanent photo trend plots, belt transects, and permanent plots also have been established.

Recovery efforts will also depend on cooperation with private landowners. Opportunities exist for land exchanges to acquire private lands for public ownership and thus protect the species. There are discussions at the present time for a land exchange in an area containing one of the largest colonies of *Mirabilis macfarlanei*.

The discovery of additional colonies on public lands, better grazing management, and the static condition of existing colonies in Idaho and Oregon have reduced the degree of threat to this species. The Service has been encouraged by new colony discoveries of *Mirabilis macfarlanei* with the possibility of more being found with continued searches. The commitment by the Forest Service to monitor and evaluate *Mirabilis* population trends on their lands has been helpful. The Forest Service has changed their grazing practices by removing grazing from *Mirabilis* sites before they germinate and develop. These activities along with the continuing monitoring, research, and grazing management changes of the Bureau in Idaho have given the Service additional information on *Mirabilis macfarlanei*. The cooperation between the land management agencies and private landowners has also added to the effort to conserve *Mirabilis macfarlanei* plants and habitat.

In reviewing the progress toward recovery that this species has made since listing, the Service concludes that *Mirabilis macfarlanei* is no longer in danger of extinction. However, due to a lack of plant recruitment in some areas, insect predation, exotic plant invaders, and several small populations, the Service finds that delisting is premature.

The Service has carefully assessed the best scientific and commercial information available regarding past, present, and future threats faced by the species. Based on this evaluation, the preferred action is to reclassify *Mirabilis macfarlanei* from endangered to threatened status. The Service will recommend that this species be delisted when recovery criteria as outlined in the recovery plan are reached.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is listed as endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. As discussed under Factor B above, *Mirabilis macfarlanei* is vulnerable to taking and vandalism. Landowners have been alerted to the presence of the plant without the publication of precise maps and descriptions of critical habitat in the **Federal Register** and local newspapers as required in a proposal for critical habitat. The publication of such precise maps and descriptions would increase the degree of threat to these plants from take or vandalism and, therefore, could contribute to their decline and increase enforcement problems. Protection of the species' habitat will continue to be addressed through the recovery process and through the section 7 consultation process. Therefore, the Service finds that designation of critical habitat for *Mirabilis macfarlanei* is not prudent at this time. Recovery efforts for *Mirabilis macfarlanei* have led to a change in land management practices and greatly reduced the threats facing this species even though critical habitat has not been designated.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results

in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions have been initiated by the Service following the 1979 listing of *Mirabilis macfarlanei*. The protection required by Federal agencies and taking prohibitions are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is proposed or designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

The Bureau of Land Management and the Forest Service have been involved in recovery and section 7 consultation activities for this plant since its listing in 1979, and are likely to continue to be involved in such activities.

The Act and implementing regulations found at 50 CFR 17.71 and 17.72 for threatened plant species set forth a series of general prohibitions and exceptions that apply to all threatened plants. With respect to *Mirabilis macfarlanei* the trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, have been applied since listing the species. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export; transport in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale in interstate or foreign commerce; or to engage in certain activities involving "taking" of the species. Certain exceptions apply to agents of the Service and State conservation agencies. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened plant species under certain circumstances. No trade in this species is known. No trade permits involving *Mirabilis macfarlanei* have ever been sought or issued since the species is not commonly cultivated.

Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203–3507 (703/358–2104).

Public Comments Solicited

The Service intends that any final rule resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposal are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Mirabilis macfarlanei*;

(2) The location of any additional populations of *Mirabilis macfarlanei* and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on *Mirabilis macfarlanei*.

Any final decision of this proposal to reclassify *Mirabilis macfarlanei* from endangered to threatened will take into consideration any comments and any additional information received by the Service. Such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Boise Field Office (see ADDRESSES section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined pursuant to the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

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Author

The primary author of this proposed rule is Dr. Robert Parenti, U.S. Fish and

Wildlife Service, 4696 Overland Road, Boise, Idaho 83705 (208/334–1816).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Public Law 99–625, 100 Stat. 3500; unless otherwise noted.

§ 17.12 [Amended]

2. It is proposed to amend § 17.12(h) by revising the entry under "Nyctaginaceae—Four-o'clock family" for *Mirabilis macfarlanei* to read "T" under "Status."

Dated: August 9, 1993.

Richard N. Smith,

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

[FR Doc. 93–20620 Filed 8–25–93; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 58, No. 164
Thursday, August 26, 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

August 20, 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, extensions, 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

- Farmers Home Administration

7 CFR, part 1944–J, Section 504 Rural Loans and Grants
On occasion
Individuals or households; 18,300 responses; 1,464 hours
Jack Holston, (202) 720–9736

- Farmers Home Administration

7 CFR, part 1980–D, Rural Housing Loans 1980–11, 12, 13, 16, 17, 18, 20, 21, 80, 81
On occasion; Monthly, Quarterly
Individuals or households; State or local governments; Businesses or other for-profit; Small businesses or organizations; 65,723 responses; 33,378 hours
Jack Holston, (202) 720–9736

- Foreign Agricultural Service

7 CFR, part 1493—Regulations covering CCC's Export Credit Guarantee Program (GSM–102) and CCC's Intermediate export Credit Guarantee Program (GSM–103)
Recordkeeping; On occasion
Businesses or other for-profit; Small businesses or organizations; 41,499 responses; 8,167 hours
L.T. McElvain, (202) 720–6211

- Animal and Plant Health Inspection Service

National Animal Health Monitoring System (NAHMS)
NAHMS–23, 24, 25
Monthly
Farms; 7,900 responses; 5,405 hours
David Cummings, (303) 490–7895

Extension

- Cooperative State Research Service

Financial Report, Morrill-Nelson Funds for Food and Agriculture
Higher Education
Annually
State or local governments; 73 responses; 73 hours
G. Lindell Williams, (202) 401–1790

- Food Safety and Inspection Service

Certificate of Medical Examination (Pre-Employment)
On occasion
Individuals or households; Federal agencies or employees; 600 responses; 150 hours
Victoria Levine, (202) 720–7163

- Food Safety and Inspection Service

Questionnaire for Hotline Callers
On occasion
Individuals or households; State or local governments; Farms; Businesses or other for-profit; Non-profit institutions; 800 responses; 67 hours
Victoria Levine, (202) 720–7163

Reinstatement

- Farmers Home Administration

7 CFR 1942–A, Community Facility Loans 440–11, 24; 442–2, 3, 7, 20, 21, 22, 28, 30; 1942–8, 9, 46, 47
On occasion; Annually
State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 95,362 responses; 236,696 hours
Jack Holston, (202) 720–9736

- Animal and Plant Health Inspection Service

Permit for Movement of Restricted Animals
VS 1–27
On occasion
Farms; 39,609 responses; 2,237 hours
Dr. G.H. Frye, (301) 436–8711

New Collection

- Animal and Plant Health Inspection Service

User Fees—Addendum 2
VS 16–3 & VS 16–7
On occasion
Individuals or households; State or local governments; Businesses or other for-profit; Federal agencies or employees; Small businesses or organizations; 34,096 responses; 1,943 hours
Helen C. Schmitt, (301) 436–8119

Larry K. Roberson,

Deputy Department Clearance Officer.

[FR Doc. 93–20661 Filed 8–25–93; 8:45 am]

BILLING CODE 3410–01–M

Animal and Plant Health Inspection Service

[Docket No. 93–092–1]

Availability of List of U.S. Veterinary Biological Product and Establishment Licenses and U.S. Veterinary Biological Product Permits Issued, Suspended, Revoked, or Terminated

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice pertains to veterinary biological product and establishment licenses and veterinary biological product permits that were issued, suspended, revoked, or terminated by the Animal and Plant Health Inspection Service, during the month of June 1993. These actions have been taken in accordance with the regulations issued pursuant to the Virus-Serum-Toxin Act. The purpose of this notice is to inform interested persons of the availability of a list of these actions and advise interested persons that they may request to be placed on a mailing list to receive the list.

FOR FURTHER INFORMATION CONTACT: Ms. Maxine Kitto, Program Assistant, Veterinary Biologics, BBEP, APHIS, USDA, room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8245. For a copy of

this month's list, or to be placed on the mailing list, write to Ms. Kitto at the above address.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 102, "Licenses For Biological Products," require that every person who prepares certain biological products that are subject to the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) shall hold an unexpired, unsuspended, and unrevoked U.S. Veterinary Biological Product License. The regulations set forth the procedures for applying for a license, the criteria for determining whether a license shall be issued, and the form of the license.

The regulations in 9 CFR part 102 also require that each person who prepares biological products that are subject to the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) shall hold a U.S. Veterinary Biologics Establishment License. The regulations set forth the procedures for applying for a license, the criteria for determining whether a license shall be issued, and the form of the license.

The regulations in 9 CFR part 104, "Permits for Biological Products," require that each person importing biological products shall hold an unexpired, unsuspended, and unrevoked U.S. Veterinary Biological Product Permit. The regulations set forth the procedures for applying for a permit, the criteria for determining whether a permit shall be issued, and the form of the permit.

The regulations in 9 CFR parts 102 and 105 also contain provisions concerning the suspension, revocation, and termination of U.S. Veterinary Biological Product Licenses, U.S. Veterinary Biologics Establishment Licenses, and U.S. Veterinary Biological Product Permits.

Each month, the Veterinary Biologics section of Biotechnology, Biologics, and Environmental Protection prepares a list of licenses and permits that have been issued, suspended, revoked, or terminated. This notice announces the availability of the list for the month of June 1993. The monthly list is also mailed on a regular basis to interested persons. To be placed on the mailing list you may call or write the person designated under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 20th day of August 1993.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 93–20720 Filed 8–25–93; 8:45 am]

BILLING CODE 3410–34–P

Agricultural Research Service

Notice of Intent to Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agriculture Research Service, intends to grant to North Star Technologies of Bloomington, Minnesota, an exclusive field of use license to U.S. Patent Nos. 4,851,291 (S.N. 07/055,476); 4,871,615 (S.N. 06/818,567); and 4,908,238 (S.N. 07/371,779), each entitled "Temperature Adaptable Textile Fibers and Method of Preparing Same." Notice of Availability for S.N. 07/055,476 and S.N. 06/818,567 was published in the **Federal Register** on July 18, 1990. S.N. 07/371,779 is a division of S.N. 07/055,476.

DATES: Comments must be received on or before October 25, 1993.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, Room 401, Building 005, BARC–West, Baltimore Boulevard, Beltsville, Maryland 20705–2350.

FOR FURTHER INFORMATION CONTACT:

June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to these inventions are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license these inventions as said company has submitted a complete and sufficient application for a license, promising therein to bring the benefits of these inventions to the U.S. public.

The prospective exclusive field of use license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

W.H. Tallent,

Assistant Administrator.

[FR Doc. 93–20662 Filed 8–25–93; 8:45 am]

BILLING CODE 3410–03–M

Forest Service

Exemption of 602 Tourist Salvage Timber Sale From Appeal

AGENCY: Forest Service, USDA.

ACTION: Notification that a salvage timber sale project designed to rehabilitate the timber resource and contribute to watershed recovery is exempted from appeals under provisions of 36 CFR part 217.

SUMMARY: During routine Forest surveys conducted in 1992, insect and disease mortality of commercial sawtimber was identified on 193 acres in the 602 Tourist Salvage Planning Area on the Wallace Ranger District, Idaho Panhandle National Forests (IPNF). In 1992, the Wallace District Ranger proposed rehabilitation action to recover damaged sawtimber and contribute to watershed recovery in the affected area. The District Ranger has determined, through resource reports in the 602 Tourist Salvage Timber Sale project file, that there is good cause to expedite these actions to rehabilitate National Forest System lands and recover damaged resources. Salvage of commercial sawtimber within the affected area should be accomplished quickly to avoid further deterioration of sawtimber, to initiate the planting of tree species less susceptible to root disease and blister rust, and to initiate watershed recovery.

EFFECTIVE DATE: August 26, 1993.

FOR FURTHER INFORMATION CONTACT: Steve E. Williams, District Ranger; Wallace Ranger District, Idaho Panhandle National Forests; Box 14; Silverton, Idaho 83867. Telephone 208–752–1221.

SUPPLEMENTARY INFORMATION: Insect and disease infestations have damaged approximately 193 acres of sawtimber on the west slopes of Shoshone Ridge on the Wallace Ranger District. Root disease, bark beetles, and blister rust have been and will continue to cause mortality in the area. The affected area was designated as Management Areas 1 and 4 by the IPNF Forest Plan (1987). These lands are designated as suitable timberlands and are to be managed for a variety of resource goals.

In 1992, the Wallace District Ranger proposed a rehabilitation and salvage harvest to recover damaged sawtimber in the affected area. This proposal was designed to meet the following needs: (a) Salvage merchantable timber products; (b) protect against insects and disease; (c) improve the net growth and yield of timber resources; (d) rehabilitate timber stands that are understocked through site preparation

and planting; (e) contribute to watershed recovery through application of management practices designed to minimize the potential damage to the channel due to peak flows; and (f) manage big-game habitat to achieve Forest Plan goals. Implementation of this proposed timber sale using Special Provision C6.604# Watershed Improvement (1/93) would contribute to the watershed improvement objective. This special authority was given to the IPNF to accomplish watershed improvement in conjunction with timber harvest operations on sales sold in FY 1993.

An interdisciplinary team (IDT) was convened and scoping began in January 1993. In addition to the six extraordinary circumstances listed in 1909.15(30.3), eight potential site-specific extraordinary circumstances were identified through the scoping process. These 14 extraordinary circumstances were the basis for the IDT analysis of environmental effects which were documented and included in the project file. Three alternatives were developed. Alternative 1 was No Action. Alternative 2 was the Proposed Action which described a need to treat 404 acres based on Forest Plan objectives and common issues and concerns. Alternative 3 was the Modified Action and is the selected alternative. This alternative was developed to treat 193 acres to achieve the Forest Plan and site-specific objectives.

The selected alternative will salvage approximately 386 MBF of dead and dying timber on 193 acres from existing roads. No roads will be constructed or reconstructed for this sale. Conifer species less susceptible to root disease and/or blister rust will be planted where openings are created.

The salvage timber sale project is designed to accomplish the objectives as quickly as possible to recover merchantable sawtimber before it deteriorates and removal becomes economically infeasible. To expedite implementation of this decision, procedures outlined in 36 CFR part 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 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 on the environmental analysis documented in the 602 Tourist Salvage Timber Sale 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 CFR 217.4.

Dated: August 20, 1993.

Christopher D. Risbrudt,

Deputy Regional Forester, Northern Region.

[FR Doc. 93–20669 Filed 8–25–93; 8:45 am]

BILLING CODE 3410–11–M

Exemption of Middle Swamp Salvage Timber Sale From Appeal

AGENCY: Forest Service, USDA.

ACTION: Notification that a timber salvage project to recover insect-killed, dead and down, and high risk timber is exempt from appeal under the provisions of 36 CFR part 217.

SUMMARY: A mountain pine beetle epidemic in the Swamp Creek drainage on the Fortine Ranger District, Kootenai National Forest, has killed approximately 70 to 100 percent of the lodgepole pine within the analysis area. In 1993, the Fortine District Ranger proposed a salvage timber sale to recover damaged sawtimber in the affected area.

The District Ranger has determined, through an environmental analysis documented in the Decision Memo and project file for the Middle Swamp Salvage Timber Sale, that there is good cause to expedite these actions 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, minimize fire danger and increase the health, vigor, and species diversity for long-term vegetative growth.

EFFECTIVE DATE: Effective on August 26, 1993.

FOR FURTHER INFORMATION CONTACT: Jane P. Kollmeyer, Fortine District Ranger; Kootenai National Forest; P.O. Box 116; Fortine, MT 59918. Telephone 406–882–4541.

SUPPLEMENTARY INFORMATION: A mountain pine beetle epidemic occurred in the Swamp Creek drainage on the Fortine Ranger District, Kootenai National Forest during the last several years. The project area is located within Management Area 15 which is designated as suitable timberland with timber management goals by the Kootenai Forest Plan, September 1987.

In April of 1993, the Fortine District Ranger proposed a salvage timber harvest within the Swamp Creek drainage. This proposal is designed to meet the following needs: (1) Reduce the risk of catastrophic wildfire in stands killed by the beetle infestation by reducing fuel loading; (2) improve long-term timber growth and productivity by reforesting the affected area; (3) expedite the re-establishment of coniferous species to provide security for wildlife and watershed protection by salvaging, site-preparation and regeneration; (4) clear road surfaces and ditches of dead lodgepole pine to permit road maintenance, reduce erosion potential and allow access for fire suppression; and (5) contribute to a continuing supply of timber for industry by salvaging lodgepole pine before it deteriorates in value.

An interdisciplinary team was convened and scoping began in March 1993. Two alternatives were analyzed: No treatment (no action) and a salvage and rehabilitation proposal (proposed action). The selected alternative would harvest approximately 500 MBF from 80 acres. The proposal would be implemented with one small salvage sale and would use existing roads; no new roads are required.

The salvage timber sale project is designed to accomplish the objectives as quickly as possible to reduce the potential for catastrophic wildfire and to recover merchantable sawtimber before it deteriorates and removal becomes economically infeasible. To expedite implementation of this decision, 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 environmental analysis documented in the Decision Memo and the project file for the Middle Swamp Salvage Timber Sale, I have determined that good cause exists to exempt this decision from administrative review. Therefore, upon publication of this notice, this project would not be subject to review under 36 CFR part 217.

Dated: August 20, 1993.

Christopher D. Risbrudt,

Deputy Regional Forester, Northern Region.

[FR Doc. 93–20668 Filed 8–25–93; 8:45 am]

BILLING CODE 3410–11–M

Enzymatic Deinking of Recycled Fibers Correction of Notice of Intent to Form a Consortium

Program Description

The USDA, Forest Service, Forest Products Laboratory (FPL) announced the formation of a consortium dedicated to the enzymatic deinking of recycled fibers under the authority of the Federal Technology Transfer Act in the **Federal Register**, Vol. 58, No. 134 dated Thursday, July 15, 1993 and a correction to that notice in Vol. 58, No. 151 dated Monday, August 9, 1993. The first notice indicated a meeting of potential industrial partners would be held on August 24, 1993, to discuss the formation of the consortium, the present status of the technology, and the anticipated technology to be developed under the auspices of the consortium. The second notice corrected the date(s) of the meeting. The meeting has now been postponed. When it is rescheduled, a further announcement will be made in the **Federal Register**.

Done at Madison, WI, on August 17, 1993.

Kenneth R. Peterson,

Acting Director.

[FR Doc. 93–20721 Filed 8–25–93; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Current Industrial Reports Program – Wave III (Mandatory).

Form Number(s): Various.

Agency Approval Number: 0607–0476.

Type of Request: Revision of a currently approved collection.

Burden: 2,115 hours.

Number of Respondents: 2,284.

Avg Hours Per Response: 56 minutes.

Needs and Uses: The Current Industrial Reports (CIR) Program is a series of monthly, quarterly, and annual surveys which provide key measures of production, shipments, and/or inventories on a national basis for over 4,300 manufactured products. Primary users of these data are Government agencies, business firms, trade associations, and private research and consulting organizations.

Affected Public: Businesses or other for–profit organizations.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 19, 1993.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 93–20766 Filed 8–25–93; 8:45 am]

BILLING CODE 3510–07–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Current Industrial Reports Program – Wave III (Voluntary).

Form Number(s): Various.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 2,837 hours.

Number of Respondents: 1,274.

Avg Hours Per Response: 46 minutes.

Needs and Uses: The Current Industrial Reports (CIR) Program is a series of monthly, quarterly, and annual surveys which provide key measures of production, shipments, and/or inventories on a national basis for over 4,300 manufactured products. Primary users of these data are Government agencies, business firms, trade associations, and private research and consulting organizations. Wave II (Voluntary) was allowed to expire in 1991 because, at that time, there was only one survey in the package. In 1991 that one survey was recleared under Wave I (Voluntary). We are now reinstating Wave III (Voluntary) and including in it three annual surveys which were conducted on a mandatory basis during the 1992 Economic Censuses and are now reverting back to their normal voluntary status and another voluntary survey which has had some content changes.

Affected Public: Businesses or other for–profit organizations.

Frequency: Monthly and annually.

Respondent's Obligation: Monthly surveys—voluntary, Annual survey—Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 19, 1993.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 93–20765 Filed 8–25–93; 8:45 am]

BILLING CODE 3510–07–F

Economic Development Administration

Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

Firm name	Address	Date petition accepted	Product
Neilsen Manufacturing, Inc	3501 Portland Road Northeast, Salem OR 97303.	07/26/93	Housing for computers and printers, fish hatchery equipment.
Haines & Emerson, Inc	Blaine & Firman St., P.O. 359, Hoquiam, WA 98550–0359.	07/27/93	Machinery and equipment—machinery for finishing paper and miscellaneous parts.
Ajax Electric Company	60 Tomlinson Road, Huntingdon Valley, PA 19006.	07/28/93	Gas furnaces, electric furnaces and other electric heating equipment using metal.
Enomoto Roses, Inc	2275 Cabrillo Highway South, Half Moon Bay, CA 94019.	07/30/93	Flowers—roses: plants are purchased, planted, grown, cultivated, picked and shipped.
Andrew A. Adams dba A.A. Tool	350 Whitney Street, Rochester, NY 14606 ..	07/30/93	Metal products—metal enclosures for computers metal bearings and bushings.
Robotics and Automation Control, Inc.	508 East 32nd Street, Fremont, NE 68025 .	08/03/93	Industrial robots.
Arrow Manufacturing Company, Inc .	P.O. Box 420, West New York, NJ 07093 ...	08/04/93	Jewelry boxes, counter displays and trays, parts, etc.
Mother Moose Enterprises, Inc	4065 South Pub Place, PO Box 675, Jackson Hole, WY 83001.	08/06/93	Wood products—Christmas ornaments of wood, refrigerator magnets.
Christy Minerals Company	P.O. Box 158, High Hill, MO 63350	08/06/93	Metal products—alumina—silica clay, calcined, blend, grind and package.
Chicago Dial Indicator Company, Inc	1372 Redeker Road, Des Plaines, IL 60016	08/09/93	Electronic digital measuring instruments.
Huther Brothers, Inc	1290 University Avenue, Rochester, NY 14607.	08/09/93	Knives.
Universal Photonics, Inc	495 West John Street, Hicksville, NY 11801	08/09/93	Micro-cellular rigid foam polyurethane used as polishing material for glass lenses.
Scientific Tool Co., Inc	116 Luther Avenue, Liverpool, NY 13088	08/09/93	Machined metal components for radar apparatus, paper handling equipment used in copiers, laundry equipment.
Neely Industries, Inc	1 Main Street, PO Box 238, Neely, MS 39461.	08/11/93	Apparel—shirts of cotton knit and fleece.
Industrial Gasket, Inc	8100 S.W. 15th, Oklahoma City, OK 73128	08/13/93	Gaskets.
American Electric Cordsets Co	1065 Sesame Street, Bensenville, IL 60106–0802.	08/13/93	Electrical power supply cords and tooling for use in the manufacturing of power supply cords.
Decorative Aides Company, Inc	317 St. Pauls Avenue, Jersey City, NJ 07306.	08/13/93	Knitted fabric for vertical and pleated blinds and window trimmings.
Wilson's Oysters, Inc	1783 Bayou Dularge Road, Theriot, LA 70397.	08/17/93	Food and beverages—oysters.

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for hearing must be received by the Trade Adjustment Assistance Division, room 7023, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: August 20, 1993.

David L. McIlwain,

Acting Deputy Assistant Secretary for Program Operation.

[FR Doc. 93–20767 Filed 8–25–93; 8:45 am]

BILLING CODE 3510–24–M

International Trade Administration

[C–580–818]

Amendment to Countervailing Duty Order: Certain Cold-Rolled Steel Flat Products From Korea

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

EFFECTIVE DATE: August 26, 1993.

FOR FURTHER INFORMATION CONTACT: Kris Campbell or Jacqueline Arrowsmith, Office of Antidumping Compliance, U.S. Department of Commerce, room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4733.

Amendment to Countervailing Duty Order

On August 12, 1993, the Department of Commerce (the Department) issued its Countervailing Duty Orders and Amendments to Final Affirmative Countervailing Duty Determinations of Certain Steel Products from Korea, which were published in the **Federal Register** on August 17, 1993. This notice serves to amend the order on certain cold-rolled carbon steel flat products only.

In the order issued on August 12, 1993, the Department incorrectly stated that the International Trade Commission (ITC) had determined that imports of certain cold-rolled carbon steel flat products are materially injuring a U.S. industry. In fact, in its August 9, 1993, report, the ITC determined, pursuant to section 705(b)(1)(A)(ii)) of the Tariff Act of 1930 (the Act) (19 U.S.C. § 1671d(b)(1)(A)(ii)), that a U.S. industry is threatened with material injury. Next, pursuant to 705(b)(4)(B) of the Tariff Act (19 U.S.C. 1671d(b)(4)(B)), the ITC examined whether material injury

would have been found but for the suspension of liquidation of the merchandise. The ITC determined that such was not the case.

When the ITC finds threat of material injury, and makes a negative "but for" finding, the "Special Rule" provision of section 706(b)(2) (19 U.S.C. 1671e(b)(2)) applies. Therefore, all entries of certain cold-rolled carbon steel flat products from Korea, entered, or withdrawn from warehouse, for consumption, made on or after the date on which the ITC publishes its final affirmative determination of threat of material injury in the **Federal Register** (which is currently scheduled for August 18, 1993), will be liable for the assessment of countervailing duties. See, Countervailing Duty Order: Sulfanilic Acid from India, 58 FR 12026 (March 2, 1993).

The Department will direct the U.S. Customs Service to terminate the suspension of liquidation for the entries of certain cold-rolled carbon steel flat products from Korea, entered or withdrawn from warehouse, for consumption, before the date on which the ITC publishes its final affirmative determination of threat of material injury in the **Federal Register** (which is currently scheduled for August 18, 1993), and to release any bond or other security, and refund any cash deposit, posted to secure the payment of estimated countervailing duties with respect to those entries. For entries on or after that date, the U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit of 3.95 percent *ad valorem*.

In accordance with section 706 of the Act (19 U.S.C. 1671e), the Department hereby directs U.S. Customs officers to assess, upon further advice by the Department pursuant to section 706(a)(1) of the Act, countervailing duties equal to the amount of the estimated net subsidy on all entries of certain cold-rolled carbon steel flat products from Korea. In accordance with section 706(b)(2), these countervailing duties will be assessed on all unliquidated entries of certain cold-rolled carbon steel flat products from Korea which were entered, or withdrawn from warehouse, for consumption, on or after the date on which the ITC publishes its final affirmative determination of threat of material injury in the **Federal Register**.

This notice constitutes an amendment to the countervailing duty order with respect to certain cold-rolled carbon steel flat products from Korea pursuant to section 706(a) of the Act (19 U.S.C. 1671e(a)). The effective date of this order remains August 17, 1993, the date of publication of the original order. Interested parties may contact the Central Records Unit, room B–099, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, for copies of an updated list of orders currently in effect.

Scope of Order

The products covered by this order constitute the following "class or kind" of merchandise, as outlined below. Although the Harmonized Tariff Schedule of the United States (HTS) subheadings are provided for convenience and customs purposes, our written descriptions of the scope of these proceedings are dispositive.

Certain Cold-Rolled Carbon Steel Flat Products

These products include cold-rolled (cold-reduced) carbon steel flat-rolled products, of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished or coated with plastics or other nonmetallic substances, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTS under item numbers 7209.11.0000, 7209.12.0030, 7209.12.0090, 7209.13.0030, 7209.13.0090, 7209.14.0030, 7209.14.0090, 7209.21.0000, 7209.22.0000, 7209.23.0000, 7209.24.1000, 7209.24.5000, 7209.31.0000, 7209.32.0000, 7209.33.0000, 7209.34.0000, 7209.41.0000, 7209.42.0000, 7209.43.0000, 7209.44.0000, 7209.90.0000, 7210.70.3000, 7210.90.9000, 7211.30.1030, 7211.30.1090, 7211.30.3000, 7211.30.5000, 7211.41.1000, 7211.41.3030, 7211.41.3090, 7211.41.5000, 7211.41.7030, 7211.41.7060, 7211.41.7090, 7211.49.1030, 7211.49.1090, 7211.49.3000, 7211.49.5030, 7211.49.5060, 7211.49.5090, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7217.11.1000, 7217.11.2000, 7217.11.3000, 7217.19.1000, 7217.19.5000, 7217.21.1000, 7217.29.1000, 7217.29.5000, 7217.31.1000, 7217.39.1000, and 7217.39.5000. Included in these investigations are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been "worked after rolling")—for example, products which have been bevelled or rounded at the edges. Excluded from these investigations is certain shadow mask steel, i.e., aluminum-killed, cold-rolled steel coil that is open-coil annealed, has a carbon content of less than 0.002 percent, is of 0.003 to 0.012 inch in thickness, 15 to 30 inches in width, and has an ultra flat, isotropic surface.

This notice is published in accordance with section 706(a) of the Act (19 U.S.C. 1671e(a)) and 19 CFR 355.21.

Dated: August 18, 1993.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–20768 Filed 8–25–93; 8:45 am]

BILLING CODE 3510–DS–P

[C–614–503]

Lamb Meat From New Zealand; Final Results of Countervailing Duty Administrative Review

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

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

SUMMARY: On July 7, 1993, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on lamb meat from New Zealand (58 FR 36395). We have now completed that review and determine the total subsidy to be 0.11 percent *ad valorem* for all firms during the period April 1, 1991 through March 31, 1992. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis*.

EFFECTIVE DATE: August 26, 1993.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Kelly Parkhill, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On July 7, 1993, the Department of Commerce (the Department) published in the **Federal Register** (58 FR 36396) the preliminary results of its

administrative review of the countervailing duty order on lamb meat from New Zealand (50 FR 37708; September 17, 1985). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of Review

Imports covered by this review are shipments of lamb meat, other than prepared, preserved or processed, from New Zealand. This merchandise is currently classifiable under items 0204.10.0000, 0204.22.2000, 0204.23.2000, 0204.30.0000, 0204.30.0000, 0204.42.2000 and 0204.43.2000 of the Harmonized Tariff Schedule (HTS). The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period April 1, 1991 through March 31, 1992 and two programs: (1) Livestock Incentive Scheme (LIS) and (2) Export Market Development Taxation Incentive (EMDTI).

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received no comments.

Final Results of Review

As a result of our review, we determine that total subsidy to be 0.11 percent *ad valorem* for all firms during the period April 1, 1991 through March 31, 1992. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis*.

Therefore, the Department will instruct the Customs Service to liquidate, without regard to countervailing duties, shipments of this merchandise from all firms exported on or after April 1, 1991 and on or before March 31, 1992.

The Department will instruct the Customs Service to collect cash deposits of estimated countervailing duties of zero percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

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

Dated: August 19, 1993.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–20773 Filed 8–25–93; 8:45 am]

BILLING CODE 3510–DS–P

[C–475–808]

Final Affirmative Countervailing Duty Determinations: Certain Steel Products From Italy

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

Correction

In notice document 93–58130 beginning on page 37327 in the issue of Friday, July 9, 1993, make the following correction:

On page 37336, in the first line of the first column, "0.44" should read "0.18".

Dated: August 18, 1993.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–20771 Filed 8–25–93; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[I.D. 082393B]

Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: NMFS announces a public meeting pertaining to the development of a vessel incentive program to limit vessel bycatch amounts of Pacific salmon taken in the Bering Sea and Aleutian Islands management area trawl fisheries for groundfish. The purpose of this meeting is to identify issues associated with a salmon vessel incentive program and develop a recommendation for an incentive program that will be presented to the North Pacific Fishery Management Council during its September 21–25, 1993 meeting in Anchorage, Alaska. The meeting is scheduled for Thursday, September 2, 1993, in room 541A of the Federal Building, 709 West 9th, Juneau, Alaska. The meeting will begin at 9:30 a.m., Alaska local time.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, Fisheries Management Division, Alaska Region, NMFS, 907–586–7228.

Dated: August 23, 1993.

David S. Crestin,

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

[FR Doc. 93–20718 Filed 8–25–93; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Bangladesh

August 19, 1993.

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

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

EFFECTIVE DATE: August 23, 1993.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Category 341 is being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 60174, published on December 18, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist

only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 19, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 11, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on February 1, 1993 and extends through January 31, 1994.

Effective on August 23, 1993, you are directed to amend further the directive dated December 11, 1992 to increase the limit for Category 341 to 1,957,840 dozen[1].

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

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–20760 Filed 8–25–93; 8:45 am]

BILLING CODE 3510–DR–F

Establishment of an Import Limit and Guaranteed Access Level for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Guatemala

August 19, 1993.

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

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit and guaranteed access level.

EFFECTIVE DATE: October 1, 1993.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these levels, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

A Memorandum of Understanding dated July 22, 1993 between the Governments of the United States and Guatemala, establishes, among other things, a specific limit and guaranteed access level for cotton and man-made fiber textile products in Categories 351/651, produced or manufactured in Guatemala and exported during the period beginning on October 1, 1993 and extending through December 31, 1993.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 59334, published on December 15, 1992.

Requirements for participation in the Special Access Program are available in **Federal Register** notices 51 FR 21208, published on June 11, 1986; 52 FR 26057, published on July 10, 1987; 54 FR 50425, published on December 6, 1989; and 55 FR 3079, published on January 30, 1990. Also see proposed new requirements in 58 FR 41215 and 58 FR 41245, published on August 3, 1993.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 19, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 9, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Guatemala and exported during the twelve-month period which began on January 1, 1993 and extends through December 31, 1993.

Effective on October 1, 1993, you are directed to amend further the December 9, 1992 directive to establish a limit for cotton and man-made fiber textile products in Categories 351/651 for the period beginning on October 1, 1993 and extending through December 31, 1993 at a level of 50,416 dozen, as provided under the terms of a Memorandum of Understanding (MOU) dated July 22, 1993 between the Governments of the United States and Guatemala.

Imports charged to the limit for Categories 351/651 for the period May 28, 1993 through September 30, 1993, shall be charged against that level of restraint to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

Additionally, pursuant to the MOU dated July 22, 1993; and the terms of the Special Access Program, as set forth in 21208 (June 11, 1986), 52 FR 26057 (July 10, 1987); and 54 FR 50425 (December 6, 1989); and proposed requirements set forth in 58 FR 41215 (August 3, 1993); and 58 FR 41245 (August 3, 1993), effective on October 1, 1993, a guaranteed access level of 50,416 dozen is being established for properly certified textile products assembled in Guatemala from fabric formed and cut in the United States in Categories 351/651 which are re-exported to the United States from Guatemala during the period October 1, 1993 through December 31, 1993.

Any shipment for entry under the Special Access Program which is not accompanied by a valid and correct certification and Export Declaration in accordance with the provisions of the certification requirements established in the directive of January 24, 1990 shall be denied entry unless the Government of Guatemala authorizes the entry and any charges to the appropriate specific limit. Any shipment which is declared for entry under the Special Access Program but found not to qualify shall be denied entry into the United States.

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

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–20761 Filed 8–25–93; 8:45 am]

BILLING CODE 3510–DR–F

Increase in Guaranteed Access Levels for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Guatemala

August 20, 1993.

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

ACTION: Issuing a directive to the Commissioner of Customs increasing guaranteed access levels.

EFFECTIVE DATE: August 23, 1993.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and

[1] The limit has not been adjusted to account for any imports exported after January 31, 1993.

Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these levels, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Government of the United States agreed to increase the 1993 Guaranteed Access Levels for cotton and man-made fiber textile products in Categories 340/640 and 347/348.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 59334, published on December 15, 1992; and 57 FR 62306, published on December 30, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 20, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 9, 1992, as amended on December 23, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Guatemala and exported during the twelve-month period which began on January 1, 1993 and extends through December 31, 1993.

Effective on August 23, 1993, you are directed to amend further the December 9, 1992 directive to increase the current guaranteed access levels for the following categories:

Category	Guaranteed access level
340/640	720,000 dozen.
347/348	1,300,000 dozen.

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

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–20763 Filed 8–25–93; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in India

August 20, 1993.

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

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: August 23, 1993.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6705. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing and special allowance provided for handmade products under the current agreement.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 56328, published on November 27, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 20, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 20, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1993 and extends through December 31, 1993.

Effective on August 23, 1993, you are directed to amend the directive dated November 20, 1992 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and India:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
335/635	442,260 dozen.
336/636	637,403 dozen.
340/640	1,582,819 dozen.
341	3,328,363 dozen.
342/642	901,530 dozen.
347/348	413,104 dozen.
647/648	342,110 dozen.
Sublevel in Group II	
351/651	175,303 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1992.

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

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–20764 Filed 8–25–93; 8:45 am]

BILLING CODE 3510–DR–F

Amendment of Export Visa and Certification Requirements and Announcement of Guaranteed Access Levels for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Guatemala

August 19, 1993.

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

ACTION: Issuing a directive to the Commissioner of Customs amending visa and certification requirements and announcing a guaranteed access level.

EFFECTIVE DATE: August 26, 1993.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In a Memorandum of Understanding (MOU) dated July 22, 1993, the Governments of the United States and Guatemala agreed, among other things, to establish guaranteed access levels (GALs) for cotton and man-made fiber textile products in Categories 351/651 for the periods October 1, 1993 through December 31, 1993 and January 1, 1994 through December 31, 1994.

Beginning on September 1, 1993, the U.S. Customs Service will start signing the first section of the form ITA–370P for shipments of U.S. formed and cut parts in Categories 351/651 that are destined for Guatemala and subject to the GAL established for the period beginning on October 1, 1993 and extending through December 31, 1993. These products are governed by Harmonized Tariff item number 9802.00.8010 and chapter 61 Statistical Note 5 and chapter 62 Statistical Note 3 of the Harmonized Tariff Schedule. Interested parties should be aware that shipments of cut parts in Categories 351/651 must be accompanied by a form ITA–370P, signed by a U.S. Customs officer, prior to export from the United States for assembly in Guatemala in order to qualify for entry under the Special Access Program.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to amend visa and certification requirements to include merged Categories 351/651 and to begin signing the first section of form ITA–370P for Categories 351/651.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 57 FR 54976, published on November 23, 1992).

Requirements for participation in the Special Access Program are available in Federal Register notices 51 FR 21208, published on June 11, 1986; 52 FR 26057, published on July 10, 1987; 54 FR 50425, published on December 6, 1989; and 55 FR 3079, published on January 30, 1990. Also see proposed new requirements in 58 FR 41215 and 58 FR 41245, published on August 3, 1993.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 19, 1993.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directives amends, but does not cancel, the directive issued to you on January 24, 1990, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns export visa and certification requirements for certain cotton, wool and man-made fiber textile products, produced or manufactured in Guatemala.

Effective on August 26, 1993, you are directed to amend further the January 24, 1990 directive, to include the coverage of cotton and man-made fiber textile products in merged Categories 351/651, produced or manufactured in Guatemala and exported from Guatemala on and after August 26, 1993.

Merchandise in merged Categories 351/651 may be accompanied by either the appropriate merged category visa or the correct category visa corresponding to the actual shipment.

Shipments entered or withdrawn from warehouse according to this directive which are not accompanied by an appropriate visa or certification shall be denied entry and a new visa must be obtained.

Beginning on September 1, 1993, the U.S. Customs Service is directed to start signing the first section of the form ITA–370P for shipments of U.S. formed and cut parts in Categories 351/651 and that are destined for Guatemala to be re-exported to the United States on and after October 1, 1993.

Shipments of goods in Categories 351/651 which are re-exported from Guatemala prior to October 1, 1993 shall not be permitted entry under the Special Access Program and shall be charged to the existing quota level for Categories 351/651.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–20762 Filed 8–25–93; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Meeting of the Advisory Council on Dependents' Education

AGENCY: Department of Defense Dependents Schools (DoDDS), Office of the Secretary of Defense.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Dependents' Education (ACDE). It also describes the functions of the Council. Notice of this meeting is required under the National Advisory Committee Act. Although the meeting is open to the public, because of space constraints, anyone wishing to attend the meeting should contact the point of contact listed below.

DATES: October 22, 1993, 9 a.m. to 4:30 p.m. and October 23, 1993, 9 a.m. to 2 p.m.

CIVILIAN ADDRESS: 4–12–20, Minami-Azabu, Minato-ku, Tokyo 106, Japan. Telephone: 011–03–3440–7871.

MILITARY ADDRESS: U.S. Naval Joint Services Activity, The New Sanno, Unit 45002, APO AP 96337–0110.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Hohenthal, Chief, Executive Services, DoDDS-Pacific Region, Futenma Box 796, FPO, AP 96372, telephone number: 011–81–988–76–3005; or Ms. Marilyn Witcher, Public Affairs Officer, DoD Dependents Schools, 1225 Jefferson Davis Highway, Crystal Gateway #2, suite 1500, Arlington, Virginia 22202; telephone number: 703–746–7846.

SUPPLEMENTARY INFORMATION: The Advisory Council on Dependents' Education is established under title XIV, section 1411, of Public Law 95–561, Defense Dependents' Education Act of 1978, as amended by title XII, section 1204(b)(3)–(5), of Public Law 99–145, Department of Defense Authorization Act of 1986 (20 U.S.C, chapter 25A, section 929, Advisory Council on Dependents' Education). The Council is cochaired by designees of the Secretary of Defense and the Secretary of Education. In addition to a representative of each of the Secretaries, 12 members are appointed jointly by the Secretaries. Members include representatives of education institutions and agencies, professional employee organizations, unified military commands, school administrators, parents of DoDDS students, and one DoDDS student. The Director, DoDDS, serves as the Executive Secretary of the Council. The purpose of the Council is to advise the Secretary of Defense and

the DoDDS Director about effective educational programs and practices that should be considered by DoDDS and to perform other tasks as may be required by the Secretary of Defense. The agenda includes discussions about the national goals for education, academic achievement encouragement, education of handicapped dependents, communications throughout the system, increased parental involvement, drawdown planning, educational technologies, and responses to the recommendations made by the Council during its April 1993 meeting.

Dated: August 20, 1993.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–20637 Filed 8–25–93; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

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 the Committee: Army Science Board (ASB).

Dates of the Meeting: 17 September 1993.

Time: 1100–1700 Hours.

Place: The Pentagon, Washington, DC.

Agenda: The Army Science Board (ASB) will participate in the DAS(R&T) C3 Advanced Technology Demonstration (ATD) Review which will focus on selected CECOM Research, Development, & Engineering Center ATD program baselines with a view towards ATD Advanced Warfighting Experiments that support TRADOC Battle Lab Advanced Warfighting Demonstrations in "winning the information war." This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraphs (1) and (4) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are 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. 93–20732 Filed 8–25–93; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Intent To Grant Exclusive Patent License; SBS Engineering, Inc.

AGENCY: Department of the Navy, DoD.

ACTION: Intent to grant exclusive patent license; SBS Engineering, Inc.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to SBS Engineering, Inc. a revocable, nonassignable, exclusive license in the United States to practice the Government-owned inventions described in U.S. Patents No. 4,923,402 entitled "Marksmanship Expert Trainer", 5,035,622 entitled "Machine Gun and Minor Caliber Weapons Trainer", 5,213,503 entitled "Team Trainer", 5,215,463 entitled "Disappearing Target"; 5,215,464 entitled "Aggressor Shot-Back Simulation"; and 5,215,465 entitled "Infrared Spot Tracker."

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the chief of Naval Research (Code 1230), Ballston Tower One, Arlington, Virginia 22217–5660.

DATE: August 26, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Chief of Naval Research (Code 1230), Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

Dated: August 10, 1993.

Michael P. Rummel,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 93–20630 Filed 8–25–93; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources 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 September 27, 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 4682, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Cary Green (202) 401–3200. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 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: August 20, 1993.

Wallace McPherson,

Acting Director, Information Resources Management Service.

Office of Elementary and Secondary Education

Type of Review: Reinstatement
Title: Continuation Application for Grants under the School Dropout Demonstration Assistance Program
Frequency: Annually
Affected Public: State or local governments; non-profit institutions
Reporting Burden:
Responses: 85
Burden Hours: 850
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This form will be used by State Educational agencies to apply

for funding under the School Dropout Demonstration Assistance Program. The Department will use the information to make grant awards.

[FR Doc. 93–20664 Filed 8–25–93; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2422–004, 2287–003, 2326–002, 2327–002, 2311–001, 2288–004, and 2300–002]

Androscoggin River, NH; Intent To Hold a Public Meeting To Discuss Staff's Draft Environmental Impact Statement (DEIS) for Existing Projects on the Upper Androscoggin River

August 20, 1993.

On June 3, 1993, the Commission's Staff mailed the Upper Androscoggin River Basin Hydroelectric Projects, New Hampshire, DEIS to the Environmental Protection Agency, resource and land management agencies, interested organizations, and individuals. This document evaluates the continued operation of the Sawmill Project, FERC No. 2422; J. Brody Smith Project, FERC No. 2287; Cross Project, FERC No. 2326; Cascade Project, FERC No. 2327; Gorham Project, FERC No. 2311; Gorham Project, FERC No. 2288; and Shelburne Project, FERC No. 2300. The seven existing hydropower projects are located on the Androscoggin River. All the projects are located in Coos County, New Hampshire.

The action of relicensing these projects involves tradeoffs between energy production and enhancement of environmental quality. The staff formulated alternatives, and evaluated impacts to respond to concerns raised during the scoping process. In developing recommendations in the DEIS, the staff gave equal consideration to developmental and nondevelopmental values in accordance with the Federal Power Act.

The DEIS also evaluated expansion of capacity at the Cascade and Gorham (FERC No. 2311) projects. A 1.7-foot increase in the reservoir surface elevation is proposed at the Shelburne Project.

The issues addressed in the DEIS are potential impacts to and effects on; (1) geologic and soils resources, (2) water quality and quantity, (3) fisheries resources, (4) terrestrial resources, (5) recreational resources, (6) aesthetic resources, (7) cultural resources, (8) air quality, and (9) cumulative effects on dissolved oxygen and resident salmonids.

Alternatives to the applicants' proposals considered in detail are (1) modification to proposed project operation or facilities to further protect, enhance, or mitigate adverse impacts to environmental resources and values and (2) no action.

The public meeting will be conducted by staff in Berlin, New Hampshire on Wednesday, September 9, 1993, from 7 p.m. to 10 p.m. at the City Hall Auditorium, 168 Main Street, Berlin, New Hampshire.

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission proceeding on the Androscoggin River projects under consideration. Individuals presenting statements at the meetings will be asked to sign in before the meeting starts and to clearly identify themselves for the record.

All those that are formally recognized by the Commission as intervenors in the Androscoggin Projects' proceedings are asked to refrain from engaging the staff in discussions of the merits of the projects outside of any announced meetings.

For further information please contact Mr. R. Feller at (202) 219–2796.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–20663 Filed 8–25–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP93–635–000, et al.]

Columbia Gas Transmission Corp., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Columbia Gas Transmission Corp.

[Docket No. CP93–635–000]

August 19, 1993.

Take notice that on August 11, 1993, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP93–635–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Columbia states that it proposes the construction and operation of approximately 2.1 miles of 12-inch pipeline to replace approximately 2.1 miles of 10-inch pipeline, designated as Line A–5 located in Orange County, New York.

Columbia says that it does not request authorization for any new or additional service. Columbia states that the segments of pipeline to be replaced have become physically deteriorated to the extent that replacement is deemed advisable. The estimated cost of the proposed construction is $1,949,000 and would be financed with funds generated from internal sources.

Comment date: September 16, 1993, in accordance with Standard Paragraph F at the end of the notice.

2. El Paso Natural Gas Co.

[Docket No. CP93–633–000]

August 19, 1993.

Take notice that on August 11, 1993, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP93–633–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to modify and operate the existing Conoco Ramsey Plant Receipt Point in Reeves County, Texas as a reversed flow delivery point, to permit the interruptible transportation and delivery of natural gas directly to Conoco Inc. (Conoco), under El Paso's blanket certificate issued in Docket No. CP82–435–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

El Paso states that by letter dated February 1, 1993, Conoco informed El Paso of Conoco's intention to stop tendering residue gas to El Paso for transportation from the Conoco Ramsey Plant. El Paso states further that Conoco would tender the same quantity of residue gas to El Paso for transportation at the tailgate of Sid Richardson Carbon & Gasoline Company's Jal No. 3 Plant in Lea County, New Mexico. It is said that Conoco also requested that El Paso reverse the gas flow through the Conoco Ramsey Plant Line and utilize the Conoco Ramsey Plant Meter Station as a delivery point, rather than as a receipt point.

Conoco, it is said, would utilize gas transported and delivered by El Paso as fuel to operate field compressors and as lift gas in carbon dioxide flood operations.

El Paso states that the estimated cost to reverse the gas flow through the Conoco Ramsey Plant Meter Station is $22,700.

Comment date: October 4, 1993, in accordance with Standard Paragraph G at the end of this notice.

3. Questar Pipeline Co.

[Docket No. CP93–670–000

August 19, 1993.

Take notice that on August 16, 1993, Questar Pipeline Company (Questar), 79 South State Street, Salt Lake City, Utah 84111 filed in Docket No. CP93–670–000 an application pursuant to section 7(b) of the Natural Gas Act requesting authority to abandon natural-gas transportation service provided to Mountain Fuel Supply Company (Mountain Fuel) under Questar's Rate Schedule X–33 to Original Volume No. 3 of its FERC Gas Tariff. By mutual agreement between Questar and Mountain Fuel, the authorized service proposed to be abandoned by Questar will be converted to Rate Schedule T–1 firm transportation service under First Revised Volume No. 1 of Questar's FERC Gas Tariff, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Questar requests expedited consideration of its request so that authority to abandon the Rate Schedule X–33 transportation service to Mountain Fuel may be granted September 1, 1993, the effective date of First Revised Volume No. 1, Questar's restructuring compliance tariff, as ordered by the Commission on August 2, 1993, in Docket No. RS92–9–000.

Questar represents that by letter dated September 28, 1992, Mountain Fuel, as a party to Questar's restructuring proceeding in Docket No. RS92–9–000, requested that its 118,470 Dth of Rate Schedule X–33 transportation service be converted to Rate Schedule T–1 firm transportation service upon Questar's implementation of the services restructured according to the Commission's Order No. 636. Questar states that it does not propose to abandon any existing facilities in conjunction with this filing.

Questar requests Commission waiver of the first-come, first-served provision reflected in § 7.1(c) of Original Volume No. 1–A of its FERC Gas Tariff, or if the instant filing is acted upon subsequent to Questar restructuring under Docket No. RS92–9–000, § 5.8(b) of First Revised Volume No. 1 of Questar FERC Gas Tariff, so that the priority applicable to the quantity of gas transported to Mountain Fuel under Rate Schedule X–33 may be transferred to the equivalent transportation service that will be provided under Questar's blanket certificate and according to 18 CFR 284.223.

Comment date: September 16, 1993, in accordance with Standard Paragraph F at the end of this notice.

4. Questar Pipeline Co.

[Docket No. CP93–591–000]

August 19, 1993

Take notice that on July 29, 1993, Questar Pipeline Company (Questar), 79 South State Street, Salt Lake City, Utah 84111 filed in Docket No. CP93–591–000, a request pursuant to 18 CFR 157.205 and 157.211 of the Commission's Regulations for authorization to convert the jurisdictional status of minor metering facilities, located at the inlet of the Brady Gas Processing Plant (Brady Plant) owned and operated by Union Pacific Resources Company (UPRC) from an 18 CFR 284.3(c) exempt facility designated to a Natural Gas Act (NGA) Section 7(c) jurisdictional designation. Questar states that the metering facilities it proposes to convert comprise one 3-inch meter run and minor yard and station piping located in Sweetwater County, Wyoming, and serve as a transportation delivery point to UPRC's Brady Plant for Union Pacific Fuels, Inc. (UPF), an affiliate of UPRC. This request was made under the blanket certificate authorization issued in Questar's Docket No. CP82–491–000 pursuant to NGA section 7(c), all as more fully set forth in the request, which is on file with the Commission and open to public inspection.

Questar explains that, consistent with the Commission's Order No. 537, the Brady Plant delivery-point metering facilities, which were previously constructed pursuant to 18 CFR 284.3(c) as facilities exempt from the Commission jurisdiction and operated solely to provide open-access transportation service under NGPA section 311(a)(1) and 18 CFR 284.102 to UPRC, for the account of UPF, are proposed to be converted to section 7(c) jurisdictional facilities.

Questar states that the exempt Brady Plant delivery-point facility that it proposes to convert to a section 7(c) jurisdictional facility comprise one 3-inch meter run, valving and minor associated yard and station piping. The Brady Plant delivery point is located in Section 11, Township 16 North, Range 101 West, Sweetwater County, Wyoming and the facilities are utilized to provide UPRC's Brady Plant with its fuel, space and water heating requirements in the event of plant failure or similar emergency. The total cost of installing the 3-inch meter run and completing the related facility modifications was $21,461, for which Questar was reimbursed in full by UPRC. The Brady Plant delivery point was placed in service on September 26, 1989, and transportation of fuel-gas volumes to UPRC, for the account of UPF, commenced on October 6, 1989. Questar anticipates that future peak-day and annual requirements at the delivery point may approximate 1,300 Dth per day and 150,000 Dth per year. Questar states that no changes in the level of transportation service is proposed in this prior notice filing.

Comment date: October 4, 1993, in accordance with Standard Paragraph G at the end of this notice.

5. Valero Interstate Transmission Co.

[Docket No. CP93–667–000]

August 19, 1993.

Take notice that on August 16, 1993, Valero Interstate Transmission Company ("Vitco"), 530 McCullough Avenue, San Antonio, Texas 78215, filed in Docket No. CP93–667–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain facilities and service effective January 1, 1994, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Vitco states that its request for authorization consists of three major elements: (1) The abandonment of all facilities by conveyance to Valero Transmission, L.P. ("VTLP"), an affiliate intrastate pipeline; (2) the abandonment of firm sales service to El Paso under rate schedule S–3; and (3) the abandonment of interruptible transportation service to Transcontinental Gas Pipe Line Corporation under rate schedules ITS–1. Vitco states that after abandonment VTLP will offer § 311 service to Vitco's existing § 311 customers.

Vitco seeks Commission approval of abandonment of all of its transmission lines (139.7 miles) and related gathering facilities (112.5 miles) in Brooks, Hidalgo, Jim Wells, Kleberg and Starr Counties, Texas and a 1000 HP mainline compressor in Jim Wells County, Texas. Vitco states that it is proposing to abandon these facilities because it is more economical to abandon these facilities and operate them as an integral part of VTLP's intrastate pipeline system.

Vitco states that all of the facilities will be conveyed to VTLP and that VTLP will assume all of the transportation obligations to Vitco upon abandonment. Vitco states that there will be no diminution of service because service to Vitco's customers before and after abandonment will be equivalent.

Comment date: September 16, 1993, in accordance with Standard Paragraph F at the end of this notice.

6. Mojave Pipeline Company and Kern River Gas Transmission Co.

[Docket No. CP93–665–000]

August 19, 1993.

Take notice that on August 13, 1993, Mojave Pipeline Company (Mojave), 5001 E. Commercenter Drive, Bakersfield, California 93309, and Kern River Gas Transmission Company (Kern River), Post Office Box 2521, Houston, Texas 77252 filed in Docket No. CP93–665–000 a joint request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization for the addition of delivery points under Mojave's blanket certificate issued in Docket No. CP89–002–000 and under Kern River's blanket certificate issued in Docket No. CP89–2048–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Mojave proposes to use certain jointly-owned delivery points presently certificated to be constructed and operated by Kern River and Kern River proposes to use certain jointly-owned delivery points certificated to be constructed and operated by Mojave. It is stated that all of the delivery points, located in Kern County, California, have been constructed and are in operation.

Comment date: October 4, 1993, in accordance with Standard Paragraph G at the end of this notice.

7. ANR Pipeline Co.

[Docket No. CP93-644-000]

August 19, 1993.

Take notice that on August 13, 1993, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP93–644–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct an interconnection between ANR and Wisconsin Public Service Corporation (WPS), an existing customer, in Sheboygan County, Wisconsin, under ANR's blanket certificate issued in Docket No. CP82–480–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

ANR proposes to construct an interconnection between ANR and WPS in order to permit WPS to provide residential service to the towns of St. Cloud and Mount Calvary, Wisconsin, without detriment to other customers.

Comment date: October 4, 1993, in accordance with Standard Paragraph G at the end of this notice.

East Tennessee Natural Gas Co.

[Docket No. CP93–621–000]

August 19, 1993.

Take notice that on August 6, 1993, East Tennessee Natural Gas Company (East Tennessee), P.O. Box 2511, Houston, Texas 77252, filed Docket No. CP93–621–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to remove and replace about 35 feet of pipeline in Hawkins County, Tennessee under East Tennessee's blanket certificate issued in Docket No. CP82–421–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

East Tennessee proposes to replace about 35 feet of 2-inch pipeline in Hawkins County, Tennessee in order to increase capacity to its firm sales customers Natural Gas Utility District of Hawkins County, Tennessee (Hawkins), to enable Hawkins to render service to additional customers. East Tennessee asserts that there would be no increase in daily and/or annual quantities to Hawkins.

Comment date: October 4, 1993, in accordance with Standard Paragraph G at the end of this notice.

9. William Natural Gas Co.

[Docket No. CP93–664–000]

August 19, 1993.

Take notice that on August 13, 1993, William Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP93–664–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to relocate eight town border deliveries and eighteen domestic customers in Harper, Sumner and Dedgwick Counties, Kansas, under WNG's blanket certificate issued in Docket No. CP82–479–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Specifically, WNG proposes to relocate the deliveries as detailed below from the Pampa 20-inch pipeline to an adjacent 6-inch pipeline under construction.

	Peak day Dth	Annual Dth
Clearwater	770	80,716
Conway	648	70,739
Viola	64	8,541
Norwich	398	44,477
Argonia	216	32,382
Danville	21	3,049
Harper	944	103,622
Anthony	1,653	185,872
Total	4,714	529,398

WNG indicates that approximately 3,000 feet of 2-inch pipeline is required to connect the Argonia town border to the new 6-inch line and that the other town borders would require approximately 100 feet of 2-inch pipeline each to connect to the new 6-inch line.

WNG estimates that the cost to relocate town border taps and the domestics would be approximately $130,349.

Comment date: October 4, 1993, in accordance with Standard Paragraph G at the end of this notice.

10. ANR Pipeline Co.

[Docket No. CP93–643–000]

August 19, 1993.

Take notice that on August 13, 1993, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP93-643–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain natural gas transportation services for Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that ANR and Natural have agreed to terminate Rate Schedules X–40, X–72, X–83, X–105 and X–118 under Original Volume No. 2 of ANR's FERC Gas Tariff. ANR further states that it requests an effective date of November 1, 1993, as agreed to by ANR and Natural.

Comment date: September 16, 1993, in accordance with Standard Paragraph F at the end of this notice.

11. ANR Pipeline Co.

[Docket No. CP93–637–000]

August 19, 1993.

Take notice that on August 12, 1993, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP93–637–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for

authorization to construct and operate an interconnection, consisting of a hot tap and appurtenant facilities, in Lenawee County, Michigan, under ANR's blanket certificate issued in Docket No. CP82–480–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Specifically, ANR proposes to construct the interconnection to connect to the facilities of Westside Pipeline Company in Lenawee County, for the delivery of gas to Citizens Gas Fuel Company, also in Lenawee County.

Cost of the interconnection is estimated to be $74,000, of which, ANR would be fully reimbursed.

Comment date: October 4, 1993, in accordance with Standard Paragraph G at the end of this notice.

12. Texas Eastern Transmission Corp.

[Docket No. CP93–668–000]

August 19, 1993.

Take notice that on August 16, 1993, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP93–668–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to install a new delivery point in order to deliver natural gas to PECo, an LDC, under Texas Eastern's blanket certificate issued in Docket No. CP82–535–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Eastern states that the delivery point would be located on Texas Eastern's 16-inch line No. 1–A at M.P. 3.22 in Delaware County, Pennsylvania. The facilities, it is said, would include a single 16-inch side valve to be installed by Texas Eastern. Texas Eastern states that PECo would cause to be installed a 12-inch Meter Station and approximately 6,100 feet of 16-inch pipeline. The approximate cost of such facilities is said to be $761,000 and would be 100% reimbursable by PECo.

The installation of the delivery point, it is said, would be without detriment or disadvantage to Texas Eastern's other customers nor any increase in PECo's existing entitlements.

Comment date: October 4, 1993, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–20689 Filed 8–25–93; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4699–2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection 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.

DATES: Comments must be submitted on or before September 27, 1993.

FOR FURTHER INFORMATION OR A COPY OF THIS ICR CONTACT: Sandy Farmer at EPA, (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: 1993 Hazardous Waste Report System (EPA ICR #0976.07; OMB No. 2050–0024). This ICR is a reinstatement of a previously approved information collection.

Abstract: Generators and owners/operators of hazardous waste management facilities must compile a biennial report of information on location, amount and description of hazardous waste handled. EPA uses the information to define the population of the regulated community and to expand its data base of information for rulemaking and compliance with statutory requirements.

Burden Statement: The estimated average public burden for this collection of information is about 21 hours per response. This estimate includes all aspects of the information collection including time for reviewing instructions, gathering the data needed, reviewing the collection of information, and submitting the form. The recordkeeping burden is estimated to average 1.3 hours per response.

Respondents: Generators and Handlers of Hazardous Waste.

Estimated Number of Respondents: 20,250.

Frequency of Collection: Biennial.

Estimated Number of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 234,900.

Send comments regarding the burden estimate, or any other aspect of this

collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street SW., Washington, DC 20460,

and

Jonathan Gledhill, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20503.

Dated: August 20, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–20711 Filed 8–25–93; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Extension of the expiration date of a currently approved collection without any change in the substance or method of collection.

Title: Transfer Agent Registration and Amendment Form.

Form Number: Form TA–1.

OMB Number: 3064–0026.

Expiration Date of OMB Clearance: November 30, 1993.

Frequency of Response: On occasion.

Respondents: Insured nonmember banks wishing to register with the FDIC as transfer agents, as required by the Securities Exchange Act of 1934.

Number of Responses: 32.

Number of Responses Per Respondent: 1.

Total Annual Responses: 32.

Average Number of Hours Per Response: 0.47.

Total Annual Burden Hours: 15.

OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Management and Budget, Paperwork Reduction Project (3064–0026), Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted before October 25, 1993.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Section 17(c)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q) requires a bank to register with the appropriate federal bank regulatory agency prior to performing any transfer agent function. Under FDIC regulation 12 CFR Part 341, an insured nonmember bank uses Form TA–1 to register with the FDIC as a transfer agent.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93–20629 Filed 8–25–93; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–996–DR]

Iowa; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Iowa, (FEMA–996–DR), dated July 9, 1993, and related determinations.

EFFECTIVE DATE: August 20, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Iowa dated July 9, 1993, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 9, 1993:

Black Hawk, Davis, Franklin, Fremont, Jefferson, Keokuk, Kossuth, Lucas, Mahaska, Osceola, Webster, and Winneshiek Counties for Public Assistance. (Already designated for Individual Assistance.)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93–20748 Filed 8–25–93; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–999–DR]

South Dakota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of South Dakota (FEMA–999–DR), dated July 19, 1993, and related determinations.

EFFECTIVE DATE: August 20, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of South Dakota dated July 19, 1993, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 19, 1993:

Gregory County for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93–20749 Filed 8–25–93; 8:45 am]

BILLING CODE 6718–02–M

[FEMA-994–DR]

Wisconsin; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Wisconsin (FEMA–994–DR), dated July 2, 1993, and related determinations.

EFFECTIVE DATE: August 20, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of

Wisconsin dated July 2, 1993, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 2, 1993:

Menominee and Shawano Counties for Individual Assistance and Public Assistance.

Pepin County for Public Assistance. (Already designated for Individual Assistance.)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93–20750 Filed 8–25–93; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Dolphin Cruises, Inc., Ulysses Cruises, Inc. and Masefield Company Limited, 901 South America Way, Miami, Florida 33132–2073.

Vessel: Dolphin IV

Dated: August 23, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–20673 Filed 8–25–93; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Regal Cruises, Inc. (d/b/a Regal Cruises), Regal Enterprises, Inc., and Regal Cruises Limited, 69 Spring Street, Ramsey, New Jersey 07446–0507

Vessel: Regal Empress.

Dated: August 23, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–20672 Filed 8–25–93; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Financial Responsibility To Met Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Regal Cruises, Inc., Regal Enterprises, Inc., Regal Cruises Ltd. and International Shipping Partners, 69 Spring Street, Ramsey, New Jersey 07446–0507

Vessel: Regal Empress.

Dated: August 23, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–20674 Filed 8–25–93; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

T C International Marketing Network, Inc., 1430 S. Eastman Ave., #200, Los Angeles, CA 90023, Officers: Thomas T. Chen, President/Director, Wendy C. Shiao, Secretary/Director

Kamay Shippers, 3353 3rd Avenue, Bronx, NY 10456, Thomas Panford, Sole Proprietor

Tejas Freight Forwarding, Inc., 22118 Gosling Road, Spring, TX 77389, Officer: Nimia Del Rosario Rodriguez, President

Larry Linh Bui, 8172 Monticello Circle, Westminister, CA 92683, Sole Proprietor

Van Esch Trading and Shipping B.V., 6033 W. Century Blvd., #1222, Los Angeles, CA 90045, Officers: H. van Esch, Sr., President, J. Groenedijk, Officer, W. van Esch, Managing Director

Calbac, Inc., 2840 North 73rd Ave., Hollywood, FL 33024, Officers: Caleel Bacchus, President, Ena Bacchus, Secretary

ITO El Paso-International Transport Organization, Inc., 9601 Carnegie Ave., El Paso, TX 79925, Officers: Georg Koenigsmann, President/Director, Dieter Schmekel, Vice President/Director, Horst Dieter Lange, Vice President/Director, Berndt E. Becker, Manager/V. President/Treasurer, Eva H. Martin, Secretary

Falcon Forwarding, Inc., 3981 N.W. 66th Ave., Miami, FL 33166, Officer: Carlos J. Dovo, President.

Dated: August 23, 1993.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–20675 Filed 8–25–93; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Public Meeting on Update of the Clinical Practice Guideline on Urinary Incontinence in Adults

The Agency for Health Care Policy and Research (AHCPR) announces the first public meeting to receive comments and information pertaining to the update of the clinical practice guideline on "Urinary Incontinence in Adults." The guideline is being developed by a private-sector panel of health care experts and consumers.

A notice announcing that AHCPR was arranging for the development of this clinical practice guideline was published in the Federal Register on October 14, 1992 (57 FR 47106). That notice invited nominations for experts and consumers to serve on the panel that is developing the guideline.

A public meeting to address the update of the guideline for "Urinary Incontinence in Adults," and to provide an opportunity for other interested parties to contribute relevant information and comments will be held as follows:

Meeting: Urinary Incontinence In

Adults
Date: Monday, September 20, 1993
From: 9 a.m.–12:00 p.m., Hyatt Hotel, Arlington at Key Bridge, 1325 Wilson Boulevard, Arlington, Virginia 22209.
Phone: 703–525–1234

Background

The Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239) added a new title IX to the Public Health Service Act (the Act), which established the Agency for Health Care Policy and Research (AHCPR) to enhance the quality, appropriateness, and effectiveness of health care services, and access to such services. (See 42 U.S.C. 299–299c–6 and 1320b–12). The Agency for Health Care Policy and Research Reauthorization Act of 1992 (Pub. L. 102–410), enacted on October 13, 1992, extended the authorization of AHCPR and amended certain provisions related to the development of clinical practice guidelines.

In keeping with its legislative mandate, AHCPR is arranging for the development, periodic review, and updating of clinically relevant guidelines that may be used by physicians, other health care practitioners, educators, and consumers to assist in determining how diseases, disorders, and other health conditions can most effectively and appropriately be prevented, diagnosed, treated, and clinically managed. Based on the guidelines produced, AHCPR oversees development of medical review criteria, standards of quality, and performance measures.

Section 912 of the Act (42 U.S.C. 299b–1(b)), as amended by Public Law 102–410, requires that the guidelines:

1. Be based on the best available research and professional judgment;
2. Be presented in formats appropriate for use by physicians, other health care practitioners, medical educators, medical review organizations, and consumers;
3. Be presented in treatment-specific or condition-specific forms appropriate for use in clinical practice, educational programs, and reviewing quality and appropriateness of medical care;
4. Include information on the risks and benefits of alternative strategies for prevention, diagnosis, treatment, and management of the particular health condition(s); and
5. Include information on the costs of alternative strategies for prevention, diagnosis, treatment, and management of the particular health condition(s), where cost information is available and reliable.

Section 914 of the Act (42 U.S.C. 299–3(a)), as amended by Public Law 102–410, identifies factors to be considered in establishing priorities for guidelines, including the extent to which the guidelines would:

1. Improve methods for disease prevention;
2. Improve methods of diagnosis, treatment, and clinical management, and thereby benefit a significant number of individuals;
3. Reduce clinically significant variations among clinicians in the particular services and procedures utilized in making diagnoses and providing treatments; and
4. Reduce clinically significant variations in the outcomes of health care services and procedures.

Also, in accordance with title IX of the PHS Act and section 1142 of the Social Security Act, the Administrator is to assure that the needs and priorities of the Medicare program are reflected appropriately in the agenda and priorities for development of guidelines.

Arrangements for the September 20, 1993 Public Meeting on Urinary Incontinence in Adults

Representatives of organizations and other individuals are invited to provide relevant written comments and information, and make a brief (5 minutes or less) oral statement to the panel. Individuals and representatives who would like to attend must register with David Shactman, Mikalix and Company (M & C), the contractor providing administrative support to this panel, at the address set out below by September 10, 1993, and indicate whether they plan to make an oral statement. A copy of the oral statement, comments, and information should be submitted to M & C by September 10, 1993. If more requests to make oral statements are received than can be accommodated between 9 a.m. and 12 p.m. on September 20, 1993, the co-chairpersons will allocate speaking time in a manner which ensures, to the extent possible, that a range of views of health care professionals, consumers, product manufacturers, and pharmaceutical manufacturers is presented. Those who cannot be granted their requested speaking time because of time constraints are assured that their written comments will be considered in updating the guideline.

If sign language interpretation or other reasonable accommodation for a disability is needed, please contact M&C by September 10, 1993, at the address below.

Registration should be made with, and written materials submitted to: Mikalix and Co. (M & C), Attn: David Shactman, 404 Wyman Street, suite 375, Waltham, MA 02154–1210, Phone: (617) 290–0090, Fax: (617) 290–0180.

For Additional Information

Additional information on the guideline development process is contained in the AHCPR Fact Sheet, "AHCPR Commissioned Clinical Practice Guidelines," dated April, 1993. This document describes the AHCPR's activities with respect to clinical practice guidelines including the process and criteria for selecting panels. This document can be obtained from the AHCPR Clearinghouse, P.O. Box 8547, Silver Spring, MD 20907; or call Toll-Free: 1–800–358–9295.

Also information can be obtained by contacting Kathleen A. McCormick, Ph.D., Director, Office of the Forum for Quality and Effectiveness in Health Care, Agency for Health Care Policy and Research, at the following address: Director, Office of the Forum for Quality and Effectiveness in Health Care/ Agency for Health Care Policy and Research, Willco Building, 6000 Executive Blvd., suite 310, Rockville, MD 20852, Phone: 301–594–4015, Fax: 301–594–4027.

Dated: August 18, 1993.

J. Jarrett Clinton,

Administrator.

[FR Doc. 93–20693 Filed 8–25–93; 8:45 am]

BILLING CODE 4160–90–U

Food and Drug Administration

Request for Nominations for Members on Public Advisory Committees in the Center for Drug Evaluation and Research

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for members to serve on certain public advisory committees in the Center for Drug Evaluation and Research. Nominations will be accepted for current vacancies and vacancies that will or may occur on the committees during the next 16 months.

FDA has a special interest in ensuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and, therefore, extends particular encouragement to nominations for appropriately qualified female, minority, and physically handicapped candidates. Final selection from among qualified candidates for each vacancy

will be determined by the expertise required to meet specific agency needs and in a manner to ensure appropriate balance of membership.

DATES: Because scheduled vacancies occur on various dates throughout each year, no cutoff date is established for receipt of nominations.

ADDRESSES: All nominations for membership, except for consumer-nominated members should be sent to Adele S. Seifried (address below). All nominations for consumer-nominated members should be sent to Phyllis Weller (address below).

FOR FURTHER INFORMATION CONTACT: Regarding all nominations for membership, except consumer-nominated members: Adele S. Seifried, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455.

Regarding all nominations for consumer-nominated members: Phyllis Weller, Office of Consumer Affairs (HFE–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5006.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations of members for the following 16 advisory committees for vacancies listed below. Individuals should have expertise in the activity of the committee.

1. *Anesthetic and Life Support Drugs Advisory Committee*: Five vacancies occurring March 31, 1994, including that of the consumer-nominated member.

2. *Anti–Infective Drugs Advisory Committee*: Four vacancies occurring November 30, 1993, and two vacancies occurring November 30, 1994.

3. *Antiviral Drugs Advisory Committee*: Four vacancies occurring October 31, 1993, including that of the consumer-nominated member, and two vacancies occurring October 31, 1994.

4. *Arthritis Advisory Committee*: Three vacancies occurring September 30, 1994.

5. *Cardiovascular and Renal Drugs Advisory Committee*: Three vacancies occurring June 30, 1994.

6. *Dermatologic Drugs Advisory Committee*: Two vacancies occurring August 31, 1993, including that of the consumer-nominated member, and three vacancies occurring August 31, 1994.

7. *Endocrinologic and Metabolic Drugs Advisory Committee*: Eight vacancies occurring immediately, including that of the consumer-nominated member, and three vacancies occurring June 30, 1994.

8. *Gastrointestinal Drugs Advisory Committee*: Three vacancies occurring June 30, 1994, including that of the consumer-nominated member.

9. *Generic Drugs Advisory Committee*: Three vacancies occurring October 31, 1993, and five vacancies occurring October 31, 1994, including that of the consumer-nominated member.

10. *Medical Imaging Drugs Advisory Committee*: Five vacancies occurring June 30, 1994, including that of the consumer-nominated member.

11. *Oncologic Drugs Advisory Committee*: Three vacancies occurring June 30, 1994.

12. *Over-the-Counter (OTC) Drugs Advisory Committee*: Three vacancies occurring May 31, 1994.

13. *Peripheral and Central Nervous Systems Drugs Advisory Committee*: Two vacancies occurring January 1, 1994.

14. *Psychopharmacologic Drugs Advisory Committee*: Four vacancies occurring immediately, including that of the consumer-nominated member, and three vacancies occurring June 30, 1994.

15. *Pulmonary–Allergy Drugs Advisory Committee*: Three vacancies occurring May 31, 1994.

The functions of the 15 committees listed above are to review and evaluate available scientific, technical, and medical data concerning the safety and effectiveness of marketed and investigational human drugs for use in the area of medical specialties, indicated by the title of the committee, and to make appropriate recommendations to the Commissioner of Food and Drugs.

16. *Drug Abuse Advisory Committee*: Three vacancies occurring immediately, including that of the consumer-nominated member, and two vacancies occurring May 31, 1994.

The functions of the Drug Abuse Advisory Committee are to: (1) Advise the Commissioner of Food and Drugs regarding the scientific and medical evaluation of all information gathered by both the Department of Health and Human Services (DHHS) and the Department of Justice regarding the safety, efficacy, and abuse potential for drugs or other substances; and (2) recommend actions to be taken by DHHS regarding the marketing, investigation, and control of such drugs or other substances.

Criteria for Members

Persons nominated for membership on the committees described above must have adequately diversified research and/or clinical experience appropriate to the work of the committee in such fields as anesthesiology, surgery, internal medicine, infectious disease, asthma, rheumatology, microbiology, pediatrics, ophthalmology, cardiology, clinical/medical oncology, hematology, radiology, nuclear medicine, biostatistics, epidemiology, dermatopathology/immunodermatology, dermatology, psychopharmacology, neurochemistry, neuropharmacology, endocrinology, obstetrics and gynecology, reproductive endocrinology, gastroenterology, pharmacology, clinical pharmacology, hepatology, virology, pharmaceutical manufacturing, bioavailability and bioequivalence research, pharmacokinetics, neurology, psychiatry, psychology, neuropharmacology, neuropathology, pulmonary disease, allergy, immunology, clinical immunology, or other appropriate areas of expertise.

The specialized training and experience necessary to qualify the nominee as an expert suitable for appointment is subject to review, but may include experience in medical practice, teaching, research, and/or public service relevant to the field of activity of the committee. The term of office is 4 years.

Criteria for Consumer-Nominated Members

FDA currently attempts to place on each of the committees described above one voting member who is nominated by consumer organizations. These members are recommended by a consortium of 12 consumer organizations which has the responsibility for screening, interviewing and recommending consumer-nominated candidates with appropriate scientific credentials. Candidates are sought who are aware of the consumer impact of committee issues, but who also possess enough technical background to understand and contribute to the committee's work. This would involve, for example, an understanding of research design, benefit/risk and the legal requirements for safety and efficacy of the products under review, and considerations regarding individual products. The agency notes, however, that for some advisory committees, it may require such nominees to meet the same technical qualifications and specialized training required of other expert members of the committee. The term of office for these members is 4 years. Nominations for all committees listed above are invited for consideration for membership as openings become available.

Nomination Procedures

Any interested person may nominate one or more qualified persons for

membership on one or more of the advisory committees. Nominations shall specify the committee for which the nominee is recommended. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the advisory committee, and appears to have no conflict of interest that would preclude committee membership. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts in order to permit evaluation of possible sources of conflict of interest.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. App. 2) and 21 CFR part 14, relating to advisory committees.

Dated: August 19, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93–20633 Filed 8–25–93; 8:45 am]

BILLING CODE 4160–01–F

Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended most recently in pertinent part at 56 FR 29484, June 27, 1991) is amended to reflect the abolishment of the Office of Science and the transfer of science functions, except for AIDS coordination, to the Office of Operations. FDA believes that this realignment of science functions within FDA is necessary to integrate fully the science and operational functions of the Agency.

The Office of AIDS Coordination will be retitled as the Office of AIDS and Special Health Issues and relocated from the Office of Science to the Office of External Affairs. The reorganization expands the Office of AIDS Coordination to include similar support for other special health issues such as cancer and Alzheimer's disease. The purpose of the expansion is to facilitate Agency coordination and communication on special health issues and associated advocacy groups.

Under section HF–B, Organization:

1. Delete paragraph Office of Operations (HFA9) in its entirety and insert a new paragraph reading as follows:

Office of Operations (HFA9). Advises and assists the Commissioner and other key officials on compliance-oriented matters.

Develops and administers all Agency field operations and provides direction and counsel to Regional Food and Drug Directors.

Administers regulation of biological products under the biological product control provisions of the Public Health Service Act and applicable provisions of the Federal Food, Drug, and Cosmetic Act. Works to develop an Acquired Immune Deficiency Syndrome (AIDS) vaccine and AIDS diagnostic tests, and conducts other AIDS-related activities.

Develops and administers programs with regard to the safety, effectiveness, and labeling of all drug products for human use.

Develops and administers programs with regard to the safety, composition, quality (including nutrition), and labeling of foods, food additives, colors, and cosmetics.

Develops and administers programs with regard to control of unnecessary exposure of humans to, and assures the safe and efficacious use of, ionizing and non-ionizing radiation-emitting electronic products.

Develops and administers programs with regard to the safety, effectiveness, and labeling of medical devices for human use.

Develops and administers programs with regard to the safety and effectiveness of animal drugs, feeds, feed additives, veterinary medical devices (medical devices for animal use), and other veterinary medical products.

Manages the implementation of the provisions of the Orphan Drug Act.

Advises and assists the Commissioner with regard to research programs being conducted to study the biological effects of potentially toxic chemical substances found in the environment to determine the adverse health effects resulting from long-term, low-level exposure to chemical toxicants in animal organisms, to develop improved methodologies and test protocols for evaluating the safety of chemical toxicants, and to develop data to facilitate the extrapolation of toxicological data from laboratory animals to man.

The Office of Operations includes the: Office of Regulatory Affairs (HFA4), Regional Field Offices (HFR), Center for Biologics Evaluation and Research (HFB), Center for Drug Evaluation and Research (HFN), Center for Food Safety and Applied Nutrition (HFF), Center for Devices and Radiological Health (HFW), Center for Veterinary Medicine (HFV), Office of Orphan Products Development (HFA–E), Office of Biotechnology (HFA–H), National Center for Toxicological Research (HFT).

2. Insert a new subparagraph under Office of External Affairs (HFAQ) reading as follows:

Office of AIDS and Special Health Issues (HFAS). Serves as an information resource to FDA and provides advice to the Commissioner, Deputy Commissioners, and other senior FDA staff on matters related to AIDS, cancer, Alzheimer's Disease and other special health issues.

Coordinates interactions between FDA and consumer and professional groups dealing with AIDS, cancer, Alzheimer's Disease, and other special health issues.

Serves as a liaison point to coordinate contacts between FDA and other federal agencies to ensure effective coordination and communication on AIDS, cancer, Alzheimer's Disease, and other special health issues.

Provides internal coordination on FDA activities related to AIDS, cancer, Alzheimer's Disease, and other special health issues.

Assists in the planning, administration, development, and evaluation of FDA policies related to AIDS, cancer, Alzheimer's Disease, and other special health issues.

3. Delete paragraph Office of Science (HFAH) in its entirety.

Prior Delegations of Authority. Pending further delegations, directives, or orders by the Commissioner of Food and Drugs, all delegations of authority to positions of the affected organizations in effect prior to this date shall continue in effect in them or their successors.

Dated: August 18, 1993.

Donna E. Shalala,

Secretary.

[FR Doc. 93–20723 Filed 8–25–93; 8:45 am]

BILLING CODE 4160–01–M

Public Health Service

National Institutes of Health

Privacy Act of 1974; New System of Records

AGENCY: Public Health Service, HHS.

ACTION: Notification of a new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing a notice of a new system of records, 09–25–0168, "Invention, patent and licensing documents submitted to the Public Health Service by its employees, grantees, fellowship recipients and contracts, HHS/PHS/NIH/OTT." We are also proposing routine uses for this new system.

DATES: PHS invites interested parties to submit comments on the proposed internal and routine uses on or before September 27, 1993. PHS has sent a report of a new system to the Congress and to the Office of Management and Budget (OMB) on August 12, 1993. PHS has requested that OMB grant a waiver of the usual requirement that a system of records not be put into effect until 60 days after the report is sent to OMB and Congress. If this waiver is granted, PHS will publish a notice to that effect in the **Federal Register**. The routine uses will be effective 30 days after the date of publication unless PHS receives comments which would result in a contrary determination.

ADDRESSES: Please submit comments to: NIH Privacy Act Officer, Building 31, Room 3B03, 9000 Rockville Pike, Bethesda, MD 20892, 301–496–2832.

Comments received will be available for inspection at this same address from 9 a.m. to 3 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Chief, Technology Management Branch, Office of Technology Transfer, National Institutes of Health, Box OTT, Rockville, Maryland 20852, 301–496–7736.

The numbers listed above are not toll free.

SUPPLEMENTARY INFORMATION: The National Institutes of Health (NIH) proposes to establish a new system of records: 09–25–0168, "Invention, patent and licensing documents submitted to the Public Health Service by its employees, grantees, fellowship recipients and contractors, HHS/PHS/NIH/OTT." This system of records will be used by the NIH Office of Technology Transfer (OTT) to: (1) Obtain patent protection of inventions submitted by PHS employees; (2) monitor the development of inventions made by grantees, fellowship recipients and contractors; (3) grant licenses to patents obtained through the invention reports made by PHS employees; and (4) provide royalty payments to PHS inventors.

The system will comprise records that contain: Inventor name, address, Social Security number (required if inventor is receiving royalties, otherwise optional), title and description of the invention, Employee Invention Report (EIR) number, prior art related to the invention, evaluation of the commercial potential of the invention, prospective licensees' intended development of the invention, associated patent prosecution and licensing documents, and royalty payment information.

The amount of information recorded on each individual will be only that which is necessary to accomplish the purpose of the system. Records are established from invention reports submitted by PHS employees, grantees, fellowship recipients and contractors, and from private sector organizations interested in and/or applying for potential licenses.

The records in this system will be maintained in a secure manner compatible with their content and use. NIH staff will be required to adhere to the provisions of the Privacy Act and the HHS Privacy Act Regulations. The System Manager will control access to the data. Only authorized users whose official duties require the use of such information will have regular access to the records in this system. Authorized users are PHS Technology Development Coordinators, NIH Patent Advisors, NIH Technology Licensing Specialists, NIH Paralegals, NIH Legal Technicians, NIH Licensing Technicians, PHS contract patent attorneys, and other NIH staff responsible for implementing OTT program activities. The records will be stored in file folders, computer tapes and computer discs. Manual and computerized records will be maintained in accordance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, the Department's Automated Information System Security Program Handbook, and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

Records are stored in a locked room or in locking file cabinets in file folders. During normal business hours, OTT Patent Branch and Technology Licensing Branch on-site personnel regulate availability of the files. During evening and weekend hours the offices are locked, and the building is closed. Data stored in computers will be accessed through the use of keywords known only to the authorized users.

The routine uses proposed for this system are compatible with the stated purposes of the system. The first routine use, permitting disclosure to a congressional office, is proposed to allow subject individuals to obtain assistance from their representatives in Congress, should they so desire. Such disclosure would be made only pursuant to a request of the individual. The second routine use of this system allows disclosure to the Department of Justice to obtain advice on legal issues raised by the information in this system or to defend the Federal Government, the Department, or employees of the Department in the event of litigation. The third routine use allows referral to the appropriate agency in the event that a system or records maintained by this agency to carry out its functions indicates a violation or potential violation of law. The fourth routine use allows disclosure of records to contractors for the purpose of processing or refining the records in the system. The fifth routine use allows disclosure of information from this system of records for the purpose of obtaining patent protection for PHS inventions and licenses for these patents to: (a) Scientific personnel, both in this agency and other Government agencies, and in non-Governmental organizations such as universities, which possess the expertise to understand the invention and evaluate its importance as a scientific advance; (b) contract patent counsel and their employees and foreign contract personnel retained by the Department for patent searching and prosecution in both the United States and foreign patent offices; (c) all other Government agencies whom PHS contacts regarding the possible use, interest in, or ownership rights in PHS inventions; (d) prospective licensees or technology finders who may further make the invention available to the public through sale or use; (e) parties, such as supervisors of inventors, whom PHS contacts to determine ownership rights, and those parties contacting PHS to determine the Government's ownership; and (f) the United States and foreign patent offices involved in the filing of PHS patent applications. The sixth routine use allows disclosure to the Treasury Department, Internal Revenue Service (IRS), to report, as taxable income, the amount of royalty payment paid to PHS inventors.

The following notice is written in the present, rather than future tense, in order to avoid the unnecessary expenditure of public funds to republish the notice after the system has become effective.

Dated: August 17, 1993.

Wilford J. Forbush,

Director, Office of Management.

09–25–0168

SYSTEM NAME:

Invention, patent and licensing documents submitted to the Public Health Service by its employees, grantees, fellowship recipients and contractors, HHS/PHS/NIH/OTT.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Third Floor, Rockville, MD 20852.

Division of Financial Management (DFM), Operations Accounting Branch, National Institutes of Health, Building 31, Room B1B55, 9000 Rockville Pike, Bethesda, Maryland 20892.

Public Health Service (PHS) Technology Development Coordinators and PHS Contract Attorneys retain files supplemental to the records maintained by the Office of Technology Transfer. Write to the system manager at the address below for office locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

PHS employees, grantees, fellowship recipients and contractors who have reported inventions, applied for patents, have been granted patents, and/or are receiving royalties from patents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Inventor name, address, Social Security number (required if inventor is receiving royalties, otherwise optional), title and description of the invention, Employee Invention Report (EIR) number, prior art related to the invention, evaluation of the commercial potential of the invention, prospective licensees' intended development of the invention, associated patent prosecution and licensing documents and royalty payment information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

45 CFR parts 6 (Inventions and Patents (General)), 7 (Employee Inventions) and 8 (Inventions Resulting from Research Grants, Fellowship Awards, and Contracts for Research), describing Departmental standards for assessing, reporting, and maintaining rights, including patent rights, in inventions of Departmental employees, grantees, fellowship recipients, and contractors, or inventions made through other resources and activities of the Department; Exec. Order No. 9865, as amended, 35 U.S.C. 266 note, "Patent protection abroad of inventions resulting from research financed by the Government," describing the Government-wide policy for obtaining foreign patent protection for inventions resulting from research conducted or financed by the Government; and Exec. Order No. 10096, as amended, 35 U.S.C. 266 note, "Uniform Government Patent Policy for Inventions by Government Employees," describing Government-wide policy pertaining to inventions made by Government employees.

PURPOSE(S) OF THE SYSTEM:

Records in this system are used to: (1) Obtain patent protection of inventions submitted by PHS employees; (2) monitor the development of inventions made by grantees, fellowship recipients and contractors; (3) grant licenses to patents obtained through the invention reports; and (4) provide royalty payments to PHS inventors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made to the Department of Justice or to a court or other tribunal from this system of records, when: (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case HHS determines that such disclosure is compatible with the purpose for which the records were collected. Disclosure may also be made to the Department of Justice to obtain legal advice concerning issues raised by the records in this system.

3. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, State, or local, charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

4. NIH may disclose records to Department contractors and subcontractors for the purpose of collecting, compiling, aggregating, analyzing, or refining records in the system. Contractors maintain, and are also required to ensure that subcontractors maintain, Privacy Act safeguards with respect to such records.

5. NIH may disclose information from this system of records for the purpose of obtaining patent protection for PHS inventions and licenses for these patents to: (a) Scientific personnel, both in this agency and other Government agencies, and in non-Governmental organizations such as universities, who possess the expertise to understand the invention and evaluate its importance as a scientific advance; (b) contract patent counsel and their employees and foreign contract personnel retained by the Department for patent searching and prosecution in both the United States and foreign patent offices; (c) all other Government agencies whom PHS contacts regarding the possible use, interest in, or ownership rights in PHS inventions; (d) prospective licensees or technology finders who may further make the invention available to the public through sale or use; (e) parties, such as supervisors of inventors, whom PHS contacts to determine ownership rights, and those parties contacting PHS to determine the Government's ownership; and (f) the United States and foreign patent offices involved in the filing of PHS patent applications.

6. NIH will report to the Treasury Department, Internal Revenue Service (IRS), as taxable income, the amount of royalty payment paid to PHS inventors.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records will be stored in file folders, computer tapes and computer discs.

RETRIEVABILITY:

Records are retrieved by name of the inventor, EIR number or keywords relating to the nature of the invention.

SAFEGUARDS:

1. Authorized Users: Data on computer files is accessed by keyword known only to authorized users who are NIH or contractor employees involved in patenting and licensing of PHS inventions. Access to information is thus limited to those with a need to know.

2. Physical Safeguards: Records are stored in a locked room or in locking file cabinets in file folders. During normal business hours, OTT Patent Branch and Licensing Branch on-site personnel regulate availability of the files. During evening and weekend

hours the offices are locked and the building is closed.

3. Procedural and Technical Safeguards: Data stored in computers will be accessed through the use of keywords known only to the authorized users. A password is required to access the data base. All users of personal information in connection with the performance of their jobs (see Authorized Users, above) protect information, including confidential business information submitted by potential licensees, from public view and from unauthorized personnel entering an unsupervised office.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, the Department's Automated Information System Security Program Handbook, and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1100–L, which allows records to be kept for a maximum of twenty (20) years. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Chief, Technology Management Branch, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Third Floor, Rockville, Maryland 20852.

NOTIFICATION PROCEDURES:

To determine if a record exists, write to the System Manager listed above. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. The request should include: (1) Full name, and (b) appropriate identifying information on the nature of the invention.

RECORD ACCESS PROCEDURES:

Write to the System Manager specified above to attain access to records and provide the same information as is required under the Notification Procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request an accounting of disclosure of their records, if any.

CONTESTING RECORD PROCEDURES:

Contact the System Manager specified above and reasonably identify the record, specify the information to be contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Inventors and other collaborating persons, grantees, fellowship recipients and contractors; other Federal agencies; scientific experts from non-Government organizations; contract patent counsel and their employees and foreign contract personnel; United States and foreign patent offices; prospective licensees; and third parties whom PHS contacts to determine individual invention ownership or Government ownership.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 93–20694 Filed 8–25–93; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–93–3660; FR–3520–N–01]

Procedures for Payment of Section 801 Retroactive Payments to Owners of Section 8 Moderate Rehabilitation Projects

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of procedures for payment of retroactive payments.

SUMMARY: This notice advises eligible owners of Section 8 Moderate Rehabilitation projects of the availability of funds for retroactive annual adjustment payments, which will be paid to owners by Housing Agencies (HAs) administering Section 8 Moderate Rehabilitation Housing Assistance Payments (HAP) Contracts.

EFFECTIVE DATE: August 26, 1993.

FOR FURTHER INFORMATION CONTACT: Madeline Hastings, room 4226, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–2841; TDD (202) 708–0850. (Telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The information collection requirements under this notice and 24 CFR part 888, subpart D, have been approved under the Paperwork Reduction Act by the Office of Management and Budget under control number 2502–0042.

I. Background

Subpart D of 24 CFR part 888, entitled Retroactive Housing Assistance Payments for Moderate Rehabilitation Projects, provides for Housing Agencies (HAs) to calculate and make retroactive Housing Assistance Payments to eligible owners of Section 8 Moderate Rehabilitation projects. This publication serves as notice to eligible owners who made a request for payment, as required by 24 CFR 888.410, and are entitled to payment, as provided by §§ 888.410 and 888.415, that funds are available for payment.

II. Applicability

This notice is applicable to owners with Section 8 Moderate Rehabilitation project HAP Contracts under 24 CFR 882 (subparts D, E, and H), who requested and were determined eligible for retroactive payments under Notice PIH 91–40 (PHA), extended, renumbered and renamed Notice PIH 92–53 (PHA).

(A separate notice of opportunity to claim payments was published in the **Federal Register** dated April 12, 1993, which contained different procedures for retroactive payments under New Construction (24 CFR part 880), Substantial Rehabilitation (part 881), State Finance Agencies (part 883), Section 515 Farmers Home Administration (part 884), Section 202 Elderly or Handicapped (part 885), and Special Allocations (part 886).)

III. Moderate Rehabilitation Retroactive Payment Procedures

HAs have previously obtained certifications from Moderate Rehabilitation owners, in accordance with Notice PIH 92–53 (PHA), that the owners are eligible to receive retroactive payments. HAs have calculated the payments and notified owners of the amount of retroactive payments the owners will receive. HA's have

informed the Department of the total amount of retroactive payments due. The Department has organized this information by Moderate Rehabilitation project number, HA, Field and Regional Office.

The Department will use Fiscal Year 1993 funds to make retroactive payments to eligible Moderate Rehabilitation owners who are entitled to receive retroactive payments. The Department will assign the funds to the Regional Offices, and the Regional Offices will subassign the funds to the Field Offices. Funds will be reserved by Moderate Rehabilitation project number. Field Offices will notify HAs that the funds have been reserved. It is anticipated (but not certain at this time) that sufficient funds will be available to pay all amounts properly requisitioned for this purpose.

HAs with retroactive payments due will requisition the reserved funds from the Field Offices in accordance with the Notification Letters sent to them by the Field Offices. The Field Offices will approve and sign the HAs' requisition documents and forward them to the Regional Accounting Divisions (RAD). The RAD will date stamp each set of signed HA requisition documents upon receipt and deposit the funds in the HA's designated bank account on a first-come-first-served basis, as determined by the date stamp.

HAs will issue retroactive payment checks to owners who have been determined eligible and currently are entitled to receive retroactive payments in accordance with Notice PIH 92–53 (PHA). HAs will withhold payments from owners whose housing assistance payments are subject to restriction in accordance with § 888.415, including those whose HAP Contract units fail to meet the Housing Quality Standards (HQS). The payments will be made to such owners whose units fail to meet HQS when the physical deficiencies identified by the latest inspection have been corrected.

HAs have been instructed to identify Moderate Rehabilitation projects undergoing a review of initial base and contract rents, and not to calculate retroactive payments for these projects until the intitial rent review is complete. These instructions are still in effect for the noninsured and coinsured projects with incomplete rent reviews; that is, if HUD has not issued a letter to the HA stating the results of the review, the HA must wait to calculate the retroactive payment.

HAs are required to submit to the Department year-end documentation on their receipt and payment of retroactive payments. The Department will use this statement to monitor actual retroactive amounts paid by HAs.

Dated: August 6, 1993.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 93–20665 Filed 8–25–93; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–030–93–4320–01–1784]

Montrose District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with 43 CFR Subpart 1784, that a meeting of the Montrose District Grazing Advisory Board will be held on October 5, 1993, at the Anasazi Heritage Center in Dolores, Colorado.

DATES: A meeting is scheduled October 5, 1993.

FOR FURTHER INFORMATION CONTACT: Dave Kauffman, Bureau of Land Management, 2465 South Townsend, Montrose, Colorado, 81401, telephone (303) 249–7791.

SUPPLEMENTARY INFORMATION: The Board will convene at 10:00 A.M. on October 5, 1993, at the Anasazi Heritage Center, 27501 Highway 184, Dolores, Colorado.

Agenda items include: minutes of the previous meeting, public presentations and requests, range improvement project review, new Board proposals, updates of current issues, and arrangements for the next meeting. The meeting will adjourn at 4 p.m.

The meeting is open to the public. Anyone wishing to make an oral statement must notify the District Manager prior to the meeting date. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Minutes of the Board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within thirty (30) days following the meeting.

Dated: August 19, 1993.

Phillip W. Dwyer,

Acting District Manager.

[FR Doc. 93–20728 Filed 8–25–93; 8:45 am]

BILLING CODE 4310–JB–M

[UT–050–03–4320–03]

Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: District Grazing Advisory Board Meeting.

SUMMARY: The Richfield District Grazing Board will hold a meeting on September 21, 1993. The meeting will start at 10 a.m. in the District Office, 150 East 900 North, Richfield, Utah. The agenda will be:

1. Election of Officers
2. RMP planning status—Henry Mountain Resource Area
3. Rangeland Reform 1994
4. Allotment Management Plan Development—All Resource Area's
5. Animal Damage Control EA
6. District Personnel Changes
7. Status of Antelope Pipeline
8. Status of FY 1993 Projects
9. Proposed FY 1995 Projects

Interested persons may make oral statements to the Board between 1:15 p.m. and 2:15 p.m or file written comments for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701 (801–896–8221). For further information contact: Sheril Slack, District Range Conservationist at the above address.

Dated: August 19, 1993.

S. Doug Wood,

Chief, Branch of Support Services.

[FR Doc. 93–20734 Filed 8–25–93; 8:45 am]

BILLING CODE 4310–DQ–M

[OR–943–2300–02; GP3–355; OR–46958]

Order Providing for Opening of Land; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action will open 105.45 acres of acquired land to mineral leasing. The land is within the New River Area of Critical Environmental Concern withdrawal boundary and will not be opened to surface entry and mining.

EFFECTIVE DATE: September 30, 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. Under the authority of Section 205 of the Federal Land Policy and Management

Act of 1976, 43 U.S.C. 1715, the following described land was acquired by the United States to be administered as public land under the jurisdiction of the Bureau of Land Management:

Willamette Meridian

T. 30 S., R. 15 W.,
Sec. 28, lots 2 and 3, and SE¼NE¼.

The area described contains 105.45 acres in Curry County.

2. At 8:30 a.m., on September 30, 1993, the land described in paragraph 1 will be opened to applications and offers under the mineral leasing laws.

Dated: August 16, 1993.

Robert D. DeViney, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 93–20638 Filed 8–25–93; 8:45 am]

BILLING CODE 4310–33–M

[OR–943–2300–02; GP3–356; OR–47129]

Order Providing for Opening of Land; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action will open 240.15 acres of acquired land to mineral leasing. The land is within the New River Area of Critical Environmental Concern withdrawal boundary and will not be opened to surface entry and mining.

EFFECTIVE DATE: September 30, 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. Under the authority of Section 205 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1715, the following described land was acquired by the United States to be administered as public land under the jurisdiction of the Bureau of Land Management:

Willamette Meridian

T. 30 S., R. 15 W.,
Sec. 2, W½SW¼;
Sec. 10, E½NE¼, EXCEPTING any portion lying below the mean high tide line of the Pacific Ocean;
Sec. 11, 3 parcels of land lying in the NW¼ further described as:
Parcel III: NW¼NW¼, EXCEPTING that portion described as follows: Beginning at the southeast corner of the NW¼NW¼, said Sec. 11; Thence north 122 feet; Thence north 76° 20′ west 180 feet to a ¾ inch pipe post; Thence north 82° 23′ west and 257 feet passing through a ½ inch pipe post and continuing the same course a total distance of 512 feet; Thence south 225 feet, more or less, to the south boundary of the NW¼NW¼ of said Sec. 11; Thence along said south boundary east 694 feet to the place of beginning.
Parcel IV: 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 NW¼NW¼ of said Sec. 11; Thence south 610 feet to the east and west quarter line of said Sec. 11; Thence west 500.82 feet to a point which is 1,137 feet east of the west quarter corner of said Sec. 11; Thence north 860 feet to the center of a road; Thence along the center of said road southeasterly 550 feet to the place of beginning, EXCEPTING THEREFROM: An easement for a road 20 feet wide along the north boundary of the foregoing described parcel.
Parcel V: 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.

The area described contains 240.15 acres in Coos County.

2. At 8:30 a.m., on September 30, 1993, the land described in paragraph 1 will be opened to applications and offers under the mineral leasing laws.

Dated: August 16, 1993.

Robert D. DeViney, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 93–20639 Filed 8–25–93; 8:45 am]

BILLING CODE 4310–33–M

[CA–016–03–3110–10–B002; #CACA 32667]

Realty Action; Exchange of Public Lands in Tehama County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following described public lands are being considered for exchange to The Trust for Public Land, under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716). Note: Not all lands identified below may be involved in the exchange. Some may be deleted to eliminate possible conflicts that could arise during processing. The final selection of properties will be made to achieve comparable values between the offered and selected lands. The selected public lands are within Tehama County, in the Mount Diablo Meridian, as follows:

APN & tract#	Legal description	Acreage
T. 26 N., R. 8 W.:		
019–250–02 #1	Sec. 14 N½, N½SW¼, SW¼SW¼, NW¼SE¼	480.
019–250–07 #2	Sec. 22 NE¼NE¼	40.
019–250–09 #3	Sec. 24 All	640.
T. 26 N., R. 7 W.:		
021–220–01 #4	Sec. 30 Lots 1 through 4, NE¼, E½NW¼, E½SW¼, N½SE¼, SE¼SE¼	603.56.
021–220–06 #5	Sec. 32 N½, SW¼	480.
Total acreage		2,243.56 more or less.

In exchange for these lands, the Bureau of Land Management (BLM) will acquire private lands in Tehama County, CA within the Sacramento River Management Area and/or private lands within Tulare County, CA.

SUPPLEMENTARY INFORMATION: The purpose of the exchange is to acquire historic riparian habitat for wildlife and fisheries enhancement, acquire lands for recreation opportunities, and to consolidate public lands into a pattern for better manageability. This exchange is consistent with BLM planning for the lands involved. The public interest will be well served by completing the exchange. Land to be transferred from the United States will be evaluated in accordance with the National Environmental Policy Act, and will be subject to the following reservations, terms, and conditions:

(1) A reservation to the United States for a right-of-way for ditches or canals constructed by the United States, Act of August 30, 1890 (43 U.S.C. 945).

(2) A reservation to the United States for a right-of-way for access roads in Sections 30 and 32, T. 26 N., R. 7 W., MDM under casefile CAS 3712.

(3) A right-of-way for existing access roads in Sec. 32, T. 26 N., R. 7 W., MDM under casefile CACA 32317.

Publication of this notice in the **Federal Register** segregates the above public lands from settlement, location, and entry under the public land laws, right-of-way laws, permit laws, and mining laws, but not exchange under sec. 206 of the Federal Land Policy and Management Act of 1976. The segregative effect will end upon issuance of patent or two years from the date of publication in the **Federal Register**, whichever occurs first. These lands were previously segregated for exchange by CA 31254; this notice supersedes that action. The exchange will be on an equal value basis, not an acre-for-acre basis. An independent appraisal will establish the fair market value of the public and private lands.

DATES: Interested parties may submit comments to the BLM Area Manager at the following address until October 12, 1993. For further information contact: Bureau of Land Management, Redding Resource Area, 355 Hemsted Drive, Redding, California 96002. Any comments will be evaluated by the Area Manager, who may vacate or modify this realty action and issue a final determination.

FOR FURTHER INFORMATION CONTACT: Mike Truden, Realty Specialist, (916) 224–2100.

Dated: July 29, 1993.

Mark T. Morse,

Area Manager.

[FR Doc. 93–19434 Filed 8–25–93; 8:45 am]

BILLING CODE 4310–40–M

[OR–117–4210–04; 3–368]

Realty Action: Exchange of Public and Private Lands in Josephine County, OR

AGENCY: Bureau of Land Management, Medford District Office, Grants Pass Resource Area

ACTION: Notice of realty action.

Pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), the Bureau of Land Management, Grants Pass Resource Area, is considering the following described land in Josephine County as suitable for exchange.

Selected Public Land

Willamette Meridian, Oregon

T. 39 S., R. 7 W.
Sec. 23, lot 3;
Aggregating 41.41 acres.

Offered Private Land

Willamette Meridian, Oregon

T. 37 S., R. 6 W.
Section 31, lots 1 and 2;
T. 37 S., R. 7 W.
Section 36, all;
T. 39 S., R. 8 W.
Section 11, SE¼SE¼;
Aggregating 758.46 acres.

FOR FURTHER INFORMATION AND PUBLIC COMMENT: The Environmental Assessment and other information concerning this exchange is available for review at the Medford District Office, 3040 Biddle Road, Medford, Oregon 97504. For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager at the above address. Any adverse comments will be evaluated by the State Director, who may sustain, vacate, or modify this Realty Action.

SUPPLEMENTARY INFORMATION: The purpose of this exchange is to facilitate resource management opportunities. The private lands being offered have important values for fisheries and wildlife habitat, timber management, and recreation.

The exchange will be completed on an equal value basis. Full equalization of values will be achieved through acreage adjustment or by cash payment of an amount not to exceed 25 percent of the lands being transferred out of Federal ownership.

The following reservations will be made in a patent issued for the public lands:

1. A reservation to the United States of a right-of-way of ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All other valid, existing rights, including but not limited to any right-of-way, easement, or Lease of Record.

Publication of this notice in the **Federal Register** segregates the public lands from operation of the public land laws and the mining law, except mineral leasing and exchange under section 206 of FLPMA. For a period of two 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, canceled, or the exchange is approved prior to that date.

Dated: August 17, 1993.

Wayne M. Kuhn,

Acting District Manager.

[FR Doc. 93–20727 Filed 8–25–93; 8:45 am]

BILLING CODE 4310–33–M

[MT–060–03–4410–02]

West HiLine Resource Management Plan Amendment; Liberty and Toole Counties, MT

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Notice is hereby given that the West HiLine Resource Management Plan will be amended by the Great Falls Resource Area, Great Falls, Montana.

SUMMARY: The Bureau of Land Management proposes to withdraw 19,684.74 acres of public mineral estate from locatable mineral entry in the Sweet Grass Hills, Liberty and Toole Counties, Montana. The purpose of the proposed withdrawal is to protect high value potential habitat for reintroduction of endangered peregrine falcons, areas of traditional religious importance to Native Americans, aquifers that currently provide the only potable water in the area, and seasonally important elk and deer habitat. A withdrawal of these lands is not in conformance with the record of decisions for the West HiLine Resource Management Plan (RMP) (1988 and 1992). This requires that the land use plan be amended to address the proposed withdrawal and develop management guidelines for other land uses in the Sweet Grass Hills. The Great Falls Resource Area, Lewistown District, Bureau of Land Management will prepare a plan amendment and associated environmental impact statement.

PUBLIC PARTICIPATION: The public will be provided an opportunity to comment on this proposal at public scoping meetings to be held at: Chester, MT, Chester High School Auditorium, September 28, 1993, 7 p.m.; Browning, MT, Browning High School Annex, September 29, 1993, 7 p.m.; and Rocky Boy, MT, Rocky Boy Community Center, September 30, 1993, 3 p.m. These meetings will also fulfill the public meeting requirements for withdrawal proposals under 43 CFR part 2310.3–1. Comments and recommendations on this proposal to amend the West HiLine RMP should be received by November 1, 1993.

ADDRESSES: Comments should be sent to the Great Falls Resource Area, 812 14th St. N., Great Falls, MT 59401.

FOR FURTHER INFORMATION CONTACT: Richard L. Hopkins, Area Manager, Great Falls Resource Area, 812 14th St. N., Great Falls, MT 59401, 406–727–0503.

Dated: August, 19, 1993.

B. Gene Miller,

Acting District Manager.

[FR Doc. 93–20729 Filed 8–25–93; 8:45 am]

BILLING CODE 4310–DN–M

[ID–942–03–4730–02]

Idaho: Filing of Plats of Survey

The plat of survey of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., August 18, 1993.

The plat representing the dependent resurvey of a portion of the subdivisional lines and subdivision of section 2, and a metes-and-bounds survey in section 2, Township 8 South, Range 25 East, Boise Meridian, Idaho, Group No. 856, was accepted August 12, 1993.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above-described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: August 18, 1993.

Jerrold E. Knight,

Acting Chief Cadastral Surveyor for Idaho.

[FR Doc. 93–20736 Filed 8–25–93; 8:45 am]

BILLING CODE 4310–GG–M

[ID–942–03–4730–02]

Idaho: Filing of Plats of Survey

The plat of survey of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., on August 18, 1993.

The plat representing the corrective dependent resurvey of a portion of the subdivisional lines in Township 48 North, Range 1 West, Boise Meridian, Idaho, Group No. 838, was accepted August 13, 1993.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above-described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: August 18, 1993.

Jerrold E. Knight,

Acting Chief Cadastral Surveyor for Idaho.

[FR Doc. 93–20737 Filed 8–25–93; 8:45 am]

BILLING CODE 4310–GG–M

[ID–943–4210–06; IDI–15614]

Proposed Continuation of Withdrawal; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes that a 255.90 acre withdrawal for Powersite Reserve No. 357, continue for an additional 20 years. The land is still needed for waterpower purposes. These lands will remain closed to surface entry, but have been and will remain open to mineral leasing and mining.

EFFECTIVE DATE: Comments should be received by November 24, 1993.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706–2500, 208–384–3166.

The Bureau of Land Management proposes that the existing land withdrawal made by Executive Order dated May 27, 1913, for Powersite Reserve No. 357, be continued for a period of 20 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, insofar as it affects the following described land:

Boise Meridian

T. 8 S., R. 30 E.,
Sec. 21, lots 2 to 8 inclusive;
Sec. 22, lot 5.

The area described contains 255.90 acres in Power County.

The withdrawal is essential for protection of potential waterpower development. The existing withdrawal closes the described land to surface entry but not to mineral leasing and mining. No change in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Idaho State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such investigations as necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued; and if so, for how long. The final determination of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: August 17, 1993.

William E. Ireland,

Chief, Realty Operation Section.

[FR Doc. 93–20640 Filed 8–25–93; 8:45 am]

BILLING CODE 4310–GG–M

[NM–920–4210–06; NMNM 42954]

Proposed Continuation of Withdrawal; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes that a 40-acre withdrawal for Public Water Reserve No. 107 continue for an additional 20 years. The land will remain closed to surface entry and nonmetalliferous mining. The land has been and will remain open to mineral leasing and metalliferous mining.

DATES: Comments should be received by November 24, 1993.

ADDRESSES: Comments should be sent to: BLM, New Mexico State Director, P.O. Box 27115, Santa Fe, NM 87502–7115.

FOR FURTHER INFORMATION CONTACT: Georgiana E. Armijo, BLM, New Mexico State Office, 505–438–7594.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management proposes that the withdrawal of land made by Secretarial Order dated February 6, 1939 be continued for a period of 20 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), (1988). The land is described as follows:

New Mexico Principal Meridian

T. 25 S., R. 8 W.,
Sec. 12, SE¼SW¼.

The area described contains 40 acres in Luna County.

The withdrawal is essential for protection of Public Water Reserve No. 107. The withdrawal currently segregates the land from surface entry and nonmetalliferous mining. The land has been and will remain open to leasing under the mineral leasing laws and to metalliferous mining.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the New Mexico State Director at the address indicated above.

The authorized officer of the Bureau of Land Management will undertake

such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the Federal Register. The existing withdrawal will continue until such final determination is made.

Dated: August 16, 1993.

Kathy Eaton,

Acting State Director.

[FR Doc. 93–20641 Filed 8–25–93; 8:45 am]

BILLING CODE 4310–FB–M

Fish and Wildlife Service

Meeting: Klamath Fishery Management Council

AGENCY: Department of the Interior, U.S. Fish and Wildlife Service.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Klamath Fishery Management Council, established under the authority of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss *et seq.*). The meeting is open to the public.

DATES: The Klamath Fishery Management Council will meet from 9 a.m. to 12 Noon on Monday, September 13, 1993.

PLACE: The meeting will be held at the Red Lion-Columbia River, 1401 North Hayden Island Drive, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Iverson, Project Leader, U.S. Fish and Wildlife Service, P.O. Box 1006, Yreka, California 96097–1006, telephone (916) 842–5763.

SUPPLEMENTARY INFORMATION: For background information on the Management Council, please refer to the notice of their initial meeting that appeared in the Federal Register on July 8, 1987 (52 FR 25639). The primary agenda item will be discussion of the Hoopa Valley Indian Tribe's proposal to temporarily raise the escapement floor (above 35,000 natural spawners) for fall chinook. The strategy, known as "deficit accounting" is recommended by the Tribe because of inadequate adult escapement in the Klamath Basin over the past 3 years. The intended action is for the Klamath Fishery Management Council to make a recommendation to the Pacific Fishery Management Council for the 1994 Ocean Salmon Management season.

Dated: August 17, 1993.

William E. Martin,

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

[FR Doc. 93–20733 Filed 8–25–93; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collections of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010–0079); Washington, DC 20503, telephone (202) 395–7340, with copies to John V. Mirabella; Chief, Engineering and Standards Branch; Engineering and Technology Division; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: 30 CFR Part 250, Subpart G, Abandonment of Wells

OMB approval number: 1010–0079

Abstract: Respondents submit this information to MMS so it can verify that the final disposition of a well is being diligently pursued and that any deviations from the approved plan and the documentation of the temporary plugging of the wellbore and marking of the location have been performed by the lessee operator.

Bureau form number: None

Frequency: Annual

Description of respondents: Federal Outer Continental Shelf oil and gas lessees

Estimated completion time: 0.25 hour

Annual responses: 853

Annual burden hours: 213

Bureau Clearance Officer: Arthur Quintana (703) 787–1239

Dated: July 30, 1993.

Henry G. Bartholomew,

Deputy Associate Director for Operations and Safety Management.

[FR Doc. 93–20726 Filed 8–25–93; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Management and Land Protection Plans

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: With this notice, the National Park Service is notifying the public of the availability of a revised agency guideline for floodplain management.

ADDRESSES: Copies of the revised guideline may be obtained by writing to the Chief, Water Resources Division, National Park Service, 1201 Oak Ridge Drive, Fort Collins, Colorado 80525.

FOR FURTHER INFORMATION CONTACT: Dan B. Kimball, Chief, Water Resources Division, National Park Service, telephone (303) 225–3501.

SUPPLEMENTARY INFORMATION: On August 11, 1993, the Director, National Park Service, issued Special Directive 93–4 to establish agency-specific guidance for floodplain management, as required by Executive Order 11988, "Floodplain Management." This guideline replaces the National Park Service floodplain management guidance published in 45 FR 35916 and 47 FR 36718, "Floodplain Management and Wetlands Protection Guidelines."

This guideline does not replace the wetlands protection guidance provided in the earlier guidelines.

The revised floodplain management guideline maintains the National Park Service policy of preserving floodplain values and minimizing potentially hazardous conditions associated with flooding. A revised procedure for implementing the guideline is provided.

Dated: August 16, 1993.

Dennis B. Fenn,

Acting Associate Director, Natural Resources.

[FR Doc. 93–20769 Filed 8–25–93; 8:45 am]

BILLING CODE 4310–70–M

[Order No. 5, Amendment 3]

Superintendents, et al., Southwest Region; Delegation of Authority

Southwest Region Order No. 5, approved March 22, 1972, and published in the Federal Register of April 19, 1972 (34 FR 7722), set forth in Section 2 certain authority. This amendment changes paragraphs (d) and (e) to read as follows:

Section 2. Delegation. * * *

(d) Chief, Division of Land Resources. The Chief, Division of Land Resources is authorized to execute the land acquisition program, including contracting for acquisition of lands and related properties, and acceptance of

offers to sell to, or exchange with the United States, lands or interests in lands, and to execute all necessary agreements and conveyances incidental thereto; to accept deeds conveying to the United States lands or interests in lands; to approve on behalf of the National Park Service offers of settlement in condemnation cases; to provide relocation assistance; and to approve claims for reimbursement under Public Law 91–646, as amended.

(e) Field Land Acquisition Officers. The Field Land Acquisition Officers are authorized to execute the land acquisition program in their assigned area, including contracting for acquisition of lands and related properties, and options and offers to sell related thereto, not in excess of $1,000,000, and to approve claims for reimbursement under Public Law 91–646 when the amount does not exceed $5,000.

Dated: August 11, 1993.

John E. Cook,

Regional Director.

[FR Doc. 93–20770 Filed 8–25–93; 8:45 am]

BILLING CODE 4310–70–P

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information, the related form and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirements should be made directly to the Bureau clearance officer listed below and to the Office of Management and Budget, Paperwork Reduction Project (1029–0092), Washington, DC 20503, telephone 202–395–7340.

Title: Part 745—State–Federal Cooperative Agreements.

OMB Number: 1029–0092.

Abstract: 30 CFR 745 requires that States submit information when entering into a cooperative agreement with the Secretary of the Interior. OSM uses the information to make findings that the State has an approved program and will carry out the responsibilities mandated in the Surface Mining Control and Reclamation Act to regulate surface coal mining and reclamation activities.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: State Regulatory Authorities.

Annual Responses: 22.

Annual Burden Hours: 11,740.

Estimated Completion Time: 1,364 hours.

Bureau Clearance Officer: John A. Trelease (202) 343–1475.

Dated: August 4, 1993.

Andrew F. DeVito,

Acting Chief, Division of Abandoned Mine Land Reclamation.

[FR Doc. 93–20642 Filed 8–25–93; 8:45 am]

BILLING CODE 4310–05–M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information, the related form and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirements should be make directly to the Bureau clearance officer listed below, and to the Office of Management and Budget, Paperwork Reduction Project (1029–0054), Washington, DC 20503, telephone (202) 395–7340.

Title: Abandoned Mine Reclamation Funds—30 CFR Part 872

OMB Number: 1029–0054

Abstract: 30 CFR Part 872 establishes requirements for information collection to be used by the regulatory authority to determine whether delays in the use of allocated funds were due to unavoidable delays in program approval or are not necessary to carry out approved reclamation activities. These requirements serve as safeguards to protect States/Indian tribes against automatic or indiscriminate withdrawal of funds.

Bureau Form Number: None

Frequency: As required

Descritption of Respondents: State and Indian tribes

Estimated Completion Time: One hour

Annual Responses: One

Annual Burden Hours: One

Bureau Clearance Office: John A. Trelease, (202) 343–1475.

Dated: August 4, 1993.

Andrew F. DeVito,

Acting Chief, Division of Abandoned Mine Land Reclamation.

[FR Doc. 93–20631 Filed 8–25–93; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–641 (Final)]

Ferrosilicon From Brazil; Import Investigation

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731–TA–641 (Final) under § 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of ferrosilicon, provided for in subheadings 7202.21.10, 7202.21.50, 7202.21.75, 7202.21.90, and 7202.29.00 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: August 12, 1993.

FOR FURTHER INFORMATION CONTACT: Fred Fischer (202–205–3179), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of ferrosilicon from Brazil are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19

U.S.C. § 1673b). The investigation was requested in a petition filed on January 12, 1993, by AIMCOR, Pittsburgh, PA; Alabama Silicon, Inc., Bessemer, AL; American Alloys, Inc., Pittsburgh, PA; Globe Metallurgical, Inc., Cleveland OH; Silicon Metaltech, Inc., Seattle WA; Oil, Chemical & Atomic Workers Union (local 389); United Autoworkers of America Union (locals 523 and 12646); and United Steelworkers of America Union (locals 2528, 3081, and 5171).

Participation in the Investigation and Public Service List

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than seven (7) days after publication of this notice in the Federal Register. Section 201.11 (b) of the Commission's rules is hereby waived. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

The Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) days after the publication of this notice in the Federal Register. Section 207.7 (a)(2) of the Commission's rules is hereby waived. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in this investigation will be placed in the nonpublic record on August 31, 1993, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on September 14, 1993, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before September 7, 1993. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on September 9, 1993, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony *in camera*.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is September 8, 1993. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is September 22, 1993; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before September 22, 1993. A supplemental brief addressing only the final antidumping determination of the Department of Commerce is due on January 3, 1993. The brief may not exceed five (5) pages in length. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules.

By order of the Commission.

Issued: August 23, 1993.

Donna R. Koehnke,

Secretary.

[FR Doc. 93–20827 Filed 8–25–93; 8:45 am]

BILLING CODE 7020–02–P

INTERSTATE COMMERCE COMMISSION

[Section 5a Application No. 118]

The Eastern Central Motor Carriers Association, Inc. and Middle Atlantic Conference—Consolidation; EC–MAC Motor Carriers Service Association, Inc.—Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of filing of joint application for approval of consolidation and agreement, and for comments.

SUMMARY: The Eastern Central Motor Carriers Association, Inc. (ECMCA) and Middle Atlantic Conference (MAC) (applicants) have filed a joint application seeking approval of the consolidation of ECMCA and MAC into EC–MAC Motor Carriers Service Association, Inc. (EC–MAC) and approval of the proposed agreement of EC–MAC. The new agreement, which is patterned after the present ECMCA agreement, also embraces some provisions of the present MAC agreement. The EC–MAC agreement would permit EC–MAC, as successor to ECMCA and MAC, to engage in the same ratemaking activity as the existing bureaus. The present boards of ECMCA and MAC would be combined into an interim board to govern EC–MAC until its first regular meeting. The EC–MAC agreement contemplates no changes in the ratemaking procedures from those previously approved by the Commission in the existing ECMCA and MAC agreements.

DATES: Comments (original and 10 copies) must be filed by September 27, 1993, and concurrently served on applicants' representatives. Comments must contain the basis for supporting or opposing the proposed consolidation and approval of the EC–MAC agreement. Applicants' reply must be filed and concurrently served on the other parties by October 5, 1993.

ADDRESSES: Send an original and 10 copies of all documents (referring to Section 5a Application No. 118) to Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423. In addition, concurrently send one copy of comments to each of the following

applicants' representatives: (1) Bryce Rea, Jr., 1920 N Street NW., suite 420, Washington, DC 20036, and (2) John W. McFadden, Jr., 1600 Wilson Blvd., #1210, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: Jessie Hodge (202) 927–5302 or Beryl Gordon (202) 927–5610. [TDD for hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: The joint application seeks approval of the consolidation of ECMCA and MAC into EC–MAC, and approval of the proposed agreement of EC–MAC, patterned after ECMCA's Section 5a Agreement No. 48, while also embracing some provisions of MAC's Section 5a Agreement No. 23. Upon approval, collective ratemaking would continue within the Eastern Central and Middle Atlantic territories under EC–MAC procedures.

ECMCA engages in ratemaking activities for the Eastern Central Territory, as described in *Eastern Central Motor Carriers—Agreement*, 297 I.C.C. 563 (1955), namely between points in the District of Columbia, Connecticut, Delaware, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, and West Virginia, on the one hand, and, on the other, points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Texas, and Wisconsin.

The present MAC agreement provides for collective consideration and publication of rates (1) for transportation of property, (a) to, from, and within Middle Atlantic or New England Territories, and (b) between Middle Atlantic or New England Territories and Canada; and (2) for transportation of iron and steel, bricks, and numerous other specified related commodities, between points in Connecticut, Delaware, the District of Columbia, Illinois, Indiana, Kentucky (North Bank Ohio River Crossings and points within 5 miles of the Ohio River), Maine, Maryland, Massachusetts, Michigan (Lower Peninsula), Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and Wisconsin.[1] The Middle Atlantic Territory includes all points in New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and West Virginia, and the District of Columbia, those points in Kentucky within 20 miles of Williamson, WV, Bristol, TN, and points in Tennessee that may from time to time be grouped with Bristol for ratemaking purposes in tariffs published by EC–MAC (as successor to MAC). The New England Territory includes points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut.[2] Canada includes all points under Canadian jurisdiction.

Applicants believe that significant economies of operation will result from the consolidation. They note that the functions of collective ratemaking, rate procedures, processing of independent actions, publication of agency tariffs and individual tariffs, computer services, other printing and support services, research activities, Federal regulatory activities, and other functions, interests, and activities of both ECMCA and MAC are very similar. A consolidation will reduce the number of meetings that will be held for purposes of considering rate matters. Consequently, they believe that the economies and efficiencies of operations can be achieved without a reduction in service to member carriers, participants, tariff subscribers, shippers, and the general public. The consolidated operation would be conducted under the terms of the EC–MAC agreement, which is patterned (with minor amendments) after the ECMCA and MAC agreements. The existing agreements received final approval as consistent with the requirements of 49 U.S.C. 10706(b) in Section 5a Application Agreement 23, Middle Atlantic Conference—Agreement (not printed), decisions served August 5, 1987, March 28, 1988, and September 23, 1992 (minor amendment), and Section 5a Application No. 48, The Eastern Central Motor Carriers Association, Inc.—Agreement (not printed), decisions served June 10, 1987, and January 5, 1989 (minor amendment).

No Commission decision accompanies this notice. Copies of the application are available for public inspection and copying at the Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423, and from the applicants' representatives identified above. Applicants are encouraged to make copies promptly available to those who request them so that potential commentors will be able to submit informed comments on a timely basis.

Authority: 49 U.S.C. 10321 and 10706 and 5 U.S.C. 553.

—Decided: July 16, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–20705 Filed 8–25–93; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–6 (Sub #356X)]

Exemption; Burlington Northern Railroad Co.—Abandonment Exemption—in Renville County, ND

Burlington Northern Railroad Company (BN) has filed a notice of exemption under 49 CFR part 1152 Subpart F—*Exempt Abandonments* to abandon its 7.43-mile line of railroad between BN milepost 46.73, near Mohall, and milepost 54.16, near Lorain, in Renville County, ND.

BN has certified that : (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (service of environmental report on agencies), 49 CFR 1105.8 (service of historic report on State Historic Preservation Officer), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to government agencies) have been met.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 25, 1993, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to

[1] MAC is the successor to the Steel Carriers' Tariff Association, Inc. See Section 5a Application 23, Middle Atlantic Conference—Assumption of Steel Carriers' Tariff Association, Inc.—Functions (not printed), served October 6, 1986.

[2] Described portions of New York and New Jersey appearing in the New England Territory description of the present MAC agreement have been deleted as redundant in the new EC–MAC agreement.

[1] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's

file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by September 7, 1993. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 15, 1993, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Sara J. Whitley, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102–5384.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses the abandonment's effects, if any, on the environmental and historic resources. The Section of Energy and Environment (SEE) will issue an environmental assessment (EA) by August 31, 1993. Interested persons may obtain a copy of the EA by writing to SEE (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEE, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: August 16, 1993.

By the Comission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–2074 Filed 8–25–93; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–6 (Sub #355X)]

Exemption; Burlington Northern Railroad Co.—Abandonment Exemption—in Pembina County, ND

Burlington Northern Railroad Company (BN) has filed a notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon its 19.23-mile line of railroad between BN milepost 60.20 near Glasston and milepost 79.40 near Neche in Pembina County, ND.

BN has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user or rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (service of environmental report on agencies), 49 CFR 1105.8 (service of historic report on State Historic Preservation Officer), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (service of verified notice on governmental agencies) have been met.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 25, 1993, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by September 7, 1993.[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 15, 1993, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Sarah J. Whitley, Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102–5384.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses the abandonment's effects, if any, on the environmental or historic resources. The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA) by August 31, 1993. Interested persons may obtain a copy of the EA by writing to SEE (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: August 17, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–20706 Filed 8–25–93; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–6 (Sub #353X)]

Exemption; Burlington Northern Railroad Co.—Abandonment Exemption—In Grand Forks and Walsh Counties, ND

Burlington Northern Railroad Company has filed a notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon approximately 16.69 miles of rail line between BN milepost 6.50 near McCanna and milepost 23.15 near Conway in Grand Forks and Walsh Counties, ND.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year

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Section of Energy and Environment in its independent investigation) cannot be made before the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C. 2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] See *Exempt. pf Rail Abandonment—Offers of Finan. Asst.*, 4 I.C.C. 2d 164 (1987).

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

[1] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 25, 1993 (unless stayed). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by September 7, 1993.[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 15, 1993, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Sarah J. Whitley, Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main St., Fort Worth, TX 76102–5384.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses the abandonment's effects, if any, on the environment or historic resources. The Section of Energy and Environment (SEE) will issue an environmental assessment (EA) by August 31, 1993. Interested parties may obtain a copy of the EA by writing to SEE (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEE, at (202) 927–6248. Comments on environmental and historical preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: August 13, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–20707 Filed 8–25–93; 8:45 am]

BILLING CODE 7035–01–M

[1] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C. 2d 377 (1989). Any entity seeking a stay of the abandonment exemption on environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987).

[3] The Commission will accept late-filed trail use statements as long as it retains jurisdiction to do so.

[Docket No. AB–6 (Sub # 354X)]

Exemption; Burlington Northern Railroad Co.—Abandonment Exemption—In McHenry and Bottineau Counties, ND

Burlington Northern Railroad Company (BN) has filed a notice of exemption under 49 CFR part 1152 Subpart F—*Exempt Abandonment* to abandon its 35.04-mile line of railroad between BN milepost 0.00 near Towner, and BN milepost 35.26 near Newburg, in McHenry and Bottineau Counties, ND, including the stations of Bantry (milepost 14.0), Upham (milepost 22.0), and Newburg (milepost 34.8).

BN has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complainant filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) that the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 1105.12 (newspaper) publication) 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 26, 1993, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by September 7, 1993. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 15, 1993, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Sarah J. Whitley, Burlington Northern Railway Company, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

BN has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Energy and Environment (SEE) will issue an environmental assessment (EA) by August 31, 1993. Interested persons may obtain a copy of the EA by writing to SEE (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEE, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: August 20, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–20708 Filed 8–25–93; 8:45 am]

BILLING CODE 7035–01–M

[1] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request before the effective date of this exemption.

[2] See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

[Docket No. AB–6 (Sub #352X)]

Exemption; Burlington Northern Railroad Co.—Abandonment Exemption—in Emmons and McIntosh Counties, ND

Burlington Northern Railroad Company (BN) has filed a notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon approximately 29.93 miles of rail line between BN milepost 45.32 (MILW milepost 74.38) near Linton and MILW milepost 44.41 near Zeeland, in Emmons and McIntosh Counties, ND.

BN has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental report); 49 CFR 1105.8 (historic report); 49 CFR 1105.11 (transmittal letter); 49 CFR 1105.12 (newspaper publication); and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 25, 1993, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by September 7, 1993. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 15, 1993, with the Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Sarah J. Whitley, Esq., Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Forth Worth, TX 76102–5384.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

BN has filed an environmental report which addresses the abandonment's effects, if any, on the environment or historic resources. The Section of Energy and Environment (SEE) will issue an environmental assessment (EA) by August 31, 1993. Interested persons may obtain a copy of the EA by writing to SEE (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEE, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: August 17, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–20709 Filed 8–25–93; 8:45 am]

BILLING CODE 7035–01–M

[1] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Energy and Environment in its independent investigation) cannot be made before the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] See, *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

[Finance Docket No. 32337]

Sunshine Mills, Inc.—Feeder Line Acquisition—Norfolk Southern Railway Co. Line Between Corinth, MS, and Haleyville, AL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of acceptance of feeder line application.

SUMMARY: Sunshine Mills, Inc. (Sunshine), has filed a feeder railroad development application under 49 U.S.C. 10910 and 49 CFR 1151.3 to acquire the Norfolk Southern Railway Company's (NS) line between milepost IC–528.9, at or near Corinth, MS, and milepost IC–606.8, at or near Haleyville, AL, plus all sidings, stations, switching track and facilities appurtenant to the line, including all the right, title, and interest of NS in and to the underlying and contiguous real estate. The application is accepted to the extent that it seeks to acquire segments of NS's line between milepost IC–528.9 at or near Corinth, MS, and milepost IC–571.0 at or near Red Bay, AL, and between mileposts IC–604.0 and IC–606.8 in Haleyville, AL.

The line segment between milepost IC–571.0 at or near Red Bay, AL, and milepost IC–604.0 at or near Haleyville, AL (the Red Bay-Haleyville segment), is the subject of an offer of financial assistance proceeding in Docket No. AB–290 (Sub-No. 123X), and is subject to automatic rejection because the application was filed under 49 U.S.C. 10910(b)(1)(A)(ii). Applicant may amend the application to acquire the Red Bay-Haleyville segment under the alternative standard of 49 U.S.C. 10910(b)(1)(A)(i).

DATES: Competing applications by any person seeking to acquire all or any portion of the line sought are due September 22, 1993. Verified statements and comments addressing both the initial and competing applications must be filed by October 22, 1993. Verified replies by applicants and other interested parties must be filed by November 12, 1993.

ADDRESSES: Send pleadings referring to Finance Docket No. 32337 to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423; (2) Applicant's representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210, and (3) The railroad's representative: Robert J. Cooney, Three Commercial Place, Norfolk, VA 23510.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610, [TDD for hearing impaired: (202) 927–5721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD service (202) 927–5721.]

Decided: August 20, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden. Chairman McDonald, joined by Vice Chairman

Simmons dissented in part with a separate expression.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–20797 Filed 8–25–93; 8:45 am]

BILLING CODE 7035–01–P

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at One Park Avenue, New York, New York, on September 29, 1993, beginning at 8:30 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future examinations in actuarial mathematics and methodology referred to in title 29 U.S. Code, section 1242(a)(1)(B).

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) has been made that the subject of the meeting falls within the exception to the open meeting requirement set forth in title 5 U.S. Code, section 552b(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: August 18, 1993.

Leslie S. Shapiro,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 93–20627 Filed 8–25–93; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF JUSTICE

Office for Victims of Crime

Victims of Crime Act Victim Assistance Grant Program

AGENCY: Department of Justice, Office of Justice Programs, Office for Victims of Crime.

ACTION: Notice of proposed program guidelines (revised) for the victims of Crime Act Victim Assistance Grant Program.

SUMMARY: The Office for Victims of Crime (OVC), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ), is publishing, for a 45-day public comment period, Proposed Program Guidelines to implement the victim assistance grant program as authorized by the Victims of Crime Act of 1984, as amended, 42 U.S.C. 10601, et seq. (hereafter referred to as VOCA).

DATES: Comments must be submitted on or before October 12, 1993.

ADDRESSES: State Compensation and Assistance Division, Office for Victims of Crime, 633 Indiana Avenue, NW., room 1386, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Carolyn A. Hightower, Director, State Compensation and Assistance Division, at the above address; telephone number (202) 307–5947. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: VOCA authorizes Federal financial assistance to States for the purpose of compensating and assisting victims of crime, providing funds for training and technical assistance, and assisting victims of Federal crimes.

These Program Guidelines provide information on the administration and implementation of the VOCA victim assistance grant program as authorized in Section 1404 of VOCA, Public Law 98–473, as amended, codified at 42 U.S.C. 10603, and contain information on the following: Background; Funding Allocation and Application Process; Program Requirements; Financial Requirements; Monitoring; and Suspension and Termination of Funding. The Guidelines are based on the experience gained during the first seven years of the grant program and are in accordance with VOCA, as amended. When approved in final form, these Program Guidelines will supersede any Guidelines previously issued by OVC.

These Program Guidelines do not constitute a "major" rule as defined by Executive Order 12291, because they do not result in the following: (a) An effect on the economy of $100 million or more; (b) a major increase in any costs or prices; or (c) adverse effects on competition, employment, investment, productivity, or innovation among American enterprises.

In addition, these Guidelines will not have a significant economic impact on a substantial number of small entities; therefore, an analysis of the impact of these rules on such entities is *not* required by the Regulatory Flexibility Act, 5 U.S.C. 601, et seq.

The collection of information requirements contained in the Reporting Requirements section has been submitted to the Office of Management and Budget (OMB) for review, under the Paperwork Reduction Act, 44 U.S.C. 3504(h). Approval to use the specified reports to gather information on the use and impact of VOCA victim assistance grant funds has been given by OMB numbers 7390/2A and 7390/4.

Background

In 1984, VOCA established the Crime Victims Fund (Fund) in the U.S. Treasury and authorized the Fund to receive deposits from fines and penalties levied on criminals convicted of Federal crimes. This Fund provides the source of funding for carrying out all of the activities mandated by VOCA.

OVC serves as the Federal focal point for all crime victim issues, to include ensuring that the criminal justice system addresses the legitimate rights and interests of crime victims. OVC's program activities are consistent with VOCA. These Program Guidelines address the specific program and financial requirements of the VOCA crime victim assistance grant program.

OVC makes annual VOCA crime victim assistance grants from the Fund to States. The primary purposes of these grants are to support the provision of direct services to innocent victims of violent crime throughout the Nation, to assist victims of crime as soon as possible in order to reduce the severity of the psychological consequences of the victimization, to increase the victim's willingness to cooperate with the criminal justice process, and to restore the victim's faith in the criminal justice system.

VOCA gives latitude to States to determine how VOCA victim assistance grant funds will best be used within each State. However, each State grantee must abide by the minimal statutory requirements outlined in VOCA and the requirements in these Program Guidelines.

Funding Allocation and Application Process

A. Distribution of Crime Victims Funds

OVC administers the deposits made into the Fund for activities, as specified in VOCA. The amount of funds available for distribution each year is dependent upon the total deposits into the Fund.

The Federal Courts Administration Act of 1992 removed the cap on the Fund, beginning with Federal Fiscal Year (FFY) 1993 deposits, which will be used for grants in FFY 1994. This Act also eliminated the need for periodic reauthorization of VOCA and the Fund. Thus, under current legislation, the Fund will receive deposits indefinitely.

B. Availability of Funds

All States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Northern Mariana Islands, and Palau (hereinafter referred to as "States") are eligible to apply for, and

receive, VOCA victim assistance grants. See Section 1404(d)(1) of VOCA, codified at 42 U.S.C. 10603(d)(1).

Funds are available for expenditure during the FFY of award and in the next FFY. The FFY begins on October 1 and ends on September 30 of the following year. States may incur expenses retroactively to the beginning of each year's grant, October 1, even though the VOCA grant may not be awarded until later in the grant period. Funds that are not obligated by the end of the grant period must be returned to the General Fund of the U.S. Treasury. Therefore, States are encouraged to closely monitor the expenditure of VOCA funds at the subrecipient level and to reallocate unexpended funds prior to the end of the grant period, when possible.

C. Allocation of Funds to States

From the Fund deposits available for victim assistance grants, each State receives a base amount of $200,000, except Palau. The remaining Fund deposits are distributed to each States based upon the State's population, as determined by current census data, in relation to all other States.

D. Allocation of Funds Within the States

The Governor of each State designates the State agency that will administer the VOCA victim assistance grant program. That designated State agency establishes policies and procedures regarding the implementation and administration of the VOCA victim assistance grant program. These policies and procedures must meet the minimum requirements of VOCA and the Program Guidelines but can be more restrictive.

VOCA victim assistance funds granted to the States are to be used by eligible public and private nonprofit organizations to provide direct services to crime victims. States have sole discretion for determining which organizations will receive funds and at what level, as long as the recipients meet the requirements of VOCA and the Program Guidelines.

States are encouraged to develop a VOCA program funding strategy, which should consider the range of victim services throughout the State and within communities; the unmet needs of crime victims; the demographic profile of crime victims; the coordinated, cooperative response of community organizations in organizing services for crime victims; the availability of services to crime victims throughout the criminal justice process; the extent to which other sources of funding are available for services; etc.

States are encouraged to expand into new service areas as needs change. Many States use VOCA funds to stabilize victim services by continuously funding selected organizations. Some States terminate funding to organizations in order to fund new organizations. Other States limit the number of years an organization may receive VOCA funds. These practices are within the State's discretion and are supported by OVC, when they serve the best interests of crime victims within the State.

States may award VOCA funds to organizations that are physically located in an adjacent State. States should use this adjacent-State approach when it is the only efficient mechanism available for providing services to victims who reside in the awarding State. When adjacent-State awards are made, the amount of the award is to be proportional to the number of victims to be served by the adjacent-State organization. OVC recommends that States enter into an interstate agreement with the adjacent State to address monitoring of the VOCA subrecipient, audit of Federal funds, compliance issues, reporting requirements, etc. NOTE: States are requested to notify OVC of each VOCA award made to an organization in another State.

States may choose to use an organization as a "conduit" to aid in the selection of qualified subrecipients or to reduce the State's administrative burden in implementing the grant program. However, the "conduit" organization may not receive reimbursement from the VOCA victim assistance grant for the administrative, coordination, and/or oversight activities it provides. The use of a "conduit" organization does not relieve the State from ultimate programmatic and financial responsibilities.

E. Application Process

States shall use the Standard Form 424, Application for Federal Assistance, and its attached certified assurances to apply for VOCA victim assistance grant funds. Applications for VOCA crime victim assistance grants must be submitted by the State agency designated by the Governor to administer the VOCA grant. Each year, OVC issues to each eligible State a Program Instruction and Application Kit, which contains the necessary forms and detailed information required to make application for VOCA grant funds. The amount for which each State may apply is included in the Application Kit. At the time of application, States are not required to provide specific information on the subrecipients that will receive VOCA victim assistance funds.

The following are attachments to the Application for Federal Assistance:

1. States shall specify their arrangements for complying with the provisions of Circular A–128 (Audits of State or Local Government).
2. States shall submit Certifications Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements; Civil Rights Compliance, and any other certifications required by OJP and OVC. Additionally, States must complete a disclosure form specifying any lobbying activities that are conducted.
3. States shall identify the type of crime(s) that will be used to meet the underserved requirement.

F. Application for Training Funds

Beginning with the FFY 1994 VOCA victim assistance grant program, State grantees may choose to retain a portion of their VOCA victim assistance grant for conducting State-wide and/or regional State training of victim services staff.

Because the quality of victim services is directly tied to appropriately trained direct service providers, staff development and training has always been a VOCA-allowable cost. However, the use of VOCA victim assistance grant funds to support staff development and training has previously been limited to costs incurred at the VOCA subrecipient level. Further, VOCA subrecipients could only use VOCA funds to receive training within their State boundaries or within a similar geographical area.

Appropriate training is not always available within the State boundaries, and direct service providers do not have sufficient discretionary funds to travel outside of the State. Additionally, limiting access to quality training to the few VOCA subrecipients within a State may impede the expansion of quality services to crime victims through other victim service providers. For these reasons, OVC is extending to State grantees the flexibility to take an active role in ensuring that appropriate and uniform training is available to direct service providers throughout the State in the most cost-effective way possible.

Thus, States may retain a portion of their VOCA victim assistance grant for a training activity as described in this section. These States must submit a training proposal to OVC at the time of application or at a later date prior to the training event.

Note: States who choose to sponsor a State-wide or regional training are not precluded from awarding VOCA funds to subrecipients for other types of staff development.

Although specific criteria for applying for training funds will be given in each year's Application Kit, the following general guidance is provided, as follows:

1. Prior OVC review and approval is required for all training proposals.
2. The training proposal must describe how the VOCA funds will be used to improve the skills of paid and volunteer direct service staff. The training offered by the State must consist of intensive, staff development activities. Proposals submitted for seminars and conferences that focus on sharing ideas, providing general information, and networking will not be approved.
3. The maximum amount permitted for this purpose is $5,000 or 1 percent of the State's grant, whichever is greater.
4. The training proposal must identify the service provider needs and address a plan for meeting these needs through the training activity.
5. The training proposal will describe the goals of the training event, outline the curriculum, and identify costs associated with the purchase of trainers, space, conference coordination, curriculum development, materials, etc.
6. If registration fees will be charged to non-VOCA supported staff and volunteers, the proposal must identify how the program income will be used to defray the cost of the project.
7. VOCA funds will be matched at 50 percent, cash or in-kind, and the proposal will describe the source of the match.
8. The training activity must occur within the grant period.
9. A Subgrant Award Report must be submitted on the training activity and pertinent information included on the Performance Report.
10. VOCA grant funds cannot be used to supplant the cost of existing State program administrative staff or related State training efforts, i.e., Statewide conferences, coalition conferences, etc.

Program Requirements

A. State Eligibility Requirements

VOCA and the Program Guidelines establish minimal eligibility requirements. When applying for the VOCA victim assistance grant, States are required to give assurances that the following special conditions or requirements will be met:

1. States shall certify that only eligible organizations will receive VOCA funds and that VOCA crime victim assistance funds will only be used for direct services to victims of crime. See Section 1404(b)(2), codified at 42 U.S.C. 10603(b)(2). Activities that are tangentially related to providing direct services are not eligible for support with VOCA funds, such as serving on task forces, commissions, working groups, teams, councils, and committees. Further, activities involving the general administration of an organization and supervision of staff are not VOCA allowable activities. However, representing the needs of a crime victim at multidisciplinary team meetings, which facilitate coordinated, comprehensive services to individual crime victims, can be supported with VOCA funds.

2. States shall certify that VOCA crime victim assistance grant funds will not be used to supplant State and local funds that would otherwise be available for crime victim services. See Section 1404(a)(2)(C) of VOCA, codified at 10603(a)(2)(C). VOCA victim assistance grant funds are intended to enhance or expand services, not substitute for other sources of funding. This supplantation clause applies to State and local public agencies, only.

3. States shall certify that a minimum of 10 percent of each FFY's grant will be allocated to each of the following categories of crime victims: sexual assault, domestic violence, and child abuse. These categories of crime victims are identified as "priority" victims by VOCA, because the problems experienced by these victims are often exacerbated by societal attitudes or vulnerabilities. Although "priority" victims are given special consideration in allocating VOCA funds, this designation does not imply that the needs and suffering of "priority" victims are greater than other crime victims.

Each State must meet this requirement, unless it can document to OVC that (1) a "priority" crime victim is currently receiving significant amounts of financial assistance from the State or other funding sources, and (2) a smaller amount of financial assistance, or no assistance, is needed from the VOCA victim assistance grant program.

Note: Beginning with the FFY 1994 VOCA victim assistance grant, States are requested to verify for OJP representatives that a minimum of 10 percent has been expended for services to each "priority" category of crime victims. States, who submit documentation to OVC that less than 10 percent is needed are requested to verify the amount expended in relation to the amount allocated.

4. States shall certify that an additional 10 percent of each VOCA grant will be allocated to victims of crime who were "previously underserved" with VOCA victim assistance funds. In 1988, VOCA was amended to require that States make VOCA victim assistance grant funds available for services to victims of violent crime, other than the "priority" victims, such as survivors of homicide victims, victims of assault, survivors of DUI/DWI crashes (driving under the influence of alcohol or drugs), etc.

Each State must meet this requirement, unless it can convincingly justify to OVC that (1) services to victims of violent crime, other than the "priority" categories, are receiving significant amounts of financial assistance from the State or other funding sources, and (2) a smaller amount of financial assistance, or no assistance, is needed from the VOCA victim assistance grant program.

Note: Beginning with the FFY 1994 VOCA victim assistance grant, States are requested to verify for OJP representatives that a minimum of 10 percent has been expended for services to victims of violent crime, other than the "priority" victims. States, who submit documentation that less than 10 percent is needed are requested to verify the amount expended in relation to the amount allocated.

Services to vulnerable adults who are crime victims may be used to meet the underserved requirement. For the purpose of the VOCA victim assistance grant program, vulnerable adults are described as individuals who do not have the mental and/or physical capacity to manage their daily needs without the assistance of a guardian or caretaker. This description differs significantly from the victimization of elderly individuals who are able to maintain an independent lifestyle.

Although Native Americans and/or the elderly may be underserved in a particular area or State, the intent of the 1988 amendment to VOCA was to extend services to victims of violent crime other than the "priority" categories. A designation by characteristic, instead of type of crime, prevents States and OVC from reporting to Congress the VOCA grant funds allocated to other victims of violent crime, other than "priority" victims, as required in the 1988 amendments to VOCA.

Since 1989, States have been permitted to meet the "previously underserved" requirement by allocating VOCA funds to organizations serving Native American crime victims. This exception was permitted because of the paucity of services for Native American crime victims on reservations. Since 1989, OVC has undertaken an extensive effort to foster the growth of services to Native Americans on reservations and

has dedicated substantial financial resources for services in Indian country. OVC believes that services to Native American crime victims are disproportionally low in relation to the rate of violent crime. Thus, OVC is committed to continuing these efforts to expand and enhance services to Native American crime victims through the VOCA Assistance to Victims of Federal Crime in Indian Country Discretionary Grant Program. However, beginning with FFY 1994 VOCA victim assistance grant program, all States must identify underserved by type of crime. Those States, who wish to fund services to Native Americans to meet the "previously underserved" requirement, must identify the type of violent crime to which Native Americans are subjected. Likewise, States who wish to meet the underserved requirement by allocating VOCA funds to serve crime victims such as elderly or Hispanic, must identify the type of crime to which these victims are subjected.

5. States are encouraged to coordinate their activities with the State victim compensation agency. Coordination could include activities such as meetings; training activities for direct service providers on the general parameters of the State compensation agency's program (e.g., eligibility criteria, completion of claims, and time frames for receiving compensation); exchanging information on VOCA victim assistance services within the State; jointly developing guidance, where applicable, on third-party payments to VOCA assistance organizations; etc.

6. States shall certify that appropriate accounting, auditing, and monitoring procedures will be employed at the State and subrecipient levels and that records are maintained to assure fiscal control, proper management, and efficient disbursement of the VOCA victim assistance funds, as per the OJP "Financial and Administrative Guide for Grants" (M7100.1D), effective edition.

7. States shall certify compliance with all Federal laws and regulations applicable to Federal assistance programs and with the provisions of 28 Code of Federal Requirements (CFR) applicable to grants.

8. States shall certify its compliance, and its subrecipients' compliance, with the applicable provisions of VOCA and the Final Program Guidelines.

9. States shall submit required programmatic and financial reports on the use of the VOCA victim assistance funds by the deadlines prescribed by OVC. (See sections on *Program Requirements* and *Financial Requirements*, for reporting requirements and timelines.)

10. States shall certify that in the event a Federal or State court or administrative agency makes a finding of discrimination, after a due process hearing on the grounds of race, religion, national origin, sex, or disability against a recipient of VOCA victim assistance funds, a copy of the findings will be forwarded to the Office of Civil Rights (OCR) for OJP.

11. States shall immediately notify OVC in the event of a finding of fraud, waste, and/or abuse of VOCA funds and continue to apprise OVC of the status of on-going investigations.

B. Subrecipient Organization Eligibility Requirements

VOCA establishes minimal eligibility criteria that must be met by all organizations that receive VOCA funds. It is intended that VOCA funds support direct services that are provided by staff of the VOCA-funded organization. It was not intended that the VOCA subrecipients serve as contractors of services. However, at times, it may be necessary for VOCA subrecipients to contract for specialized services. For example, if there is an infrequent need for a victim service, it may not be cost-effective for the VOCA subrecipient to employ an individual with the skills to perform the needed service, either on a part- or full-time basis. Additionally, there may be emergency situations requiring victim services that are beyond the scope of the VOCA subrecipient organization. In these situations, VOCA subrecipients may contract for VOCA-allowable services, at the discretion of the State grantee and within the parameter of the OJP contracting rules and regulations and the M7100.1D.

Contracted services are usually purchased on an hourly basis and might include costs that are unallowable with VOCA funds at the subrecipient level, such as overhead and other administrative costs. Therefore, States are encouraged to closely scrutinize each request to use VOCA funds to purchase services and consider the following: (1) How the need for, and frequency of, the contracted services was determined; (2) the total amount of contracted services requested within the grant period; (3) how reasonable is the hourly fee; (4) what other options for service provision were investigated; (5) do the subrecipient's contracting procedures strictly adhere to OJP contract guidelines; etc. Upon request, States will make available all contract documentation for review by OVC and the Office of the Comptroller at both the State and the subrecipient level.

When contracted services are a necessity, they are expected to comprise a very small percentage of a subrecipient's VOCA award. VOCA subrecipients are prohibited from using their entire VOCA award to purchase services.

Minimal requirements have been established which identify organizations that are eligible and ineligible to receive VOCA funds. Each subrecipient organization shall:

1. Be a public or nonprofit organization that provides direct services to crime victims.

2. Have a record of providing effective direct services to crime victims for a minimum of one year, have the support and approval of its services by the community, have a history of providing direct services in a cost-effective manner, and have financial support from non-Federal sources. An organization meeting this criteria is considered an "existing" organization for match purposes.

States may choose to fund organizations which have been providing direct victim services for less than one year. However, these organizations must provide financial support from non-Federal sources and meet the match requirement for "new" victim services organizations.

3. Be able to meet program match requirements. For an "existing" victim services organization, the match is 20 percent, cash or in-kind, of the total VOCA project (VOCA grant plus match). For a "new" victim services organization the match is 35 percent, cash or in-kind, of the total VOCA project (VOCA grant plus match). Match must be committed for each VOCA-funded project, must be derived from the other resources within the organization, must be expended within the project period, and cannot be derived from other Federal funds and/or sources, except as provided in Chapter 2, paragraph 14(c)(3)(b) of the M7100.

All funds designated as match are restricted to the same uses as the VOCA victim assistance funds. Thus, only services and activities that are VOCA-allowable qualify as match. VOCA subrecipients must maintain records which clearly show the source, the amount, and the period during which the match was expended. Organizations are not encouraged to commit excessive amounts of match to the VOCA-funded project.

Exceptions: The match for VOCA subrecipients that are Native American tribes/organizations located on

reservations, whether new or existing, is 5 percent, cash or in-kind, of the total VOCA project (VOCA grant plus match). A Native American tribe/organization is described as any tribe, band, nation, or other organized group or community, which is recognized as eligible for the special programs and services provided by the United States to Native Americans because of their status as Native Americans. Reservation is defined as a tract of land set aside for use of, and occupancy by, Native Americans.

Subrecipients located in the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and all other territories and possessions of the United States, whether considered new or existing, are not required to match the VOCA funds. See 48 U.S. Code, § 1469a(d).

4. Use volunteers unless the State determines a compelling reason exists to waive this requirement. A "compelling reason" may be a statutory or contractual provision concerning liability or confidentiality of counselor/victim information, which bars using volunteers for certain positions, or the inability to recruit and maintain volunteers after a sustained and aggressive effort. States may impose additional stipulations to ensure adherence to this requirement throughout the duration of the project, e.g., establish a minimum number of volunteer hours or establish a maximum value on all volunteer time.

5. Promote, within the community served, a coordinated approach for serving crime victims, thus avoiding duplication of effort. Coordination may include serving on task forces, commissions, working groups, multidisciplinary teams on behalf of individual crime victims, information and referral agreements, and/or written interagency agreements—all of which contribute to better and more comprehensive services to crime victims.

6. Assist victims in seeking available crime victim compensation benefits. Such assistance may include identifying and notifying crime victims of the availability of compensation, assisting them with application forms and procedures, obtaining necessary documentation, and/or checking on claim status.

7. Comply with the applicable provisions of VOCA, the Program Guidelines, and the requirements of the OJP's M7100.1D, which includes maintaining appropriate programmatic and financial records that fully disclose the amount and disposition of VOCA funds received. This includes financial documentation for disbursements; daily time and attendance records specifying time devoted to VOCA-allowable victim services; client files; the portion of the project supplied by other sources; and other records which will facilitate an effective audit.

8. Maintain statutorily required civil rights statistics on victims served by race or national origin, sex, age, and disability, within the timetable established by the State grantee; and permit reasonable access to its books, documents, papers, and records to determine whether the recipient is complying with applicable civil rights laws.

9. Submit statistical and programmatic information on the impact of VOCA funds to the State grantee, that is requested, and within the timetable established, by the State grantee.

10. Maintain client-counselor confidentiality. VOCA subrecipients cannot use or reveal any client information without the consent of the client. This confidentiality provision does not override or repeal a State's existing law governing the disclosure of information under mandatory reporting statutes, i.e., suspected child abuse, or during criminal justice proceedings.

11. Provide services to victims of Federal crimes on the same basis as victims of State crimes.

12. Provide a variety of services and assistance to crime victims over and above assistance with compensation and information and referral services.

13. Provide services, at no charge, through VOCA-funded staff. Organizations are prohibited from charging a crime victim, or a third-party payor, for any services supported with VOCA funds.

14. Abide by any additional eligibility or service criteria as established by the State grantee.

C. Eligible Subrecipient Organizations

Nonprofit and public organizations that provide direct services to crime victims are eligible to receive VOCA funds. These include rape crisis centers, domestic violence shelters, child abuse treatment facilities, prosecutor offices, courts, probation and parole authorities, hospitals, public housing authorities, and religious-affiliated organizations.

There are often limitations on the use of VOCA victim assistance grant funds in these organizations. For example, VOCA-funded projects within public organizations must be an extension of the victim services mandated by law to ensure that there is no violation of the supplantation clause. In situations where a service is mandated by law but has not been allocated the necessary resources to provide the service, State grantees are cautioned to closely review using VOCA funds to support legislative mandates. At times, States may choose to use VOCA funds to support an unfunded legislative mandate for a limited time, if the State believes that such support is essential to meeting the needs of crime victims.

The following examples show how VOCA funds may be used in the public and nonprofit sector:

1. Criminal justice agencies such as law enforcement organizations, prosecutor offices, courts, probation and parole authorities are eligible to receive VOCA-funding. However, these offices/organizations may only use VOCA victim assistance funds for victim services that exceed the boundaries of their legislative mandate. For example, a police department cannot use VOCA victim assistance funds to hire law enforcement personnel or for activities that a sworn law enforcement officer would be expected to provide in the normal course of his/her duties, such as crime scene intervention, questioning of victims and witnesses, investigation of the crime, and follow-on activities.

2. State agencies are eligible recipients of VOCA victim assistance grant funds, if the State agency provides direct services to victims of crime, meets all criteria set forth by VOCA, meets any additional criteria established by the State for other VOCA subrecipients, and does not use VOCA funds to supplant State funds designated for victim services.

3. Religious-affiliated organizations are eligible to receive VOCA victim assistance grant funds under the following conditions: (1) If the purpose of the grant is secular, not religious; (2) if the purpose is not to advance religious views; (3) if services are offered to all crime victims without regard to religious views and the receipt of services is not contingent upon participation in a religious activity or event; and (4) if the funds do not create an "excessive entanglement" of church and State.

4. Social services organizations that are responsible for child protective services and adult protective services, as well as other public mental health organizations, are eligible to receive VOCA victim assistance funds. Because rules and laws governing each jurisdiction differ, OVC encourages each State to closely review requests for VOCA funding by social services and public mental health organizations to ensure supplantation does not occur.

5. Nonprofit organizations whose primary mission or purpose is not providing services to crime victims but

who have a component of the organization that provides services to crime victims are eligible for VOCA-funding. Such organizations may include mental health centers, hospitals, legal services agencies, coalitions, etc.

6. State crime victim compensation agencies are eligible to receive a VOCA victim assistance grant if the services offered focus on actual direct services as intended by VOCA and the Program Guidelines. Such services include providing group treatment, providing therapy and counseling, accompanying a victim to court, providing shelter, etc. These services extend far beyond information, referral, counseling regarding compensation benefits, and assistance with filing for compensation benefits. Generally speaking, State compensation programs do not provide the type of services envisioned by VOCA and the Program Guidelines. Therefore, State grantees are encouraged to discuss with OVC any proposed award of VOCA funds to a compensation program prior to making a final funding decision to ensure that the proposed award complies with the terms of VOCA and the Program Guidelines.

7. Hospitals and emergency medical facilities are eligible to receive VOCA victim assistance funds to offer counseling, support groups, and other types of victim services. Additionally, States may award VOCA fund to a medical facility for the purpose of performing forensic examinations on sexual assault victims if (1) the examination meets the standards established by the State, local prosecutor's office, or State-wide sexual assault coalition, and (2) appropriate crisis counseling and/or other types of victim services are offered to the victim in conjunction with the examination.

D. Ineligible Recipients of VOCA Funds

Some public and nonprofit organizations that offer services to crime victims are not eligible to receive VOCA funding. These organizations include the following:

1. U.S. Attorneys Offices, military installations, and other Federal agencies are not eligible to receive VOCA funds. Receipt of VOCA funds represents an augmentation of the Federal budget with money intended for State agencies.

2. In-patient treatment facilities that are designed to provide treatment to individuals with drug, alcohol, and/or mental health related conditions are not eligible to receive VOCA victim assistance grant funds. In-patient facilities are not open and accessible to the general public and, therefore, do not meet the criteria for a victim services organization as intended by Congress.

E. Services, Activities, and Costs

Throughout the legislative history of VOCA, Congress has provided significant guidance on the need to use VOCA victim assistance funds to offer services to victims of crime as soon as possible after the crime occurs, to reduce the severity of the psychological consequences of the victimization. Through early and appropriate crisis intervention, often the need for services later is reduced and a victim's trauma is lessened. Services that assist and encourage crime victims to participate in the criminal justice system are equally important, in that they help to restore the victim's faith in the criminal justice system.

The types of direct services intended by VOCA include those services which respond to the immediate needs of crime victims; assist the victim in participating in the criminal justice process; help restore the victim's sense of dignity, self esteem, and coping mechanisms. Likewise, costs that are necessary and essential to providing these direct services and costs that improve the efficiency and effectiveness of service provision may be supported with VOCA victim assistance grant funds.

1. Allowable Direct Services, Activities, and Costs. The VOCA-funded project (VOCA funds plus match) within the subrecipient organization must be used for direct services to crime victims. The following is a non-exhaustive listing of services, activities, and costs that are considered to be eligible for support with VOCA victim assistance grant funds:

a. Those services which immediately respond to the emotional and physical needs (excluding medical care) of crime victims such as crisis intervention; accompaniment to hospitals for medical examinations; hotline counseling; emergency food, clothing, transportation, and shelter; emergency legal assistance such as filing restraining orders; and other emergency services that are intended to restore the victims' sense of dignity, self esteem, and coping mechanisms. This authority cannot serve as a mechanism to provide compensation to crime victims.

Note: The use of VOCA victim assistance grant funds to support emergency financial assistance should be appropriately identified in the subrecipient's budget and monitored closely by the State grantee. Additionally, provisions should be made for unexpended emergency funds set aside by subrecipients.

b. Those services and activities that assist the primary and secondary victims of crime in understanding the dynamics of victimization and in stabilizing their lives after a victimization such as counseling, group treatment, and therapy.

c. Services that are directed to the needs of the victim within the criminal justice system but not, primarily, to the needs of the criminal justice system. These services may include criminal justice advocacy, accompaniment to law enforcement offices, transportation to court, child care while in court, trial notification and case disposition information, restitution advocacy, assistance with victim impact statements, and parole notification.

d. Services which offer an immediate measure of safety to crime victims such as temporary security measures which prevent the reburglarization of a home such as boarding-up windows, and replacement or repair of security locks.

e. Forensic examinations for sexual assault victims *only* to the extent that other funding sources (such as State compensation or private insurance or public benefits) are unavailable or insufficient. Use of VOCA victim assistance funds for this purpose cannot be contrary to the nonsupplantation clause in VOCA.

State grantees should establish controls for using VOCA victim assistance funds to pay for forensic examinations in sexual assault cases. The controls should require VOCA subrecipients to investigate to what extent other resources are available to pay for the examinations; what other direct services will be offered in conjunction with the examination; will the examination meet the evidentiary standards established by the State, local prosecutor's office or State-wide coalition. VOCA funds cannot be used to pay for those forensic examinations that do not conform to these standards.

f. Costs that are necessary and essential to providing direct services such as pro-rated costs of rent, telephone service, transportation costs for victims, and local travel expenses for direct service providers.

g. Services which assist crime victims with managing practical problems created by the victimization such as acting on behalf of the victim vis-a-vis other service providers, creditors, or employers; assisting the victim to recover property that is retained as evidence; assisting in filing for compensation benefits; and helping to apply for public financial assistance; assisting the victim to resume their life; managing the overall service and informational needs on behalf of the crime victim until such time that the

victim can assume these responsibilities; etc.

h. Costs that are directly related to maintaining staff, both paid and volunteer, such as salaries, fringe benefits, malpractice insurance for professional direct service providers who are subject to civil actions, and advertising costs associated with hiring VOCA-funded personnel.

i. Meetings and panels where crime victims are able to confront perpetrators, if they offer therapeutic value to crime victims. Often such meetings and panels provide the victim with an opportunity to tell and retell one's story, put feelings and experiences into words, and enable victims to move forward with their lives.

States that plan to fund this type of service should closely review the criteria for, and the standards governing, the type of service to be provided. At a minimum, the following should be considered: (1) The benefit or therapeutic value to the victim, (2) the type of crimes and subsequent victims that will benefit from the service, (3) the number of victims wishing to participate, (4) the provision of appropriate support and accompaniment for the victim, (5) appropriate "debriefing" opportunities for the victim after the meeting or panel, (6) the credentials of the facilitators, (7) the other needs of individual crime victims, and (8) the opportunity for a crime victim to withdraw from the process at any time without negative feelings or penalty. States are encouraged to discuss proposals with OVC prior to awarding VOCA funds for this type of activity.

Note: Victim-Offender mediation services in which the mediation serves to replace criminal justice proceedings cannot be supported with VOCA victim assistance funds.

2. Other Related Allowable Services, Activities, and Costs. Expenses under this section are not direct crime victim services; however, they may at times be closely tied to providing quality direct services. Therefore, when other sources of support are not available for following activities, States may approve subrecipient budgets to use limited amounts of VOCA funds to support these expenses. States may not subaward VOCA funds solely for the purpose of funding one or more of the following expenses, unless other direct crime victim services are provided within the VOCA-funded organization and can be documented by the State:

a. Training for staff development. VOCA funds designated for training are to be used exclusively for developing the skills of direct service providers (paid and volunteer) so that they are better able to offer quality services to crime victims. VOCA funds cannot support training for executive directors, board members, and other individuals that do not provide direct services. However, VOCA funds can be used for training direct service providers within the organization, who are not supported with VOCA funds. However, priority should be given to the individuals supported with VOCA funds.

VOCA funds can purchase materials such as books, training manuals, and videos for direct service providers, within the VOCA-funded organization, and can support the costs of a trainer for in-service staff development. Although VOCA cannot be used to train individuals in other organizations, individuals from other organizations can attend training activities that are held for the subrecipient's staff, if no additional costs will be incurred by the VOCA-funded project.

VOCA funds can support costs associated with attendance at training activities held on a statewide basis or within a similar geographic area, such as travel, meals, lodging, and registration fees.

Note: VOCA Subrecipients in Hawaii, Alaska, and the U.S. territories have greater latitude in selecting appropriate sites for training, because of their isolation from the Continental United States.

b. Equipment and furniture that the State determines is necessary and essential to providing or enhancing direct services to crime victims, as demonstrated by the VOCA subrecipient. NOTE: VOCA funds cannot support the entire cost of equipment that is not used exclusively for victim-related activities but can support a prorated share. Additionally, subrecipients cannot use VOCA funds to purchase equipment for another organization or individual to perform a victim-related service.

Examples of allowable costs may include beepers; word processors; video-tape cameras and players for interviewing children; two-way mirrors; and equipment and furniture for shelters, work spaces, victim waiting rooms, and children's play areas.

At times, computers may increase a subrecipient's ability to reach and serve crime victims. In such cases, VOCA subrecipients must describe to the State how the computer equipment will enhance services to crime victims; how it will be integrated into and/or enhance the subrecipient's current system; the cost of installation; the cost of training in use of the computer equipment; the on-going operational costs, such as maintenance agreements, supplies; how these additional costs will be subsidized; etc. VOCA funds cannot be used to support computer networks and linkages.

States should maintain a listing of all equipment purchased with VOCA victim assistance funds, establish guidance on the acquisition of equipment, and develop a policy on the disbursement of the equipment at the end of the grant. (See M7100.1D).

c. Professional fees are allowable only under certain circumstances. The payment of attorney fees is justified only in emergency situations and/or jurisdictions where the services of an attorney are mandated for specific victim activities, such as filing restraining orders. The payment of physician fees are permitted only for conducting forensic examinations on sexual assault victims only to the extent that other funding sources (such as State compensation or private insurance or public assistance) are unavailable or insufficient. VOCA funds cannot be used for any other physician fee or for dental fees. Additionally, VOCA funds cannot be used to pay for victims to have legal representation involving divorces, child custody disputes, visitation rights disputes, etc.

d. Operating costs incurred by the subrecipient in serving crime victims are allowable, such as pro-rated share of audit costs; office supplies; equipment use fees, when supported by usage logs; printing and postage; brochures which describe available services; books and other victim-related materials; administrative time to complete VOCA-required time and attendance sheets and programmatic documentation, reports, and statistics; administrative time to maintain crime victims' records; minor repairs and enhancements to work space and waiting areas; photocopying costs; and pro-rated building operating costs.

e. Supervision of direct service providers (paid and volunteer) only to the extent that the State grantee believes that such supervision is necessary and essential to providing direct services to crime victims. VOCA was never intended to defray the costs of administrative salaries within an organization. The primary purpose of VOCA is to offer a supplement to those victim services organizations that are able and willing to absorb the costs of supervising additional VOCA-funded direct service provider(s).

f. Repair and/or replacement of an essential item of a victim service that contributes to maintaining a healthy and/or safe environment, such as a furnace in a shelter. State grantees are

cautioned to scrutinize each request for expending VOCA funds for such purposes to ensure the following: (1) All other sources of funding have been exhausted, (2) there is no available option for providing the service in another location, (3) that the cost of the repair or replacement is reasonable considering the value of the building, (4) the cost of the repair or replacement is pro-rated among all sources of income, and (5) that the building is owned by the subrecipient organization and not rented/leased from another responsible party. States are encouraged to discuss individual requests for substantial repairs of essential service components with OVC.

3. Unallowable Services, Activities, and Costs. The following services, activities, and costs, although not exhaustive, cannot be supported with VOCA victim assistance grant funds:

a. Crime prevention activities and other activities intended to educate the community and raise the public's consciousness of crime victim issues and how to prevent crime.

b. Lobbying and administrative advocacy for victim legislation or administrative reform, whether conducted directly or indirectly.

c. Perpetrator rehabilitation and counseling. Subrecipients shall not knowingly use VOCA funds to provide perpetrator rehabilitation and/or counseling nor can VOCA funds be used to offer services to incarcerated individuals, even when the service pertains to the victimization of that individual.

d. Needs assessments, surveys, evaluations, studies, and research efforts conducted by individuals, organizations, task forces, special commissions, etc. which study and/or research a particular crime victim issue. However, it is expected that subrecipients routinely review services offered to ensure that the crime victims are appropriately served.

e. Activities that improve the criminal justice system's effectiveness and efficiency, witness notification and management activities, activities related to prosecuting an offender, such as supporting expert testimony at a trial.

f. Fundraising activities.

g. Indirect organizational costs such as liability insurance on buildings and vehicles; capital improvements and/or repairs made to leased buildings; security guards and body guards; property losses and expenses; real estate purchases; mortgage payments; construction costs; etc.

h. Use of assistance funds for reimbursing crime victims for expenses incurred as a result of a crime or to supplement crime victim compensation awards to victims of crime for such costs as funeral expenses, lost wages, medical bills, etc.

i. Services and/or activities that are, by law, to be provided by a State or local public agency or organization.

j. Vehicles, purchased or leased.

k. Nursing home care, home health-care costs, in-patient treatment costs, hospital care, and other types of emergency and non-emergency medical treatment. (This does not include sexual assault examinations.) VOCA victim assistance grant funds cannot support medical costs regardless of whether they are a result of a victimization or not.

l. Relocation expenses such as travel expenses, security deposits on housing, ongoing rent, mortgage payments; and victim/witness expenses such as travel to testify in court, subsequent lodging and meal expenses, victim protection costs, etc., which are considered part of the criminal justice agency's budget.

m. Professional dues and memberships in an individual's name. However, VOCA funds may purchase an organizational membership that will offer timely, relevant information on victim services and issues.

n. Administrative costs and expenses incurred by the State in administering the VOCA program. Section 1404(a)(1) of VOCA, codified at 42 U.S.C. 10603(a)(1), requires VOCA grant funds to be used "for financial support of eligible crime victim assistance programs." Thus, amounts expended for administration of the program (including performance of State audits) are not allowable costs.

o. Salaries, fees, and reimbursable expenses associated with administrators, board members, executive directors, consultants, coordinators, and other individuals whose functions are removed from direct contact with crime victims.

p. Development of protocols, interagency agreements, coordination teams, etc. The development of these types of working agreements and relationships are considered an essential prerequisite for an organization to receive VOCA funding. As such, VOCA funds should not be used to support these activities. However, VOCA-funded staff can represent the needs of individual crime victims in multi-disciplinary team activities, which facilitate coordinated, comprehensive services to a crime victim.

q. The costs of sending individual crime victims to conferences. The intent of Congress was to maximize the impact of the limited VOCA funds by expanding the number of direct service providers available to offer services to as many crime victims as possible, not to support conference attendance by individual crime victims.

r. Attendance at national-level conferences and symposia, even when held in a subrecipient's community. State grantees will be notified by OVC of approved national/regional scope trainings that can be supported with VOCA funds.

s. Development of training manuals and/or extensive training materials. Training materials are currently available from many sources. Further, use of VOCA funds for developing materials is not consistent with the intent of VOCA—to provide direct services to crime victims.

F. Program Reporting Requirements

States will be required to adhere to all reporting requirements and times for submitting the required reports, as indicated below. Failure to do so may result in a hold being placed on the drawdown of the current year's funds or may result in a hold being placed on processing the next year's grant award and can result in the suspension of a grant.

1. Subgrant Award Reports. States are required to submit to OVC, within 30 days of making the subaward, Subgrant Award Report information for each subrecipient of VOCA victim assistance grant funds. Subgrant Award Report information is to be submitted to OVC via the automated subgrant dial-in system, whenever possible. When not possible, State grantees must complete and submit the Subgrant Award Report form, OJP 7390/2A, for each VOCA subrecipient and within the prescribed timeframe.

If the Subgrant Award Report information has changed by the end of the grant period, States must inform OVC of the changes, either by revising the information via the automated subgrant subdial system, by completing and submitting to OVC a revised Subgrant Award Report form, or by making notations on the State-wide database report and submitting it to OVC. The total of all Subgrant Award Reports submitted by the State must agree with the Final Financial Status Report (269A) that is submitted at the end of the grant period.

A subgrant report is required for each organization that receives VOCA funds and uses the funds for employee salaries, fringe, supplies, rent, etc. This requirement applies regardless of whether the subaward is called a grant, contract, or subgrant and regardless of the type of organization (public or nonprofit) that receives the funds.

Subgrant Award Reports are not to be completed for organizations that serve only as conduits for distributing VOCA funds or for organizations that provide services that are purchased at an hourly rate (which includes salary, fringe, and other costs). All activities purchased on an hourly rate with VOCA funds are to be reflected on the Subgrant Award Report along with the activities offered within the VOCA subrecipient organization. Further, the subrecipient organization must meet all eligibility requirements established by VOCA and by the State. [See *Program Requirements*, B. Subrecipient Organization Eligibility Requirements.]

Organizations may not use their entire VOCA award to purchase services on a contractual, hourly or daily basis.

2. Performance Report. Each State is required to submit specific end-of-grant data on the OVC-provided Performance Report, form No. OJP 7390/4, no later than 90 days after each VOCA victim assistance grant ends.

G. Additional Requirements

1. Civil Rights—Prohibition of Discrimination for Recipients of Federal Funds. No person in any State shall, on the grounds of race, color, religion, national origin, sex, or disability be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or denied employment in connection with any program or activity receiving Federal financial assistance, pursuant to the following statutes and regulations: Section 809(c), Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. 3789d, and Department of Justice Nondiscrimination Regulations, 28 CFR part 42, subparts C, D, E, and G; Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; Subtitle A, Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, et seq. and Department of Justice regulations on disability discrimination, 28 CFR part 35 and part 39; title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681–1683; and the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, et seq.

2. Confidentiality of Research Information. No recipients of monies under VOCA shall use or reveal any research or statistical information gathered under this program by any person, and identifiable to any specific private person, for any purpose other than the purpose for which such information was obtained, in accordance with VOCA. Such information, and any copy of such information, shall be immune from legal process and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceeding. See section 1407(d) of VOCA, codified at 42 U.S.C. 10603(d).

This provision is intended, among other things, to assure the confidentiality of information provided by crime victims to employees of VOCA-funded victim services organizations. However, there is nothing in VOCA or its legislative history to indicate that Congress intended to override or repeal, in effect, a State's existing law governing the disclosure of information. For example, this provision would not act to override or repeal, in effect, a State's existing law pertaining to the mandatory reporting of a suspected child abuse. [See *Pennhurst State School and Hospital* v. *Halderman, et al.*, 451 U.S. 1 (1981)].

Financial Requirements

State grantees and subrecipients of VOCA victim assistance funds shall adhere to the financial and administrative provisions set forth in the OJP, "Financial and Administrative Guide for Grants", M7100.1D (effective edition). The following describes the audit requirements for State grantees and subrecipients, the completion and submission of Financial Status Reports, and actions that result in termination of advanced funding.

A. Audit Responsibilities for Grantees

Pursuant to OMB Circular A–128 (Audits of State or Local Governments), grantees that receive $100,000 or more in Federal financial assistance in any fiscal year must have a single audit for that year. State governments receiving at least $25,000, but less than $100,000, in a fiscal year have the option of performing a single audit or an audit of the Federal program, as required by the applicable Federal laws and regulations. State and local governments receiving less than $25,000 in any fiscal year are exempt from audit requirements.

B. Audit Responsibilities for Subrecipients

Pursuant to OMB Circular A–128 (Audits of State or Local Governments), local governments that receive $100,000 or more in Federal financial assistance in any fiscal year shall have a single audit for that year. Local governments receiving at least $25,000, but less than $100,000, in a fiscal year have the option of performing a single audit or an audit of the Federal program, as required by the applicable Federal laws and regulations. Local governments receiving less than $25,000 in any fiscal year are exempt from audit requirements.

Institutions of higher education and other nonprofit organizations that receive $100,000 or more a year in Federal financial assistance shall have an audit made in accordance with OMB Circular A–133. Organizations and institutions that receive at least $25,000, but less than $100,000, in a fiscal year shall have an audit made in accordance with OMB Circular A–133 or an audit of the Federal program. Institutions and organizations receiving less than $25,000 in any fiscal year are exempt from audit requirements.

C. Financial Status Report for State Grantees

Financial Status Reports (269A) are required from all State grantees. A Financial Status Report shall be submitted to the Office of the Comptroller for each calendar quarter in which the grant is active. This Report is due even though no obligations or expenditures were incurred. Financial Status Reports shall be submitted to the Office of the Comptroller, by the State, within 45 days after the end of each subsequent calendar quarter. Calendar quarters end March 31, June 30, September 30, and December 31. A Final Financial Status Report is due 90 days after the end of the VOCA grant, no later than December 31.

D. Termination of Advance Funding

If the State grantee receiving cash advances by Letter of Credit or by direct Treasury check demonstrates an unwillingness or inability to establish procedures that will minimize the time elapsing between cash advances and disbursement, OJP may terminate advance funding and require the State to finance its operations with its own working capital. Payments to the State will then be made by the direct Treasury check method, which reimburses the State for actual cash disbursements.

Monitoring

A. Office of the Comptroller

The Office of the Comptroller conducts periodic reviews of the financial policies and procedures and records of VOCA grantees and subrecipients. Therefore, upon request, States and subrecipients must give authorized representatives the right to access and examine all records, books, papers, case files, or documents related to the grant and all subawards.

B. Office for Victims of Crime

Beginning with the FFY 1991 grant period, OVC implemented an on-site monitoring plan in which each State grantee is visited a minimum of once every three years. While on site, OVC personnel will expect to review various documents and files such as (1) financial and program manuals and procedures governing the VOCA grant program; (2) financial records, reports, and audit reports for the State grantee and all VOCA subrecipients; (3) the State's VOCA application kit, procedures, and guidelines for subawarding VOCA funds; and (4) all other State and subrecipient records and files. Additionally, OVC will visit selected subrecipients and will review similar documents such as (1) financial records, reports, and audit reports; (2) policies and procedures governing the organization and the VOCA funds; (3) programmatic records of victims' services; and (4) timekeeping records and other supporting documentation for costs supported by VOCA funds.

Suspension and Termination of Funding

If, after notice and opportunity for a hearing, OVC finds that a State has failed to comply substantially with VOCA, the M7100.1D, the Final Program Guidelines, or any implementing regulation, OVC may suspend or terminate funding to the State and/or take other appropriate action. At such time, State grantees may request a hearing on the justification for the suspension and/or termination of VOCA funds. VOCA subrecipients, within the State, may not request a hearing at the Federal level. However, VOCA subrecipients who believe that the State has violated a program and/or financial requirement are not precluded from bringing the alleged violation(s) to the attention of OVC.

Carolyn A. Hightower,

Interim Director, Office for Victims of Crime, Office of Justice Programs.

[FR Doc. 93–20656 Filed 8–25–93; 8:45 am]

BILLING CODE 4410–18–P

LEGAL SERVICES CORPORATION

Grant Awards to Successful Applicants of the Meritorious and Innovative Grants Program (MIGP)

AGENCY: Legal Services Corporation.

ACTION: Announcement of grant awards.

SUMMARY: The Legal Services Corporation hereby announces its intention to award grants to 8 legal services programs selected as grantees through the Meritorious and Innovative Grants Program. A total of $198,125 will be awarded to the following programs.

Program	State	Amount
1. Central Florida Legal Services.	FL	$40,000
2. Jacksonville Area Legal Aid, Inc.	FL	20,000
3. Legal Counsel for the Elderly.	DC	25,000
4. Legal Services of Southern Piedmont.	NC	34,000
5. Legal Services for NYC/Support Unit.	NY	22,000
6. Michigan Indian Legal Services.	MI	14,625
7. Nat'l Center on Women and Family Law.	NY	30,000
8. Western Wisconsin Legal Services.	WI	12,500
Total		198,125

These one-time, non-recurring grants are awarded under the authority of the Legal Services Corporation Act of 1974, as amended. This public notice is issued pursuant to Section 1007(f) of the Act, with a request for comments within a period of 30 days from the date of publication of this notice. Grant awards will become effective and grant funds will be distributed only upon the expiration of this 30-day public comment period.

DATES: All comments and recommendations must be received on or before 5 p.m. on September 25, 1993.

ADDRESS: Comments should be sent to: Office of Field Services, Legal Services Corporation, 750 First Street NE., 11th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Charles T. Moses III, Deputy Director, Office of Field Services, at (202) 336–8822.

Dated: August 23, 1993.

Ellen J. Smead,

Director, Office of Field Services.

[FR Doc. 93–20739 Filed 8–25–93; 8:45 am]

BILLING CODE 7050–01–M

Grant Awards for Expansion or Development of Timekeeping Systems at Legal Services Programs

AGENCY: Legal Services Corporation.

ACTION: Announcement of grant awards.

SUMMARY: The Legal Services Corporation (LSC/Corporation) hereby announces its intention to award grants to eighteen (18) legal services field programs to fund the expansion or development of timekeeping systems. The Corporation plans to award grants as follows:

Name of legal services field program	Amount
1. Legal Aid Foundation of Las Angeles (CA)	$15,000
2. Legal Aid of Marin (CA)	14,459
3. Pueblo County Legal Services, Inc. (CO)	20,000
4. Idaho Legal Aid Services, Inc. (ID)	20,000
5. Kansas Legal Services, Inc. (KS)	15,000
6. Pine Tree Legal Assistance, Inc. (ME)	15,000
7. Michigan Indian Legal Services, Inc. (MI)	13,837
8. Michigan Legal Services (MI)	15,000
9. Mid-Missouri Legal Services Corporation (MO)	5,500
10. S. Mississippi Legal Services Corporation (MS)	20,000
11. Legal Services of S.E. Nebraska (NE)	6,632
12. Neighborhood Legal Services, Inc. (NY)	50,000
13. Public Utility Law Project (NY)	15,000
14. Legal Aid Society of Cincinnati (OH)	15,000
15. Northeast Ohio Legal Services (OH)	15,000
16. Stark County Legal Aid Society (OH)	13,000
17. Utah Legal Services, Inc. (UT)	15,000
18. Virginia Legal Aid Society, Inc. (VA)	15,000

These one-time grants will be awarded pursuant to authority conferred by Section 1006(a)(1)(B) of the Legal Services Corporation Act of 1974, as amended (42 U.S.C. 2996 (a)(1)(B)). In an effort to provide ample time for public comment, thirty (30) days are allotted to give interested parties an opportunity to discuss any issues pertaining to these grants, and to help assure that all considerations regarding these grants are addressed. Grants will become effective at the conclusion of the 30 day comment period.

DATES: All comments and recommendations must be received on or before the close of business on September 27, 1993.

ADDRESS: All comments should be addressed to the Office of Field Services, Legal Services Corporation, 750 First Street, NE, 11th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Leslie Q. Russell, Manager, Program Support & Technical Assistance Division, Office of Field Services, (202) 336–8908.

Date Issued: August 23, 1993.

Ellen J. Smead,

Director, Office of Field Services.

[FR Doc. 93–20740 Filed 8–25–93; 8:45 am]

BILLING CODE 7050–01–P

Designate Recipient for the Provision of State Support Services for the Provision of Legal Services in the State of Pennsylvania

AGENCY: Legal Services Corporation.

ACTION: Announcement of intention to award grant.

SUMMARY: The Legal Services Corporation hereby announces its intention to make a grant to Pennsylvania Legal Services (PLS) to provide state support services to the Legal Services Corporation's recipient programs in the State of Pennsylvania. This grant will be made effective October 1, 1993.

The grant will be awarded pursuant to authority conferred by section 1006(a)(1)(A) of the Legal Services Corporation Act of 1974, as amended. This public notice is issued with a request for comments and recommendations within a period of 30 days from the date of publication of this notice.

DATES: All comments and recommendations must be received on or before 5 p.m. on September 27, 1993.

ADDRESSES: Comments should be sent to the Office of Field Services, Legal Services Corporation, 750 First Street, NE., 11th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: John Meyer, Counsel to the Director, Office of Field Services, (202) 336–8909.

SUPPLEMENTARY INFORMATION: The Legal Services Corporation (LSC) is the national organization charged with administering federal funds provided for civil legal service to the poor. Law Coordination Center (LCC) has been providing state support services in Pennsylvania since 1985. LCC has agreed to merge with Pennsylvania Legal Services Corporation (PLSC) to form PLS. PLSC provides support services to LSC-funded programs with funds from the State of Pennsylvania and serves as the conduit for State of Pennsylvania grant funding to these LSC-funded programs in Pennsylvania. PLS will receive both LSC and State of Pennsylvania funding to provide support services to LSC programs in the State of Pennsylvania and PLS will continue to be the conduit for State of Pennsylvania grant funding.

The remainder of the 1993 grant to LCC will be transferred to PLS. Thus PLS will receive any unexpended balance of LSC funds held by LCC and will receive a total of $32,466.17 in additional grant funding for the remainder of 1993. In 1994, PLS will receive the full annualized allocation for Pennsylvania state support funding.

Dated: August 23, 1993.

Ellen J. Smead,

Director, Office of Field Services.

[FR Doc. 93–20738 Filed 8–25–93; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (93–069)]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of agency report forms under OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Paperwork Reduction Project.

DATES: Comments are requested by September 27, 1993. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Ms. Eva L. Layne, NASA Agency Clearance Officer, Code JTD, NASA Headquarters, Washington, DC 20546; Office of Management and Budget, Paperwork Reduction Project (2700–0057), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Shirley C. Peigare, NASA Reports Officer, (202) 358–1374.

Reports

Title: Application for Volunteer Program.

OMB Number: 2700–0057.

Type of Request: Extension.

Frequency of Report: One time only initial requirement; thereafter occasional replacements.

Type of Respondent: Individuals or households.

Number of Respondents: 80.

Responses per Respondent: 1.

Annual Responses: 80.

Hours per Response: 1.

Annual Burden Hours: 80.

Abstract-Need/Uses: Goddard Space Flight Center has established a volunteer program for conducting tours and performing administrative tasks at the Visitor Center. Respondents will furnish information to enable selection. An anticipated 50 to 100 applications from retirees, students, housewives and senior citizens are expected.

Dated: August 16, 1993.

Eva L. Layne,

Acting Chief, IRM Policy and Acquisition Management Office.

[FR Doc. 93–20742 Filed 8–25–93; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on 202/606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets

and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated September 9, 1991, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of title 5, United States Code.

1. *Date:* September 8, 1993
Time: 9 a.m. to 5 p.m.
Room: 315
Program: This meeting will review applications for Elementary and Secondary Education in the Humanities submitted to the Division of Education Programs, for projects beginning after September 1, 1994.
2. *Date:* September 14, 1993
Time: 9 a.m. to 5 p.m.
Room: 315
Program: This meeting will review applications for Elementary and Secondary Education in the Humanities submitted to the Division of Education Programs, for projects beginning after September 1, 1994.
3. *Date:* September 16, 1993
Time: 9 a.m. to 5 p.m.
Room: 315
Program: This meeting will review applications for Elementary and Secondary Education in the Humanities submitted to the Division of Education Programs, for projects beginning after September 1, 1994.

David C. Fisher,

Advisory Committee, Management Officer.

[FR Doc. 93–20659 Filed 8–25–93; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Change in Proposal Submission Dates for DHRD Minority Focused Programs

The Division of Human Resource Development (DHRD) has primary responsibility for broadening participation of individuals from underrepresented minority groups in science, engineering, and mathematics (SEM). The activities reflect NSF's growing commitment for developing the resources of the scientific and technological community as a whole and insuring an adequately trained research and development work force in the next decade.

To meet the challenges presented by the Nation's accelerating needs in science and technology, DHRD is initiating a consolidated thrust to increase the presence of minorities, women, and persons with disabilities in science and engineering.

Below are proposal submission dates for DHRD minority-focused programs.

1. The Research Careers for Minority Scholars (RCMS) Program will resume accepting new and renewal proposals in Fiscal Year 1994. The proposal submission deadline is November 30, 1993. Contact RCMS: (202) 357–5054.

2. The Alliances for Minority participation (AMP) Program proposal submission deadline is November 30, 1993. Contact AMP: (202) 357–5054.

3. The Comprehensive Regional Centers for Minorities (CRCM) Program will not accept new or renewal proposals in Fiscal Year 1994. The program will accept new and renewal proposals in Fiscal Year 1995. The proposal submission deadline is November 30, 1994. Beginning in Fiscal Year 1995, no new or renewal CRCM proposal will be accepted from institutions located in the twenty-five cities that are eligible for the NSF Urban Systemic Initiative (USI) Program. Contact CRCM: (202) 357–7461.

4. The Partnerships for Minority Student Achievement (PMSA) Program submission deadline for Preliminary Proposals is November 15, 1993. The deadline for submission of Implementation Proposals is February 15, 1993. Contact PMSA: (202) 357–7461.

5. The Summer Science Camps (SSC) Program proposal submission deadline is November 30, 1993. Contact SSC: (202) 357–7461.

6. The Research Improvement in Minority Institutions (RIMI) Program proposal submission deadline is December 1, 1993. Contact RIMI: (202) 357–7350.

7. No new proposals will be accepted in the Minority Research Centers of Excellence (MRCE) Program in Fiscal Year 1994. Contact MRCE: 9202) 357–7350.

For further information and the Program Announcement and Guidelines (NSF 92–111), contact the appropriate program within the Division of Human Resources Development.

Dated: August 20, 1993.

Roosevelt Calbert,

Division Director.

[FR Doc. 93–20751 Filed 8–25–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Biological and Critical Systems; Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following 3 meetings.

Name: Special Emphasis Panel in Biological and Critical Systems.
Dates & Locations: September 10, September 15, and September 16, 1993. Meetings will be held in room 1133 from 8:30–5 p.m. each day.
Contact Person: Dr. Edward H. Bryan, Program Director, room 1133, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–7737.
Type of Meetings: Closed.
Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.
Agenda: To review and evaluate Small Business Innovation Research (SBIR) 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: August 23, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–20752 Filed 8–25–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in the Division of Biological and Critical Systems; 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: September 14, 1993; 8:30 a.m.–5 p.m.
Place: National Science Foundation, 1800 G Street, NW., room 1132A, Washington, DC 20550.
Type of Meeting: Closed.
Contact Person: Norman Caplan, Section Head, Bioengineering & Environmental Systems Section, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–7737.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate Small Business Innovative Research (SBIR) proposals for the Biomedical Engineering and Research to Aid Persons with Disabilities Program 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: August 23, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–20753 Filed 8–25–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel for Design & Manufacturing 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 for Design & Manufacturing Systems.

Date and Time: September 15 & 16, 1993—8:30 a.m. to 5:30 p.m.

Place: National Science Foundation, 1800 "G" Street, NW., rm. 540, Washington, DC 20005.

Type of Meeting: Closed.

Contact Person: Dr. Thom Hodgson, Division Director, and Dr. F. Stan Settles, Program Director, Design & Manufacturing Systems, rm. 1128, National Science Foundation, 1800 "G" St., NW, Washington, DC 20550. Telephone: (202) 357–7508.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Agile Manufacturing 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: August 23, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–20754 Filed 8–25–93; 8:45 am]

BILLING CODE 7555–01–M

Earth Sciences Proposal Review Panel; Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Earth Sciences Proposal Review Panel.

Date and Time: September 15, 16, & 17, 1993; 8 a.m. to 6 p.m. each day.

Place: Room 1243, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Alan M. Gaines, Section Head, Division of Earth Sciences, room 602, National Science Foundation, Washington, DC, (202) 357–9591.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate earth sciences 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 proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: August 23, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–20755 Filed 8–25–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Earth Sciences; 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: September 8, 1993; 8:30 a.m.–5 p.m.

Place: Conference Room # 523, 1800 G St., NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Marvin E. Kauffman, Program Director, Education and Human Resources Program, Division of Earth Sciences, room 602, National Science Foundation, 1800 G St., NW., Washington, DC 20550. Telephone: (202) 357–7356.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Graduate Research Traineeship (GRT) Panel 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. 552(c), (4) and (6) of the Government in the Sunshine Act.

Dated: August 23, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–20756 Filed 8–25–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Mechanical Systems; Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following 6 meetings.

Name: Special Emphasis Panel in Mechanical Systems.

Date & Time: September 15 (2 meetings), September 21, September 22, September 23, September 24, 1993.

Place: National Science Foundation, 1800 G Street, NW., Washington, DC.

Contact Person: Program Managers, Division of Mechanical Systems, National Science Foundation, room 1128, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–9542.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Agenda: To review and evaluate Small Business Innovation Research Program proposals as part of the selection process of 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: September 23, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–20757 Filed 8–25–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Office of Polar Programs; 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: September 16–17, 1993 at 8:30 a.m.

Place: September 16 in room 500A located at 1110 Vermont Ave. NW., Washington, DC and September 17 in room 536 located at the National Science Foundation, 1800 G Street, NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Julie Palais, Program Manager for Polar Glaciology, Office of Polar Programs, room 620, National Science Foundation, 1800 G St. NW., Washington, DC 20550. Telephone: (202) 357–7894.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Polar Glaciology 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: August 23, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–20758 Filed 8–25–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8084]

Rio Algom Mining Corporation

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of intent to amend source material license SUA–1119 for the Lisbon Uranium Mill, Utah, to approve a tailings reclamation plan as supported by a Finding of No Significant Impact.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend Source Material License SUA–1119 to incorporate a tailings disposal area reclamation plan for Rio Algom Mining Corporation's Lisbon Uranium Mill located near La Sal, Utah. The accepted plan reclaims the disposal area in conformance with regulations in 10 CFR part 40, appendix A. The proposed action is supported by a Finding of No Significant Impact as concluded in an Environmental Assessment prepared by the Commission in April 1993.

DATES: The comment period expires September 27, 1993.

ADDRESSES: Copies of the environmental assessment, the license amendment request, and the staff evaluations which are the bases for revision of the license are available for inspection at the Uranium Recovery Field Office, 730 Simms Street, suite 100, Lakewood, Colorado, and the NRC Public Document room, 2120 L Street, NW. (Lower Level), Washington, DC.

Comments should be mailed to David L. Meyer, Chief, Rules Review and Directives Branch, Office of Administration, P–223, U.S. Nuclear Regulatory Commission, Washington, DC 20555, with a copy to the Director, Uranium Recovery Field Office, U.S. Nuclear Regulatory Commission, P.O. Box 25325, Denver, Colorado, 80255.

Comments may be hand-delivered to room P–223, 7920 Norfolk Avenue, Bethesda, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays.

FOR FURTHER INFORMATION CONTACT: Ramon E. Hall, Director, Uranium Recovery Field Office, Region IV, U.S. Nuclear Regulatory Commission, P.O. Box 25325, Denver, Colorado, 80225. Telephone: (303) 231–5800.

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC) and the Environmental Protection Agency (EPA) entered into a Memorandum of Understanding (MOU) which was published in the **Federal Register** on October 25, 1991 (56 FR 55434). The MOU requires that the NRC complete review and approval of detailed reclamation (i.e., final closure) plans for nonoperational tailings impoundments as soon as practicable, but in any event not later than September of 1993.

The Lisbon Uranium Mill tailings disposal area consists of two impoundments formed by two dams. The impoundments contain approximately 4 million tons of tailings. Under the proposed plan, the surfaces of the two tailings impoundments will be reconfigured to drain toward several channels which will collect and discharge runoff from both onsite and offsite drainages. The reconfigured tailings surfaces will be covered with a layer of soil to reduce radon emanation as required by 10 CFR part 40, appendix A. The radon attenuation barrier will then be covered with rock riprap to minimize the potential for erosion. The side slopes of the dams that form the impoundments will be flattened and covered with rock riprap.

On December 14, 1992, Rio Algom Mining Corporation submitted an Environmental Report Supplement in support of the proposed reclamation plan for the disposal area. This document was submitted as a supplement to an Environmental Report submitted by Rio Algom in 1976, NRC's "Final Environmental Statement related to operation of The Humeca Uranium Mill" (NUREG–0046, April 1976), and NRC's "Final Generic Environmental Impact Statement on Uranium Milling" (NUREG–0706, September 1980). The supplement specifically addresses the expected impacts associated with mill tailings reclamation and evaluates alternatives for mitigating the impacts.

An Environmental Assessment has been prepared by the Commission to evaluate the proposed licensing action. It was concluded in the assessment that reclamation of the tailings in accordance with the proposed plan will not have a significant impact on the environment. Short-term impacts to the environment will be minimal, while long-term impacts will be reduced to levels determined to be acceptable by promulgation of appendix A to 10 CFR part 40. The bases for the finding of no significant impact (FONSI) are provided in the Environmental Assessment dated April 1993.

Dated at Denver, Colorado, this 19th day of August 1993.

For the Nuclear Regulatory Commission.

Ramon E. Hall,

Director, Uranium Recovery Field Office.

[FR Doc. 93–20715 Filed 8–25–93; 8:45 am]

BILLING CODE 7590–01–M

Regulatory Review Group

AGENCY: Nuclear Regulatory Commission.

ACTION: Publication of the Regulatory Review Group's final report to the Executive Director for Operations.

SUMMARY: On May 18, 1993, the NRC announced the availability of the Regulatory Review Group report for public comment on may 28, 1993 (FR 58 29012). The Review Group completed its effort and on August 20, 1993, the final report of the Regulatory Review Group was placed in the NRC Public Document Room. The Commission will be considering the recommendations over the next several months. Copies of the referenced material are available for inspection and/or copying for a fee in the NRC Public Document Room, 2102 L Street, NW. (Lower Level), Washington, DC. Additionally, copies may be ordered by telephone, with a reproduction fee, by calling the NRC Public Document Room at (202) 634–3273.

Dated at Rockville, Maryland, this 19th day of August, 1993.

For the Nuclear Regulatory Commission.

Frank P. Gillepsie,

Regulatory Review Group.

[FR Doc. 93–20716 Filed 8–25–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–458–OLA; ASLBP No. 93–680–04–OLA]

Gulf States Utilities Co.; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.150, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Gulf States Utilities Company, River Bend Station, Unit 1, Facility Operating License No. NPF–47 (Change in Ownership of GSU)

This Board is being established pursuant to a notice published by the Commission on July 7, 1993, in the Federal Register (58 FR 36423, 36435) entitled "Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing". The proposed amendment would revise the license to reflect a change in ownership of Gulf States Utilities (GSU). Upon approval by the NRC and other regulatory agencies, GSU, which owns a 70 percent undivided interest in River Bend Station, will become a wholly owned subsidiary company of Entergy Corporation. The license would be changed by adding a footnote that describes this change in ownership of GSU.

The Board is comprised of the following administrative judges:

Judge B. Paul Cotter, Jr., Board Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Judge Richard F. Cole, Board Member, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Judge Peter S. Lam, Board Member, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

All correspondence, documents and other materials shall be filed with the Judges in accordance with 10 CFR 2.701.

Issued at Bethesda, Maryland, this 19th day of August 1993.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 93–20714 Filed 8–25–93; 8:45 am]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposals

(1) *Collection title*: Application for Survivor Death Benefits.

(2) *Form(s) submitted*: AA–21, AA–11a, G–131 and G–273a.

(3) *OMB Number*: 3220–0031.

(4) *Expiration date of current OMB clearance*: Three years from date of OMB approval.

(5) *Type of request*: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(6) *Frequencey of response*: On occasion.

(7) *Respondents*: Individuals or households.

(8) *Estimated annual number of respondents*: 14,570.

(9) *Total annual responses*: 24,170.

(10) *Average time per response*: .37087 hours.

(11) *Total annual reporting hours*: 8,964.

(12) *Collection description*: The collection obtains the information needed to pay death benefits and annuities due but unpaid at death under the RRA. Benefits are paid to designated beneficiaries or to survivors in a priority designated by law.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312–751–4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,

Clearance Officer.

[FR Doc. 93–20643 Filed 8–25–93; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–32786; File No. SR–NYSE–93–32]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to the Listing and Trading of a Hybrid Debt Security Exchangeable for Common Stock

August 23, 1993.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 20, 1993, the New York Stock Exchange, Inc. ("NYSE" 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 Exchange proposes to list for trading Debt Exchangeable for Common Stock ("DECS")[3] issued by American Express Company ("American Express"). The DECS are hybrid debt securities issued by American Express that pay a fixed rate of interest. At maturity, holders will receive an amount (in either cash or the common stock of First Data Corporation ("FDC"), at the option of American Express) that depends upon the then-current share price of FDC, based upon a stated formula.

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 Exchange 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 NYSE 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

Pursuant to the listing criteria set forth in Section 703.19 of the Exchange's Listed Company Manual, the Exchange proposes to list and trade American Express DECS. The DECS will provide investors with a fixed rate of interest while also allowing holders to participate in a portion of the possible appreciation in the value of FDC common stock.[4] Investors in DECS will

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

[3] "DECS" and "Debt Exchangeable for Common Stock" are service marks of Salomon Brothers Inc.

[4] The percentage of possible appreciation of FDC common stock will be determined based on a

bear the risk of any decline in the price of FDC common stock.

The Security

The DECS will be offered and sold at a price equal to the closing price of FDC common stock on a specified day prior to issuance of the DECS and will pay a fixed rate of interest. Similarly, at maturity and as more fully described below, holders of each DECS will receive in exchange for the principal amount thereof up to one share of FDC common stock (or, at the option of American Express, an amount of cash) which will be based upon the "Maturity Price" of FDC common stock. However, there is no guarantee that holders of the DECS will receive upon maturity the full amount of their investment in DECS.

If the Maturity Price is greater than or equal to a set "Threshold Price," the holder of DECS will receive a predetermined fraction of one share of FDC common stock for each DECS held.[5] If the Maturity Price is less than the Threshold Price but greater than the initial price of the DECS, the holder will receive a fractional share of FDC common stock so that the cash value of the stock (based on the Maturity Price) is equal to the initial price of the DECS. Finally, if the Maturity Price is less than or equal to the initial price of the DECS, the holder will receive one share of FDC common stock. American Express retains the option of redeeming the DECS for cash equal to the value of the shares of FDC common stock due to a holder.[6]

Pursuant to Section 703.19 of the Exchange's Listed Company Manual, the NYSE will only list for trading a series of American Express DECS if there are at least one million outstanding securities, at least 400 security-holders, a minimum life of one year, and an aggregate market value of at least $4 million.

The Issuer and the Linked Security

The Exchange based its decision to list the American Express DECS on the fact that both American Express and FDC and NYSE listed companies in good standing and are subject to the continuous reporting obligations of the Act. In considering the listing of the DECs, the Exchange has also determined that American Express has assets in excess of $100 million, a minimum tangible net worth of more than $150 million, and that the market value of the DECS will amount to less than 25% of the tangible net worth of American Express as of the date of issuance. In addition, according to the NYSE, the market capitalization of FDC as of August 9, 1993, was approximately $4 billion and the trading volume of FDC common stock for the year ending June 30, 1993 was over 50 million shares.

Prior to April 1992, American Express owned all the outstanding shares of FDC common stock; currently, American Express owns approximately 21.5% of FDC common stock. It is anticipated that the offering of the DECS will, depending on certain factors including the Maturity Price of FDC common stock and whether the underwriters' over-allotment option is exercised in full, represent approximately 21.5% of the outstanding FDC common stock.

The fact that American Express currently owns shares of FDC common stock equal in number to the maximum number of shares underlying the issue of DECS distinguishes this situation from that presented in the listing standards recently adopted by the American Stock Exchange, Inc. ("AMEX") and approved by the Commission regarding listing on the AMEX of Equity Linked Term Notes or "ELNs."[7] The ELNs listing standards contain several limitations relating to the size of the market in the underlying linked equity security as it relates to the size of the related ELN offering.[8]

In the case of the DECS, however, the issuer of the DECS, American Express, presently owns all of the shares of FDC common stock it would need to satisfy its obligations under the DECS at maturity.[9] In addition, because American Express has the option of satisfying its obligation by physical delivery of shares of FDC common stock (whereas the ELNs only permitted cash settlement), the Exchange believes that American Express has no need or incentive to sell the shares of FDC common stock prior to or at maturity (although nothing will restrict American Express' ability to do so). As a result, American Express presently is perfectly hedged with respect to its obligations on the DECS at maturity.

Therefore, since the NYSE believes that the DECS present none of the concerns regarding adverse impact in the market for the underlying linked equity security, the Exchange views as inapplicable and has not included any of the restrictions relating to the underlying linked equity security that were contained in the ELNs listing standards.[10]

Exchange Trading of DECS

DECS will trade on the Exchange's stock floor and will be subject to stock trading rules. In addition, the DECS will be subject to equity margin rules. Due to the unique characteristics of the DECS, the Exchange will also distribute a circular to its members and member organizations alerting them to the unique attributes and risks of DECS and providing guidance regarding their compliance responsibilities with respect to such securities. Prior to Commission approval of the proposed rule change, the Exchange will file a copy of that circular with the Commission for its review and approval.

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and with Section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NYSE does not believe that the proposed rule change will impose any inappropriate burden on competition.

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premium that is set immediately prior to issuance of the DECS. For example, if the premium is set at 20%, holders of DECS will be able to participate in 83.33% of the possible appreciation of FDC common stock, *i.e.*, the reciprocal of the sum of 1 plus the premium.

[5] The Threshold Price will be determined at issuance by adding the "premium" to the initial price. For example, if the initial price is $40 and the premium is 20%, the Threshold Price will be $48. See note 4, *supra*.

[6] For example, assume the initial price of the DECS is $40, the premium is 20%, and at maturity, American Express elects to exchange the outstanding DECS for shares of FDC common stock. There are three possibilities at maturity: (1) If the Maturity Price is greater than $48, holders of the DECS will receive .833 shares of FDC common stock for each DECS; (2) if the Maturity Price is between $40 and $48, holders of the DECS will receive a fraction of a share of FDC common stock determined by dividing the initial price by the Maturity Price; and (3) if the Maturity Price is less than $40, holders of the DECS will receive one share of FDC common stock for each DECS.

[7] See Securities Exchange Act Release No. 32343 (May 20, 1993), 58 FR 30833 ("Exchange Act Release No. 32343").

[8] *Id.*

[9] American Express, however, is not obligated to place these shares into escrow or to refrain from trading in shares of FDC common stock prior to maturity of the DECS. It is possible therefore that American Express will not own shares of FDC common stock sufficient to satisfy its obligations at maturity.

[10] See Exchange Act Release No. 32343, *supra* note 7. The Commission notes, however, that this proposal is designed solely for the listing and trading of American Express DECS. If the Exchange subsequently desires to list and trade other series of DECS the Exchange will be required to submit a rule filing pursuant to Rule 19b–4 under the Act.

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 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 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 NYSE. All submissions should refer to File No. SR–NYSE–93–32 and should be submitted by September 16, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–20772 Filed 8–25–93; 8:45 am]

BILLING CODE 8010–01–M

[11] 17 CFR 200.30–3(a)(12) (1992).

[Release No. 35–25870]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

August 20, 1993.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by September 13, 1993, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Ohio Power Company (70–5995)

Ohio Power Company ("OPCO"), 301 Cleveland Avenue, Canton, Ohio 44702, an electric public-utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed with this Commission a post-effective amendment under sections 9(a), 10 and 12(d) of the Act and Rule 44(b)(3) thereunder to its application filed under sections 9(a) and 12(d) of the Act and Rule 44(b)(3) thereunder.

By order dated June 8, 1977 and May 16, 1979 (HCAR No. 20068), OPCO was authorized to enter into an agreement of sale ("Agreement") with Mason County, West Virginia ("County") concerning the construction, installation, financing, acquisition and sale of pollution control facilities ("Facilities") at Units 2, 4, and 5 of OPCO's Phillip Sporn Generating Station.

In connection with the acquisition by the County of the Facilities, the County issued revenue bonds in a principal amount of $50 million due in 2007 bearing a fixed interest rate of 7% ("Series A Bonds"). The proceeds were deposited with Charleston National Bank as trustee ("Trustee") under an indenture ("Indenture") entered into between the County and the Trustee. The proceeds from the sale of the Series A Bonds were applied by the Trustee to the payment of the costs of construction of the Facilities.

Under the Agreement, OPCO agreed to acquire an undivided interest in the Facilities and to pay as the purchase price semi-annual installments in such an amount, together with other monies held by the Trustee under the Indenture for that purpose, as to enable the County to pay, when due, (a) the interest and principal on the Series A Bonds, any additional bonds and any refunding bonds and (b) all amounts payable in connection with any mandatory redemption of such bonds.

It is now proposed that OPCO will effect the County's issuance and sale of its Series B Refunding Bonds ("B Bonds") in the aggregate principal amount of $50 million, prior to June 30, 1994, pursuant to underwriting arrangements between Goldman, Sachs & Co. and the County. The B Bonds will be issued under and secured by the Indenture and a First Supplemental Indenture of Trust between the County and the Trustee. The proceeds from the issuance and sale of the B Bonds will be used to provide for the early redemption of the entire $50 million principal amount of the Series A Bonds. The Series A Bonds may be redeemed at par.

OPCO is advised that the Series B Bonds will bear interest semi-annually and will mature at a date or dates not more than 30 years from the date of their issuance. The Series B Bonds may be subject to mandatory redemption under circumstances and terms to be specified at the time of pricing, and, if it is deemed advisable, may also include a sinking fund provision. In addition, the Series B Bonds may not be redeemable at the option of the County in whole or in part at any time for a period to be determined at the time of pricing. OPCO may provide some form of credit enhancement for the C Bonds, such as a surety bond or bond insurance, and pay associated fees.

OPCO will not agree, without further order of the Commission, to the issuance of any Series B Bond by the County if: (1) The stated maturity of any such bond shall be more than 30 years; (2) the rate of interest to be borne by any such bond shall exceed 6.75% per annum; (3) the discount from the initial pubic offering price of any such bond exceeds 5% of the principal amount; or

(4) the initial public offering price is less than 95% of the principal amount. Additionally, OPCO will not enter into the proposed refunding transaction unless the estimated present value savings derived from the net difference between interest payments on a new issue of comparable securities and on the securities to be refunded is, on an after tax basis, greater than the present value of all redemption and issuing costs, assuming an appropriate discount rate. The discount rate used shall be the estimated after-tax interest rate on the Series B Bonds.

The Connecticut Light and Power Company, et al. (70–8088)

The Connecticut Light and Power Company ("CL&P"), Selden Street, Berlin, Connecticut 06037, and Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, both wholly-owned electric utility subsidiaries of Northeast Utilities, a registered holding company, have filed amendments to its declaration pursuant to sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder in connection with their proposal to refinance a portion of each company's cost of acquiring, constructing and installing certain pollution control and/or sewage or solid waste disposal facilities. An original notice of the filing of the declaration was issued by the Commission on July 16, 1993 (HCAR No. 25855) ("Original Notice").

The declarants propose that the Connecticut Development Authority ("CDA") issue through September 30, 1995 one or more series of pollution control revenue refunding bonds (1) on behalf of CL&P in the aggregate principal amount of not more than $315,516,500 and (2) on behalf of WMECO in the aggregate principal amount of not more than $53,853,500 (collectively, "New Bonds") for the purpose of refunding certain pollution control revenue bonds that were previously issued by the CDA on behalf of the declarants ("Old Bonds").

The New Bonds will be issued, and the proceeds thereof will be loaned to the declarants to cause the refunding of the Old Bonds, pursuant to indentures of trust, loan agreements and promissory notes (collectively, "Bond Documents"). Under the Bond Documents, the declarants will agree to make payments corresponding to the amounts needed to pay the principal, interest, and premium, if any, on the New Bonds as they become due, and will be obligated to pay the fees and charges of the CDA and trustees. The monies receivable from the declarants by the CDA will be pledged and assigned to the trustees as security for the New Bonds.

The New Bonds will mature not later than 35 years from the date of issuance and may bear interest at commercial paper rates, weekly rates, or multiannual rates and may be converted for their remaining term to bear interest at a fixed rate. Such rates will be determined by remarketing agents for each interest rate period (or, if the New Bonds are converted for their remaining term to bear interest at a fixed rate, for such remaining term) at that rate which results in the market value of the New Bonds on the date of such determination being 100 percent of the principal amount thereof, subject to a maximum interest rate of 12% per annum. Each company will pay its remarketing agent(s) an annual fee not to exceed 0.125% of the principal amount of its New Bonds outstanding. Taking into account all the fees, charges and other costs in connection with the proposed transactions, the effective annual interest cost will not exceed the interest rate on the New Bonds by more than one percent.

It is anticipated that the New Bonds will initially bear interest at weekly rates, payable monthly in arrears. While the New Bonds bear interest at weekly rates (and at certain other times as well), each transaction will be structured so that the company's loan payment obligations shall be satisfied by drawings under an irrevocable letter of credit ("Letter of Credit"). Under each Letter of Credit, while the New Bonds bear interest at weekly rates, the applicable paying agent on the New Bonds would be entitled to draw up to (i) an amount equal to the principal amount of the outstanding New Bonds and (ii) an amount equal to approximately 45 days' interest on the New Bonds at the maximum interest rate of 12% per annum.

Each Letter of Credit is expected to be issued by a bank to be determined ("Bank") pursuant to a letter of credit and reimbursement agreement ("Reimbursement Agreement"). Under each Reimbursement Agreement, the company would be obligated to pay an annual letter of credit commission at a rate not to exceed 0.75% per annum of the total amount available to be drawn under the applicable Letter of Credit. Each Reimbursement Agreement would also require the company to pay certain transfer, drawing, cancellation, and other fees, to comply with certain business covenants, and to reimburse the Bank for any amounts drawn under the Letter of Credit, with interest thereon until paid. Each Letter of Credit will expire three to five years after its date of issuance, unless earlier terminated or extended in accordance with its terms. The declarants seek authority to obtain extensions of an replacements for the Letters of Credit and the Reimbursement Agreements (and any previous extensions thereof and replacements therefor) from time to time during the term of the New Bonds, provided that (i) the annual letter of credit commission applicable to any such extension or replacement does not exceed 0.75% per annum of the total amount available to be drawn under the extended or replacement Letter of Credit and (ii) such extension or replacement is otherwise on terms that are substantially similar in all material respects to those applicable to the Letter of Credit and the Reimbursement Agreement (or previous extension thereof or replacement therefor) being extended or replaced.

The Bond Documents will provide that, while the New Bonds bear interest at weekly rates, they are subject to tender for purchase from time to time at the option of the holders, at a price equal to par plus accrued interest. The remarketing agents will be obligated to use their best efforts to remarket such tendered New Bonds upon such optional tender, and the principal portion of the purchase price for such tendered bonds will be paid to tendering holders from remarketing proceeds. To the extent that the remarketing agents are unable to remarket tendered New Bonds, the paying agent for such New Bonds will be required to pay such principal portion to tendering holders from the proceeds of drawings made on the applicable Letter of Credit and such tendered New Bonds not remarketed would be pledged as security for such declarant's obligations to reimburse the Bank for any Letter of Credit drawings made to purchase such New Bonds.

The Reimbursement Agreements will provide that all Letter of Credit drawings (other than drawings to pay the principal portion of the purchase price for unremarketed tendered bonds) are immediately reimbursable to the Bank. Drawings to pay the principal portion of the purchase price for unremarketed tendered New Bonds will be treated as advances or loans bearing interest until paid. Such interest rate will be equal to the higher of the prime rate or the federal funds rate plus 50 basis points. The New Bonds and the loans from the CDA to the declarants will be subject to optional and mandatory redemption provisions, in some cases at a premium.

The New Bonds will be initially marketed and sold pursuant to underwriting arrangements reflected in bond purchase agreements. Each company will pay an underwriting fee not to exceed 0.50% of the principal amount of the New Bonds to be purchased by the underwriter and will reimburse the underwriter for certain expenses.

All or some of the declarants' payment obligations under the Bond Documents, together with all or some of the declarants' reimbursement obligations under the Reimbursement Agreements, may be secured, equally and ratably, by second mortgages on their interests in the Millstone 1 nuclear electric generating facility located in Waterford, Connecticut.

The declarants request an exemption from the competitive bidding requirements of Rule 50 pursuant to subsection (a)(5) thereunder with respect to the proposed transactions. The declarants requested authorization to begin negotiations with potential underwriters and were so authorized in the Original Notice.

General Public Utilities Corporation (70–8245)

General Public Utilities Corporation ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, has filed a declaration pursuant to sections 6(a) and 7 of the Act and Rules 50 and 50(a)(5) thereunder.

GPU proposes to issue and sell for cash from time to time through December 31, 1996 up to four million additional shares of its common stock, par value $2.50 per share ("Additional Common Stock"). GPU has a total of 150 million authorized shares of common stock, of which 110,862,206 shares were issued and outstanding at June 30, 1993. In addition, GPU had 14,921,132 reacquired shares at that date. The Additional Common Stock would be sold either from authorized and unissued shares or reacquired shares.

GPU would issue and sell the Additional Common Stock to the public through: (i) Negotiated transactions with one or more underwriters, or, one or more selling agents who regularly engage in the placement of such securities pursuant to a selling agency or distribution agreement (GPU requests that such transactions be exempted from the competitive bidding requirements of Rule 50); (ii) competitive bidding pursuant to the requirements of Rule 50 or under the alternative competitive bidding procedure in accordance with the Commission's Statement of Policy; or (iii) any combination of the foregoing. In addition, GPU may sell the Additional Common Stock to a selling agent, as principal, for resale to the public either directly or through dealers.

GPU has also requested that it be authorized to begin negotiations with prospective underwriters and/or selling agents with respect to the sale of the Additional Common Stock. It may do so.

GPU will utilize a portion of the net proceeds from the sale of the Additional Common Stock to make cash capital contributions, pursuant to separate Commission authorizations, to its electric operating subsidiaries, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company. Such subsidiaries have called for redemption in September 1993 of a total of $156 million stated value of their outstanding cumulative preferred stock. Such net proceeds will be used by such subsidiaries to (i) Redeem outstanding cumulative preferred stock in accordance with the optional redemption provisions thereof,[1] (ii) repay outstanding indebtedness incurred for such purpose, or (iii) reimburse their treasuries for funds previously expended therefrom for such purposes. The balance of such net proceeds would be used to reimburse GPU's treasury for funds previously expended therefrom to make such capital contributions, the repayment of outstanding indebtedness, and for other corporate purposes.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–20731 Filed 8–25–93; 8:45 am]

BILLING CODE 8010–01–M

[1] GPU anticipates that the net proceeds (approximately $128 million assuming all of the Additional Common Stock were sold at the June 30, 1993 closing price of $32 per share) will be applied to such preferred stock redemption. The balance is expected to be obtained from the proceeds of sales by such subsidiaries of additional long-term debt pursuant to an exemption under Rule 52 or a separate Commission authorization.

DEPARTMENT OF STATE

[Public Notice No. 1850]

Defense Trade Advisory Group; Partially Closed Meeting

The Defense Trade Advisory Group (DTAG) will meet at 2 p.m., Wednesday, October 6, 1993 in the Loy Henderson Conference Room, U.S. Department of State, 2201 C Street, NW., Washington, DC 20520. This advisory committee consists of private sector defense trade specialists who advise the Department on policies, regulations, and technical issues affecting defense trade.

The open session, which will occur at the beginning of the meeting, will include reports on DTAG Working Group progress, accomplishments, and future projects. Members of the public may attend the open session as seating capacity allows, and will be permitted to participate in the discussion in accordance with the Chairman's instructions.

As access to the Department of State is controlled, persons wishing to attend the meeting must notify the DTAG Executive Secretariat by Friday, September 24, 1993. Each person should provide his or her name, company or organizational affiliation, date of birth, and social security number to the DTAG Secretariat at telephone number (202) 647–4231 or fax number (202) 647–4232 (Attention: Eva Chesteen). Attendees must carry a valid photo ID with them. They should enter the building through the C-Street diplomatic entrance, where Department personnel will direct them to the Loy Henderson auditorium.

Following the open portion of the meeting, a briefing which the Department of State will arrange for DTAG members will involve discussions of classified information pursuant to Executive Order 12356. The disclosure of classified and/or propriety information essential to formulating U.S. defense trade policies would substantially undermine U.S. defense trade relations with foreign competitors. Therefore, this segment of the meeting will be closed to the public, pursuant to section 10(d) of the Federal Advisory Committee Act (FACA), 5 U.S.C. 552b(c)(1) and 5 U.S.C. 552b(c)(9)(B).

For further information, contact Linda Lum of the DTAG Secretariat, U.S. Department of State, Office of Defense Trade Policy (PM/DTP), Room 7815 Main State, Washington, DC 20520–7815. She may be reached at telephone number (202) 647–4231 or fax number (202) 647–4232.

Dated: August 5, 1993.

Michael H. Newlin,

Acting Deputy Assistant Secretary, Bureau of Political-Military Affairs.

[FR Doc. 93–20644 Filed 8–25–93; 8:45 am]

BILLING CODE 4710–25–M

[Public Notice No. 1851]

Study Groups 4 and 9 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meetings

The Department of State announces that Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will hold an open meeting on September 14, 1993, at the Department of State, 2201 C Street, NW., Washington, DC, from 9:30 a.m. to 12 noon in room 3519. Study Groups 4 and 9 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will hold a joint open meeting on the same date and location from 1:30 p.m. to 4 p.m.

Study Group 4 deals with matters relating to the fixed satellite service. The purpose of the meeting is to (1) Deal with administrative matters, (2) review the activities of the Working Parties and Task Groups, (3) consider priority issues and contributions, (4) consider Radiocommunication Assembly matters and (5) consider World Radiocommunication Conference matters.

Study Group 9 deals with matters relating to the study of radio relay systems. The purpose of the joint meeting is to continue preparations for the international meeting of Working Party 4–9S that will be held in Geneva from September 20 to October 1, 1993. The agenda will include (1) Administrative matters, (2) consideration of priority issues and contributions and (3) consideration of Radiocommunication Assembly and World Radiocommunication Conference matters.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. 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: August 17, 1993.

Warren G. Richards,

Chairman, U.S. CCIR National Committee.

[FR Doc. 93–20724 Filed 8–25–93; 8:45 am]

BILLING CODE 4710–45–M

[Public Notice No. 1849]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea Working Group on Fire Protection; Meeting

The U.S. Safety of Life at Sea (SOLAS) Working Group on Fire Protection will conduct an open meeting on September 15, 1993 at 10 a.m. in room 4315 at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593. The purpose of this meeting will be to discuss the outcome of the 38th Session of the International Maritime Organization's Sub-Committee on Fire Protection, held on June 29, 1993.

The meeting will focus on the fire safety of commercial vessels. Specific discussion areas include: Smoke and toxicity, round robin tests for devices to prevent the passage of flame, revision of resolution A.472, heat radiation through windows and glass partitions, automatic sprinkler systems and fixed water spraying systems, dynamically supported craft, criteria for minimum fire loads, analyses of fire casualty records, guidelines for performance and testing criteria and surveys of foam concentrates, phasing out of halons, interpretations to SOLAS 74, requirements for dangerous solid bulk cargo, escape route sizing on passenger vessels, role of the human element in maritime casualties, interim fire protection requirements for open-top container ships, smoke control and ventilation, carriage of dangerous goods on the vehicle decks of passenger ships, fire safety aspects of composite materials used on board ships, and low-location lighting.

Members of the public may attend up to the seating capacity of the room. For further information regarding the meeting of the SOLAS Working Group on Fire Protection contact Mr. Jack Booth at (202) 267–2997.

Dated: August 16, 1993.

Geoffrey Ogden,

Chairman, Shipping Coordinating Committee.

[FR Doc. 93–20645 Filed 8–25–93; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[(Order 93–8–30) Docket 48796]

Application of Renown Aviation, Inc. for Issuance of Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order (1) finding Renown Aviation, Inc., fit, willing, and able and (2) awarding it a certificate of public convenience and necessity to engage in foreign scheduled air transportation of persons, property and mail.

DATES: Persons wishing to file objections should do so no later than September 7, 1993.

RESPONSES: Objections and answers to objections should be filed in Docket 48796 and addressed to the Documentary Services Division (C–55, Room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Lawyer, Air Carrier Fitness Division, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–1064.

Dated: August 20, 1993.

Patrick V. Murphy,

Acting Assistant Secretary for Policy and International Affairs.

[FR Doc. 93–20725 Filed 8–25–93; 8:45 am]

BILLING CODE 4910–62–P

Aviation Proceedings; Agreements Filed During the Week Ended August 13, 1993

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 49078
Date filed: August 10, 1993
Parties: Members of the International Air Transport Association
Subject: MV/PSC/091 dated June 24, 1993, Mail Vote S062 (Reso 763, Location Identifiers)
Proposed Effective Date: September 18, 1993.

Docket Number: 49085
Date filed: August 11, 1993
Parties: Members of the International Air Transport Association
Subject: Comp Reso/P 0895 dated July 27, 1993, Expedited Resos 002q (r–1) & 152f (r–2)
Proposed Effective Date: September 1, 1993.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 93–20646 Filed 8–25–93; 8:45 am]

BILLING CODE 4910–62–M

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended August 13, 1993

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 49079
Date filed: August 10, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 7, 1993
Description: Application of Aeromexpress, S.A. De C.V., pursuant to section 402 of the act and Subpart Q of the Regulations, applies for a foreign air carrier permit authorizing it to engage in scheduled foreign air transportation of property and mail between points in Mexico and points in the United States.

Docket Number: 49081
Date filed: August 10, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 7, 1993
Description: Application of Turks & Caicos Airways, Limited, pursuant to section 402 of the Act and Subpart Q of the Regulations, applies for a foreign air carrier permit which would authorize TCA to provide scheduled foreign air transportation of persons, property and mail between Miami, Florida and San Juan, Puerto Rico, on the one hand, and points in the Turks and Caicos Islands, on the other hand. TCA also requests authority to provide foreign charter air transportation of persons, property and mail pursuant to Part 212 of the Department's Economic Regulations.

Docket Number: 49084
Date filed: August 11, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 8, 1993
Description: Application of United Parcel Service Co., pursuant to section 401 of the Act and Subpart Q of the Regulations, requests that its certificate of public convenience and necessity for Route 569 be amended to include authority for UPS to engage in the scheduled foreign air transportation of property and mail as follows: Between the terminal point Louisville, Kentucky and the terminal point Mexico City, Mexico: Between the terminal point Louisville, Kentucky and the terminal point Monterrey, Mexico; and between the terminal point Louisville, Kentucky and the terminal point Guadalajara, Mexico.

Docket Number: 49087
Date filed: August 12, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 9, 1993
Description: Application of Mahalo Air, Inc., pursuant to section 401(d)(1) of the Act, and Subpart Q of the Regulations, requests a certificate of public convenience and necessity authorizing interstate and overseas scheduled air transportation (State of Hawaii).

Docket Number: 46475
Date filed: August 13, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 10, 1993
Description: Application of Transbrasil S/A Linhas Aereas, pursuant to section 402 of the Act, and Subpart Q of the Regulations, requests the Department to amend its operating permit; to include Washington, DC and New York, N.Y. for scheduled combination passenger and cargo air transportation service between Brazil and the United States.

Phyllis T. Kaylor,
Chief, Documentary Services Division.

[FR Doc. 93–20647 Filed 8–25–93; 8:45 am]
BILLING CODE 4910–62–P

Federal Aviation Administration

Receipt of Noise Compatibility Program and Request for Review; Montgomery County Airpark, Gaithersburg, MD

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed noise compatibility program that was submitted for Montgomery County Airpark under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) (hereinafter referred to as "the Act") and 14 CFR part 150 by the Montgomery County Revenue Authority. This program was submitted subsequent to a determination by FAA that associated noise exposure maps submitted under 14 CFR part 150 Montgomery County Airpark were in compliance with applicable requirements effective January 29, 1992. The proposed noise compatibility program will be approved or disapproved on or before February 4, 1994.

EFFECTIVE DATE: The effective date of the start of FAA's review of the noise compatibility program is August 9, 1993. The public comment period ends October 8, 1993.

FOR FURTHER INFORMATION CONTACT: Frank Squeglia, Fitzgerald Federal Building, JFK International Airport, Jamaica, New York, 11430, (718) 553–0902. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed noise compatibility program for Montgomery County Airpark, which will be approved or disapproved on or before February 4, 1994. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations FAR part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has formally received the noise compatibility program for Montgomery County Airpark, effective on August 9, 1993. It was requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(d) of the Act. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before February 4, 1994.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR pat 150, § 150.33. The primary considerations in the evaluation process

are whether the proposed measures may reduce the level of aviation safety, create an undue burden in interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land use and preventing the introduction of additional noncompatibility land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., rm, 617, Washington, DC 20591.

Federal Aviation Administration, Eastern Region—AEA—610, Fitzgerald Federal Building, JFK International Airport, Jamaica, New York, 11430.

Federal Aviation Administration, Washington Airports District Office, 101 West Broad St., suite 300, Falls Church, VA 22046.

Mr. Stuart Kenny, Executive Director, Montgomery County Revenue Authority, 211 Monroe St., Rockville, MD 20850.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Jamaica, New York, August 9, 1993.

Louis P. DeRose,

Manager, Airports Division.

[FR Doc. 93–20685 Filed 8–25–93; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Riverside County, CA; Notice of Intent

SUMMARY: The FHWA is issuing this notice to advise the public that a Supplemental Environmental Impact Statement will be prepared for a proposed highway project beginning at PM 2.2 in the Community of Oasis, northerly to PM 22.5 in the City of Indio in Riverside County, California.

FOR FURTHER INFORMATION CONTACT: Leonard E. Brown, Chief, District Operations—C, Federal Highway Administration, 980 Ninth Street, suite 400, Sacramento, CA 95814–2724. Telephone: 916/551–1307.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the California Department of Transportation (CALTRANS) will prepare a Supplemental Environmental Impact Statement (SEIS) for a proposal to modify State Route 86 between the existing SR 86 expressway at Oasis with Interstate 10 at Indio, in Riverside County. The Corps of Engineers (COE), Environmental Protection Agency (EPA) and Fish and Wildlife (FWS) have agreed to be cooperating agencies.

The purpose of the project is to improve safety and traffic flow on the existing highway which passes through the commercial center of the City of Coachella. Route 86 in its entirety is the primary highway connector between two Interstate freeways, I–8 to the south and I–10 to the north. For the portion between Oasis and Coachella, Route 86 is an undivided highway with higher-then-expected accident and fatality rates. A bypass of the City of Coachella would reduce congestion, traffic impacts, and accidents.

Several alternatives are being considered for this project. These include a "no-build" alternative, operational improvements to existing SR 86, partial realignment of existing SR 86 to bypass Coachella, and the degree to which planned transit could meet project objectives of reducing accidents and traffic congestion.

The appropriate federal, state and local agencies, and private organizations and citizens who have previously expressed or are known to have interest in this proposal will be placed on a mailing list. A project development team will be established consisting of federal, state and local agency staff along with Caltrans and consultant personnel. A public hearing will be held after the SEIS is available for review. A public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to this proposed action are addressed and any significant impacts are identified, comments and suggestions are invited from all interested parties. Information about potential impacts to endangered species habitat, wetlands, tribal lands, and historic and archaeological resources is being developed and is specifically solicited. Also please indicate if you are interested in being notified of the completion of any of the above studies. Some resources already being identified as possibly being impacted include air quality (this project is in a nonattainment area for ozone and particular matter) and wetlands. There is also a potential presence of the Yuma clapper rail, Desert pupfish, and Coachella Milkvetch.

Scoping meetings will be held in the vicinity of the proposed project for solicitation of community input. These meetings will be held within 90-days following the publishing of the "Notice of Intent." Federal, State, and local agencies are invited to participate. It is anticipated additional scoping opportunities will consist of conference calls, written comments, or a combination of all three.

Background and Previous Environmental Clearance

A Final Environmental Impact Statement for this project was approved by the Federal Highway Administration of August 10, 1973. A Notice of Determination was filed June 20, 1974. Due to the magnitude of the project, it has been divided into construction stages. The following two portions of the initially-cleared project have been constructed:

1. From the Imperial County line to the Community of Oasis—a four-lane expressway extending from the expressway to the immediate south.

2. From near Dillon Road in Indio to Avenue 58 near the community of Thermal—a four-lane expressway with an interchange at Dillon Road where ramps connect to I–10.

The SEIS will provide analysis of various alternatives and address new impacts and circumstances in the area, and measures to avoid, minimize and mitigate impacts. Though previous stages have already been constructed, their costs and logistics will not preclude them or portions of from being reevaluated.

Comments or questions concerning this proposed action and the SEIS should be directed to the FHWA at the address provided previously in this Notice.

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

Issued on: August 20, 1993.

Peter C. Markle,

Assistant Division Administrator, Sacramento, California.

[FR Doc. 93–20667 Filed 8–25–93; 8:45 am]

BILLING CODE 4910–22–M

Federal Railroad Administration

Petition for Exemption or Waiver of Compliance

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received requests for exemptions

from or waivers of compliance with a requirement of its safety standards. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being requested.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number RSGM–82–13) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Communications received before October 13, 1993, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) in room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

The individual petitions seeking an exemption or waiver of compliance are as follows:

The Cuyahoga Valley Railway Company (Waiver Petition Docket Number RSGM–82–13)

In 1983, The Cuyahoga Valley Railway Company (CUVA) was granted a waiver of compliance with certain provisions of the Safety Glazing Standards 49 CFR Part 223 for 15 locomotives. The railroad has added 12 locomotives to their roster and have requested an extension of their waiver to cover these locomotives. The railroad provides switching service in Cleveland, Ohio.

Texas South-Eastern Railroad Company (Waiver Petition Docket Number RSGM 93–5)

The Texas South-Eastern Railroad Company (TSE) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards 49 CFR part 223 for three locomotives. The TSE provides switching service on 17 miles of track between Diboll and Lufkin, Texas. The railroad states there is no history of vandalism.

Toppenish, Simcoe and Western Railroad (Waiver Petition Docket Number RSGM 93–15)

The Toppenish, Simcoe and Western Railroad (TSWR) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards 49 CFR part 223 for one locomotive. The locomotive, which was built by ALCO in 1953 for the U.S. Army, is considered historically significant since it is capable of operating on more than one track gauge. It will be operated in excursion and occasional freight service. The railroad is located in rural Yakima County, Washington.

Towanda-Monroeton Shippers' Lifeline, Incorporated (Waiver Petition Docket Number RSGM 93–12)

The Towanda-Monroeton Shippers' Lifeline, Incorporated (TMSS) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards 49 CFR part 223 for one locomotive. The railroad operates between Towanda and Monroeton, in a rural area of Pennsylvania.

Indiana Northeastern Railroad Company (Waiver Petition Docket Number RSGM 93–13)

The Indiana Northeastern Railroad Company (IN) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards 49 CFR part 223 for four locomotives. The IN recently purchased most of the assets of the Hillsdale County Railroad including their locomotives which were covered by waiver RSGM 80–72. The railroad states there has been no vandalism on the IN nor on the predecessor railroad.

Minnesota Transportation Museum, Incorporated (Waiver Petition Docket Number RSGM 93–8 and RSGM 93–9)

The Minnesota Transportation Museum, Incorporated (MNTM) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards 49 CFR part 223 for 3 passenger cars (RSGM 93–8) and 3 locomotives (RSGM 93–9). The MNTM is a non-profit corporation which operates on the Dresser Subdivision of Wisconsin Central Transportation Corporation (WC). There have been no acts of vandalism on this line in the five years the WC has owned it. Maximum train speed is 25 mph. The cars, which were built in the 1950's, have been restored to their original Great Northern paint scheme. The locomotives are diesel-electric switchers built in the 1940's and 1950's. The MNTM states that the cost of installing FRA glazing would necessitate an increase in ticket prices and subsequently, a loss of ridership.

Algers, Winslow and Western Railway Company (Waiver Petition Docket Number LI 93–10)

The Algers, Winslow and Western Railway Company (AWW) seeks a permanent waiver of compliance with certain provisions of the Locomotive Safety Standards 49 CFR part 229 for four locomotives. The AWW owns 4 SD–9 locomotives, built in 1955, which are equipped with 24–RL brake equipment. The railroad seeks relief from the cleaning, repairing and testing requirements of 49 CFR 229.27(a) and 229.29(a). AWW suggests the periodic intervals for cleaning, repairing and testing be extended from 368 to 736 days for Section 229.27(a) and from 736 to 1,472 days for Section 229.29(a) or that they be put on an actual hours used basis of 5,888 and 11,776 hours respectively.

The AWW operates on 16 miles of track in southern Indiana. The 4 locomotives are used to load coal in cars for off-line delivery and for servicing 2 small industries once a week. The locomotives are only used from 1.2 to 2.0 hours per day. The AWW states that the cost of maintaining the 24–RL brake equipment is prohibitive since it is nearly 40 years old and sources of repair are minimal. Their most recent repair bills averaged over $2300 per locomotive set not including shipping or installation costs. Maximum speed through the rural area is 15 mph.

The Canadian National-North America (Waiver Petition Docket Number PB–93–6)

The Canadian National-North America (CN) seeks a waiver of compliance with certain provisions of the Railroad Power Brake Standards 49 CFR part 232 for one track geometry car for their subsidiary, Grand Trunk Western Railroad Company (GTW). CN is seeking relief from § 232.12 which requires that all brakes to be operating at an initial terminal. The track measuring equipment interferes with the brake equipment on one truck of the car, number 15007, and it is necessary to cut this truck out when testing track. CN has requested a waiver be granted to operate the car over the GTW with the brakes cutout on the one truck when testing.

Issued in Washington, DC, on August 20, 1993.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 93–20676 Filed 8–25–93; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

August 19, 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: 1545–0001
Form Number: IRS Form CT–1
Type of Review: Revision
Title: Employer's Annual Railroad Retirement and Unemployment Repayment Tax Return
Description: Railroad employers are required to file an annual return to report employer and employee Railroad Retirement Tax Act (RRTA) and Railroad Unemployment Repayment Tax (RURT) taxes. Form CT–1 is used for this purpose. IRS uses the information to insure that the employer has paid the correct tax.
Respondents: State or local governments, Businesses or other for-profit, Federal agencies or employees, Small businesses or organizations
Estimated Number of Respondents/ Recordkeepers: 2,387
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—14 hours, 50 minutes
Learning about the law or the form—2 hours, 6 minutes
Preparing the form—5 hours, 13 minutes
Copying, assembling, and sending the form to the IRS—48 minutes
Frequency of Response: Annually
Estimated Total Reporting/ Recordkeeping Burden: 52,895 hours

OMB Number: 1545–1350
Form Number: IRS Form 9465
Type of Review: Revision
Title: Installment Agreement Request
Description: This form will be used by the public to provide identifying account information and financial ability to enter into an installment agreement. The form will be used by the IRS to establish a payment plan for taxes owed to the Federal Government, if appropriate.
Respondents: Individuals or households, State, or local governments, Federal agencies or employees, Non-profit institutions, Small businesses or organizations
Estimated Number of Respondents: 7,000,000
Estimated Burden Hours Per Respondent: 10 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 1,120,000 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

Dale A. Morgan

Departmental Reports Management Officer.

[FR Doc. 93–20652 Filed 8–25–93; 8:45 am]

BILLING CODE 4830–01–P

Internal Revenue Service

Tax on Certain Imported Substances; Filing of Petition

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance, under Notice 89–61, 1989–1 C.B. 717, of a petition requesting that adipic acid be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code. Publication of this notice is in compliance with Notice 89–61. This is not a determination that the list of taxable substances should be modified.

DATES: Written comments and requests for a public hearing relating to this petition must be received by October 25, 1993. Any modification of the list of taxable substances based upon this petition would be effective July 1, 1990.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044 (Attn: CC:DOM:CORP:T:R (Petition), room 5228).

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petition was received on September 29, 1989. The petitioner is Monsanto Company, a manufacturer and exporter of this substance. The following is a summary of the information contained in the petition. The complete petition is available in the Internal Revenue Service Freedom of Information Reading Room.

HTS number: 2917.12.00.00
CAS number: 124–04–9

This substance is derived from the taxable chemicals methane, benzene, and nitric acid. Adipic acid is a solid produced predominantly by oxidation of cyclohexane using air and nitric acid in a two-step process. The cyclohexane is produced by the reaction of hydrogen (derived from methane in natural gas) and benzene.

The stoichiometric material consumption formula for this substance is:

3 CH_4 (methane)+1.66 H_2O (water)+2 C_6H_6 (benzene)+1.5 O_2 (oxygen)+4.66 HNO_3 (nitric acid)———> 2 $C_6H_{10}O_4$ (adipic acid)+6 H_2 (hydrogen)+3 CO_2 (carbon dioxide)+4.66 NO (nitric oxide)

According to the petition, taxable chemicals constitute 86.4 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $4.03 per ton. This is based upon a conversion factor for methane of 0.11, a conversion factor for benzene of 0.72, and a conversion factor for nitric acid of 0.63.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–20622 Filed 8–25–93; 8:45 am]

BILLING CODE 4830–01–U

Tax on Certain Imported Substances; Filing of Petitions

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance, under Notice 89–61, 1989–1 C.B. 717, of petitions requesting that benzoic acid and benzaldehyde be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code. Publication of this notice is in compliance with Notice 89–61. This is not a determination that the list of taxable substances should be modified.

DATES: Written comments and requests for a public hearing relating to these petitions must be received by October 25, 1993. Any modification of the list of taxable substances based upon these petitions would be effective July 1, 1993.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044 (Attn: CC:DOM:CORP:T:R (Petition), room 5228).

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petitions were received on August 12, 1992 (benzoic acid) and August 23, 1992 (benzaldehyde). The petitioner is Kalama Chemical Inc., a manufacturer and exporter of these substances. The following is a summary of the information contained in the petitions. The complete petitions are available in the Internal Revenue Service Freedom of Information Reading Room.

Benzoic acid	
HTS number	2916.31.10.05
CAS number	65–85–0

This substance is derived from the taxable chemical toluene. Benzoic acid is a solid produced predominantly by the continuous liquid-phase oxidation of toluene, using air as the oxygen source, in the presence of a cobalt containing catalyst.

The stoichiometric material consumption formula for this substance is:

C_7H_8 (toluene) + 1.5 O_2 (oxygen) → $C_7H_6O_2$ (benzoic acid) + H_2O (water)

According to the petition, taxable chemicals constitute 65.7 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $3.67 per ton. This is based upon a conversion factor for toluene of 0.7545.

Benzaldehyde	
HTS number	2912.21.00.00
CAS number	100–52–7

This substance is derived from the taxable chemical toluene. Benzaldehyde is a liquid produced predominantly by as a co-product of benzoic acid by the continuous liquid-phase oxidation of toluene, using air as the oxygen source, in the presence of a cobalt containing catalyst.

The stoichiometric material consumption formula for this substance is:

C_7H_8 (toluene) + O_2 (oxygen) → C_7H_6O (benzaldehyde) + H_2O (water)

According to the petition, taxable chemicals constitute 74.1 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $4.22 per ton. This is based upon a conversion factor for toluene of 0.8682.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–20626 Filed 8–25–93; 8:45 am]

BILLING CODE 4830–01–U

Tax on Certain Imported Substances; Filing of Petitions

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance, under Notice 89–61, 1989–1 C.B. 717, of petitions requesting that diphenylamine and aniline be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code. Publication of this notice is in compliance with Notice 89–61. This is not a determination that the list of taxable substances should be modified.

DATES: Written comments and requests for a public hearing relating to these petitions must be received by October 25, 1993. Any modification of the list of taxable substances based upon these petitions would be effective January 1, 1993.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044 (Attn: CC:DOM:CORP:T:R (Petition), room 5228).

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petitions were received on February 5, 1992. The petitioner is Aristech Chemical Corporation, a manufacturer and exporter of these substances. The following is a summary of the information contained in the petitions. The complete petitions are available in the Internal Revenue Service Freedom of Information Reading Room.

Diphenylamine	
HTS number	2921.44.00.00
CAS number	122–39–4

This substance is derived from the taxable chemicals benzene and nitric acid. Diphenylamine is a liquid produced predominantly by liquid phase condensation of aniline over an acid catalyst.

The stoichiometric material consumption formula for this substance is:

2 C_6H_6 (benzene) + 2 HNO_3 (nitric acid) + 6 H_2 (hydrogen) → $C_{12}H_{11}N$ (diphenylamine) + NH_3 (ammonia) + 6 H_2O (water)

According to the petition, taxable chemicals constitute 95.9 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $5.11 per ton. This is based upon a conversion factor for benzene of 1.010 and a conversion factor for nitric acid of 0.835

Aniline	
HTS number	2921.41.10.00
CAS number	62–53–3

This substance is derived from the taxable chemicals benzene and nitric acid. Aniline is a liquid produced predominantly by the hydrogenation of nitrobenzene.

The stoichiometric material consumption formula for this substance is:

C_6H_6 (benzene) + HNO_3 (nitric acid) + 3 H_2 (hydrogen) → C_6H_7N (aniline) + 3 H_2O (water)

According to the petition, taxable chemicals constitute 95.9 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $4.44 per ton. This is based upon a conversion factor for benzene of 0.8780 and a conversion factor for nitric acid of 0.7260.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–20624 Filed 8–25–93; 8:45 am]

BILLING CODE 4830–01–U

Tax on Certain Imported Substances; Filing of Petition

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance, under Notice 89–61, 1989–1 C.B. 717, of a petition requesting that

hexamethylenediamine be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code. Publication of this notice is in compliance with Notice 89–61. This is not a determination that the list of taxable substances should be modified.

DATES: Written comments and requests for a public hearing relating to these petitions must be received by October 25, 1993. Any modification of the list of taxable substances based upon this petition would be effective April 1, 1992.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044 (Attn: CC:DOM:CORP:T:R (Petition), room 5228).

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petition was received on July 1, 1991. The petitioner is Monsanto Company, a manufacturer and exporter of this substance. The following is a summary of the information contained in the petition. The complete petition is available in the Internal Revenue Service Freedom of Information Reading Room.

HTS number	2921.22.00.00
CAS number	124–09–4

This substance is derived from the taxable chemicals methane, ammonia, and butadiene. Hexamethylenediamine is a solid produced predominantly by the reaction of hydrogen (derived from methane in natural gas) with adiponitrile made by the reaction of butadiene with hydrogen cyanide (derived from ammonia and from methane in natural gas).

The stoichiometric material consumption formula for this substance is:

$3\,CH_4$ (methane) + $2\,NH_3$ (ammonia) + $3\,O_2$ (oxygen) + C_4H_6 (butadiene) → $C_6H_{16}N_2$ (hexamethylenediamine) + CO_2 (carbon dioxide) + $4\,H_2O$ (water)

According to the petition, taxable chemicals constitute 58.6 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $3.82 per ton. This is based upon a conversion factor for methane of 0.07, a conversion factor for ammonia of 0.38, and a conversion factor for butadiene of 0.53.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–20623 Filed 8–25–93; 8:45 am]

BILLING CODE 4830–01–U

Tax on Certain Imported Substances; Filing of Petition

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance, under Notice 89–61, 1989–1 C.B. 717, of a petition requesting that nylon 6/6 polymer be added to the list of taxable substances in section 4672(a)(3) of the Internal Revenue Code. Publication of this notice is in compliance with Notice 89–61. This is not a determination that the list of taxable substances should be modified.

DATES: Written comments and requests for a public hearing relating to this petition must be received by October 25, 1993. Any modification of the list of taxable substances based upon this petition would be effective July 1, 1990.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044 (Attn: CC:DOM:CORP:T:R (Petition), room 5228).

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petition was received on September 27, 1989. The petitioner is Monsanto Company, a manufacturer and exporter of this substance. The following is a summary of the information contained in the petition. The complete petition is available in the Internal Revenue Service Freedom of Information Reading Room.

HTS number	3908.10.00.00
CAS number	52349–42–5

This substance is derived from the taxable chemicals methane, benzene, nitric acid, ammonia, and butadiene. Nylon 6/6 polymer is a solid produced predominantly by the reaction of adipic acid with hexamethylene diamine. The adipic acid is derived from benzene via hydrogenation to cyclohexane, which is oxidized using air and nitric acid in a two-step process. The hexamethylene diamine is made by the reaction of butadiene with hydrogen cyanide (derived from ammonia and from methane in natural gas).

The stoichiometric material consumption formula for this substance is:

$9\,CH_4$ (methane) + $10\,H_2O$ (water) + $2\,C_6H_6$ (benzene) + $4.66\,HNO_3$ (nitric acid) + $4\,NH_3$ (ammonia) + $6\,O_2$ (oxygen) + $2\,C_4H_6$ (butadiene) ⟶ $2\,C_{12}H_{22}N_2O_2)_n$ (nylon 6/6 polymer)

According to the petition, taxable chemicals constitute 67.4 per cent by weight of the materials used to produce this substance. The rate of tax for this substance would be $5.65 per ton. This is based upon a conversion factor for methane of 0.40, a conversion factor for benzene of 0.47, a conversion factor for nitric acid of 0.41, a conversion factor for butadiene of 0.28, and a conversion factor for ammonia of 0.20.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–20625 Filed 8–25–93; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF VETERANS AFFAIRS

Medical Research Service Merit Review Boards; Meetings

The Department of Veterans Affairs gives notice under the Federal Advisory Committee Act, 5 U.S.C. App., of the meetings of the following Federal Advisory Committees.

	Date	Time	Location
Merit Review Board For:			
Respiration	Sept. 29, 1993	8 a.m. to 5 p.m.	Holiday Inn Crowne Plaza.[1]
Do	Sept. 30, 1993	do	Do.
Alcoholism and Drug Dependence	Oct. 4, 1993	do	Ramada Renaissance.[2]
Hermatology	Oct. 4, 1993	do	Ramada Renaissance.
Do	Oct. 5, 1993	do	Do.
Gastroenterology	Oct. 6, 1993	do	Ramada Renaissance.
Do	Oct. 7, 1993	do	Do.

	Date	Time	Location
Infectious Diseases	Oct. 6, 1993	do	Ramada Renaissance.
Do	Oct. 7, 1993	do	Do.
Do	Oct. 8, 1993	do	Do.
Surgery	Oct. 9, 1993	11 a.m. to 5 p.m.	San Francisco Marriott.[3]
Do	Oct. 10, 1993	12 p.m. to 5 p.m.	Do.
Neurobiology	Oct. 11, 1993	8 a.m. to 5 p.m.	Radisson Park Terrace.[4]
Do	Oct. 12, 1993	do	Do.
Do	Oct. 13, 1993	do	Do.
Do	Oct. 14, 1993	do	Do.
Do	Oct. 15, 1993	do	Do.
Nephrology	Oct. 13, 1993	do	Holiday Inn Crowne Plaza.
Do	Oct. 14, 1993	do	Do.
Endocrinology	Oct. 20, 1993	do	Ramada Renaissance.
Do	Oct. 21, 1993	do	Do.
Do	Oct. 22, 1993	do	Do.
Cardiovascular Studies	Oct. 21, 1993	do	Ramada Renaissance.
Do	Oct. 22, 1993	do	Do.
Immunology	Oct. 28, 1993	do	Holiday Inn Central.[5]
Do	Oct. 29, 1993	do	Do.
Mental Health and Behavioral Sciences	Nov. 1, 1993	8 a.m. to 5 p.m.	Holiday Inn Crowne Plaza.
Do	Nov. 2, 1993	do	Do.
Do	Nov. 3, 1993	do	Do.
Oncology	Nov. 4, 1993	do	Holiday Inn Central.
Do	Nov. 5, 1993	do	Do.
Do	Nov. 6, 1993	do	Do.
Basic Sciences	Nov. 4, 1993	do	Holiday Inn Central.
Do	Nov. 5, 1993	do	Do.
Do	Nov. 6, 1993	do	Do.

[1] Holiday Inn Crowne Plaza, 775 12th Street. NW., Washington, DC 20005.
[2] Ramada Renaissance, 999 9th Street, NW., Washington, DC 20001.
[3] San Francisco Marriott, 55 4th Street, San Francisco, CA 94103.
[4] Radisson Park Terrace, 1515 Rhode Island Avenue, NW., Washington, DC 20005.
[5] Holiday Inn Central, 1501 Rhode Island Avenue, NW., Washington, DC 20005.

These meetings will be for the purpose of evaluating the scientific merit of research conducted in each specialty by Department of Veterans Affairs (VA) investigators working in VA Medical Centers and Clinics.

These meetings will be open to the public up to the seating capacity of the rooms at the start of each meeting to discuss the general status of the program. All of the Merit Review Board meetings will be closed to the public after approximately one-half hour from the start, for the review, discussion and evaluation of initial and renewal projects.

The closed portion of the meeting involves: discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols and similar documents. During this portion of the meeting, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action regarding such research projects. As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing portions of these meetings is in accordance with 5 U.S.C., 552b(c) (6) and (9)(B). Because of the limited seating capacity of the rooms, those who plan to attend should contact Dr. LeRoy Frey, Chief, Program Review Division, Medical Research Service, Department of Veterans Affairs, Washington, DC, (202) 523–5942 at least five days prior to each meeting. Minutes of the meetings and rosters of the members of the Boards may be obtained from this source.

Dated: August 12, 1993.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 93–20651 Filed 8–25–93; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Geriatrics and Gerontology Advisory Committee; Availability of Report

Under section 10(d) of Public Law 94–463 (Federal Advisory Committee Act) notice is hereby given that the Geriatrics and Gerontology Advisory Committee has issued reports entitled, "Rural Health Care for the Elderly Veterans in the Western 'Frontier' States."

These reports are available for public inspection at: Federal Documents Section, Exchange and Gift Division, LM 632, Library of Congress, Washington, DC 20540.

Dated: August 10, 1993.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 93–20650 Filed 8–25–93; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 164
Thursday, August 26, 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).

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 at 10:04 a.m. on Tuesday, August 24, 1993, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Recommendations concerning administrative enforcement proceedings.

Matters relating to the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Mr. Stephen R. Steinbrink, acting in the place and stead of Director Eugene A. Ludwig (Comptroller of the Currency), seconded by Mr. John F. Downey, acting in the place and stead of Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), concurred in by Acting Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: August 24, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93–20901 Filed 8–24–93; 3:33 pm]

BILLING CODE 6714–01–M

FEDERAL HOUSING FINANCE BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 58 FR 44401, August 20, 1993.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:00 A.M., Wednesday, August 25, 1993.

CHANGES IN THE MEETING: The following topic was withdrawn from the open portion of the meeting.

- Report on the Proposed Revision to the Finance Board's Private Sector Adjustment Factor ("PSAF") Methodology

The Board determined that agency business required its consideration of this matter on less than seven days notice to the public and that no earlier notice of this change in the subject matter of the meeting was practicable.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

Philip L. Conover,

Managing Director.

[FR Doc. 93–20903 Filed 8–24–93; 3:46 pm]

BILLING CODE 6725–01–M

MERIT SYSTEMS PROTECTION BOARD

TIME AND DATE: 10:00 a.m., Wednesday, September 15, 1993.

PLACE: Eighth Floor, 1120 Vermont Avenue, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: Briefing and discussion of the Board's fiscal year 1994 research agenda.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Robert E. Taylor, Clerk of the Board, (202) 653–7200.

Dated: August 23, 1993.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 93–20849 Filed 8–24–93; 2:25 pm]

BILLING CODE 7400–01–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Amendment to Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 58 FR 44401, August 20, 1993.

PREVIOUSLY ANNOUNCED DATE OF MEETING: August 31, 1993.

CHANGE: Delete the following item from the open meeting agenda:

5. Additional Space for the National Postal Museum.

CONTACT PERSON FOR MORE INFORMATION: David F. Harris, (202) 268–4800.

David F. Harris,

Secretary.

[FR Doc. 93–20831 Filed 8–24–93; 11:24 am]

BILLING CODE 7710–12–M

federal register

Thursday
August 26, 1993

Part II

Department of Health and Human Services

Substance Abuse and Mental Health Services Administration

45 CFR Part 96

Substance Abuse Prevention and Treatment Block Grants: Sale or Distribution of Tobacco Products to Individuals Under 18 Years of Age; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

45 CFR Part 96

Rin: 0905–AE03

Substance Abuse Prevention and Treatment Block Grants: Sale or Distribution of Tobacco Products to Individuals Under 18 Years of Age

AGENCY: Substance Abuse and Mental Health Services Administration, PHS, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: Sections 1921 to 1954 of the Public Health Service (PHS) Act authorize the Secretary to provide Block Grants to States for the purposes of prevention and treatment of substance abuse. This notice of proposed rulemaking seeks comments on proposed regulations implementing section 1926 of the Public Health Service (PHS) Act regarding the sale or distribution of tobacco products to individuals under age 18.

DATES: Written comments must be received on or before October 25, 1993.

ADDRESSES: Written comments on this proposed rule may be sent to Gale A. Held, Director, State Prevention Systems Program, Center for Substance Abuse Prevention (CSAP), Rockwall II Building, 9th Floor, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Patrick G. Talmon, at (301) 443–7942.

SUPPLEMENTARY INFORMATION: Sections 1921 to 1954 of the PHS Act, 42 U.S.C. 300x–21—330x–64, authorize the Secretary to provide Block Grants to States for the purposes of prevention and treatment of substance abuse. All but section 1926 of the PHS Act, 42 U.S.C. 300x–26, affect fiscal year 1993 Block Grants. Section 1926 does not become effective until fiscal year 1994 and, in some cases, fiscal year 1995. The regulations implementing all but section 1926 of the PHS Act were published as an interim final at 58 FR 17062 (March 31, 1993) and subsequent corrections at 58 FR 21218 (April 19, 1993). For purposes of this proposed rule implementing section 1926, it should be noted at the onset that the term "State" is defined to include the District of Columbia and the territories.

This Notice of Proposed Rulemaking (NPRM) seeks comment on proposed regulations to implement section 1926 of the PHS Act. Section 1926 of the PHS Act stipulates that the Secretary may not make a grant to a State for the first applicable year and all subsequent fiscal years unless the State has in effect a law prohibiting any manufacturer, retailer, or distributor of tobacco products from selling or distributing any such products to any individual under the age of 18. For States whose legislature does not convene a regular session in fiscal year 1993 or in fiscal year 1994, the first applicable year is fiscal year 1995. For all other States, the first applicable fiscal year is 1994.

The Secretary proposes to implement this statutory provision by requiring States to have in place a law which prohibits the sale or distribution of any tobacco product to persons under the age of 18 through any sales or distribution outlet. This would include such sales or distribution from any location which sells at retail or otherwise distributes tobacco products to consumers including (but not limited to) locations that sell such products over-the-counter or through vending machines. The Secretary believes that vending machines must be covered, since they are an unsupervised and easy source of access for younger smokers. Although controlling access by minors to tobacco products is not an easy process and may be particularly difficult with regards to vending machines, the Secretary believes reducing the availability of tobacco products as required by the law is an important public health measure. Beyond this, the Secretary does not propose specifying the provisions of the States' laws. However, appended to this NPRM is a copy of a model law the States may wish to consider. It should be noted that these proposed regulations in this NPRM would be considered minimum standards and would not supersede any State or local law or ordinance that is more restrictive regarding minors' access to tobacco products.

With regard to enforcement, the Secretary proposes that for the first applicable fiscal year and for subsequent fiscal years, the State (directly or through local government or private entities) must, at a minimum, enforce the law using both random and targeted unannounced inspections of both over-the-counter and vending machine outlets. Random, unannounced inspections must be conducted annually and must be conducted in such a way as to ensure a scientifically sound estimate of the success of enforcement actions being taken throughout the State. Thus, the State shall give due consideration to the methodological design of the inspection effort and the adequacy of the sample design. The sample must reflect the distribution of the population of those under 18 throughout the State and the distribution of outlets throughout the State. The sample must further reflect that, because of location (e.g. near schools) or other factors, some outlets are more likely to be used by minors. States are to ensure that the inspections occur at times when minors are likely to purchase tobacco products. Targeted inspections are to focus on outlets which have a history of prior violations.

In addition, the Secretary proposes that the State must have in place other well-designed procedures for reducing the likelihood or prevalence of violations. Examples of well-designed procedures include a tobacco sales or distribution licensing system similar to that used for alcoholic sales, a graduated schedule of penalties for illegal sales or distribution culminating in loss of license, controls on tobacco vending machines in locations accessible to youth, publication of the names of outlets making illegal sales, and use of local enforcement to supplement central enforcement. Such measures, the Secretary believes, will assist in ensuring that the law is enforced in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 18.

Section 1926(b)(2)(B) of the PHS Act requires the State to annually submit to the Secretary a report describing, among other things, its activities for enforcing the law for the preceding year. The Secretary proposes that this report be filed with the State's application. For applications submitted for the first applicable fiscal year, the Secretary proposes that States be required only to submit a copy of the statute enacting the law described earlier and a description of the strategies to be utilized by the State for enforcing such law in the year for which they are applying for a grant. The Secretary is not proposing that for an application for the first applicable year the State be required to submit a description of how it had enforced the law in the previous year, if such law was in place, since section 1926 of the PHS Act does not require the States to have and enforce such law for fiscal year 1993 and, in some cases, fiscal year 1994. However, the Secretary strongly encourages the States to describe activities to enforce such a law during the previous year, if such law was in place. This information will be used only for informational purposes; it will not be used to determine compliance with any Block Grant requirements.

For subsequent years, the State is to describe its activities to enforce the law regarding sales or distribution of

tobacco products to minors, as well as the strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought. The State is also to describe the extent of success the State has achieved during the previous year in reducing the availability of tobacco products to individuals under the age of 18. The Secretary proposes that such description include the results of the random and targeted unannounced inspections. The results of over-the-counter and vending machine outlet inspections are to be reported separately. In addition, the Secretary proposes that the State submit as part of its report a summary of how it went about conducting its random, unannounced inspections.

The Secretary proposes that the annual report be made public within the State and public comment be obtained and considered by the State prior to submission. The Secretary believes public comment is an excellent means of obtaining ideas on ways the enforcement measures may be improved.

Section 1926(c) of the PHS Act requires that, before making an award to a State under the Block Grant, the Secretary must make a determination as to whether the State has maintained compliance with the requirements to enact and effectively enforce a law against sale or distribution of tobacco products to individuals under the age of 18. As indicated by section 1926(a), the Secretary may award a Block Grant to a State for the first applicable fiscal year and each subsequent year only if the State has a law in place making it unlawful to sell or distribute tobacco products to individuals under the age of 18. In determining enforcement compliance, the Secretary proposes the following: The State must demonstrate that its random, unannounced inspections were conducted in a scientifically sound manner, and the data submitted by the State in the annual report must how that the percentage of the retailers or distributors involved in the random, unannounced inspections that make illegal sales do not exceed more than fifty (50) percent during the first applicable fiscal year, forty (40) percent during the second applicable fiscal year, thirty (30) percent during the third applicable fiscal year, and twenty (20) percent during the fourth applicable fiscal year and subsequent fiscal years.

If a State is not in substantial compliance with the above-mentioned criteria, the Secretary, in extraordinary circumstances, may consider a number of factors, including scientifically sound data showing that the State is making significant progress toward reducing use of tobacco products by children and youth, data showing that the State has progressively decreased the availability of tobacco products to minors, aggressive enforcement by the State through targeted inspections, composition of the outlets inspected, and the State's plan for improving the enforcement of the law in the fiscal year for which the State is applying for a grant. The Secretary encourages all States to provide the Department with related data showing that the State is making significant progress toward reducing use of tobacco products by children and youth.

The Secretary believes this compliance criteria will allow States time to develop and implement effective enforcement actions. Some studies in which unannounced inspections were used to measure access by minors to tobacco products show a significant reduction in the availability of such products when enforcement is strengthened. Feighery and Altman showed that the percentage of times in the unannounced inspections a minor was able to buy tobacco products over-the-counter, after stronger enforcement measures were taken, decreased from 71% to 24% over a two-year period, but a 1% increase in vending machine sales, Feighery, E., M.S., Altman, D., Ph.D., *et al.*, "The Effects of Combining Education and Enforcement to Reduce Tobacco Sales to Minors: A Study of Four Northern California Communities," Journal of the American Medical Association, Vol. 266, No. 22, pp. 3168–3171 (December 11, 1991). Altman and Foster showed a reduction from 74% to 39% in six months, with stronger enforcement, but no reduction in vending machine sales. Altman, D., Ph.D., Foster, V., M.P.H., *et al.*, "Reducing the Illegal Sale of Cigarettes to Minors," Journal of the American Medical Association, Vol. 261, No. 1, pp. 80–83 (January 6, 1989). Jason and Ji saw a reduction from 70% to 5% in over-the-counter sales from stores over a year and a half period. Jason, L., Ph.D., Ji, P., *et al.*, "Active Enforcement of Cigarette Control Laws in the Prevention of Cigarette Sales to Minors," Journal of the American Medical Association, Vol. 266, No. 22, pp. 3159–3161 (December 11, 1991). Further, Forster, Hourigan and McGovern found a reduction from 53% to 38% in over-the-counter access and a decrease from 82% to 80% in vending machine sales following an increased penalty for sale to minors. Forster, J., Ph.D., M.P.H., Hourigan, M., M.P.H., and McGovern, P., Ph.D., "Availability of Cigarettes to Underage Youth in Three Communities," Preventive Medicine, Vol. 21, No. 3, pp. 320–328 (May 1992). Finally, Forster, *et al.*, found that installation of locking devices on vending machines significantly reduced access from these machines and that removing children's access to vending machines by various types of bans greatly reduced or eliminated illegal sales. Forster, Jean L., *et al.*, "Vending Machines: Evaluation of a City Ordinance," American Journal of Public Health, Vol. 82, No. 9, pp. 1217–1220 (September 1992). These studies suggest that States using reasonable enforcement measures should be able to reduce the availability of tobacco products to minors. If States' experience indicates that States can reasonably achieve a failure rate lower than the 20 percent that is proposed to be required for the fourth applicable year, the Secretary may consider lowering the failure rate further. These percentages, however, all represent "safe harbors" rather than the Department's intended goals. The Department expects every State to attempt to achieve zero failure rates.

The determination of substantial compliance in enforcing the law is within the discretion of the Secretary, and the Secretary, in extraordinary circumstances, may, as indicated above, consider a number of factors. Nevertheless, if, after notice to the State and an opportunity for a hearing, the Secretary determines that the State is not incompliance with the regulations, the Secretary will reduce the amount of the allotment in such amounts as is required by section 1926 of the PHS Act.

The Secretary invites comments on the appropriateness of the proposed State performance criteria and on other strategies that may achieve the statutory objective in a more cost-effective manner. Alternative strategies or performance measures could include: (1) State-specific performance measures reflecting demographic variations; (2) measures developed by State consensus; (3) criteria that would require a certain percentage decrease in the failure rate of the random, unannounced inspections from year to year; (4) separate performance criteria for over-the-counter sales versus vending machine sales; (5) reliance on the more general Secretarial process; or (6) criteria based on different percentage reductions.

The Secretary also proposes that States not be permitted to use program funds to enforce this provision; however, they may use part of the 5 percent allowed for administrative expenses under section 1931(a)(2) of the PHS Act. The Secretary believes that enforcement, such as prosecution of

entities or individuals who illegally sell tobacco products to minors, is not a true prevention and treatment activity. The Block Grant Program funds may be used, however, to provide technical assistance to communities to maximize procedures for enforcing the law regarding tobacco as provided in § 96.125(a)(6).

Finally, the Secretary believes that decreasing access of tobacco products to minors is a very important health issue, and the Secretary welcomes comments on how to implement the requirements. The Secretary recognizes that tobacco is the single most preventable cause of disease and premature death, killing more than 434,000 Americans every year. It is responsible for more then $65 billion annually in health and economic costs. An estimated 3.7 million U.S. teenagers (16 percent) are current smokers and nearly 3,000 young people become regular smokers every day. More than half of all smokers start using tobacco before age 18. Despite the fact that it is illegal to sell cigarettes to minors in a vast majority of States, nearly one billion packs of cigarettes are sold each year to children under the age of 18. Studies have also found that smoking is positively correlated with the use of alcohol and other drugs, with escalation from cigarettes to alcohol the most prevalent pattern found. Accordingly, the Secretary believes that by requiring States to have laws prohibiting access to minors is a first step in reducing this national health problem.

To assist States in implementing the requirements of the statute, the Department will provide technical assistance after issuance of the final rule. We envision such assistance covering matters such as effective enforcement practices and the development of scientifically valid inspections, as well as acceptable alternative mechanisms for funding enforcement activities.

Economic Impact

Executive Order 12291 requires the Department to prepare and publish a Regulatory Impact Analysis (RIA) for any regulation that is likely to have an economic impact of $100 million or more, cause a major increase in costs or prices, or meet other threshold specified in the Order. For purposes of compliance, HHS treats a $100 million effect within five years of regulatory promulgation as requiring preparation of an RIA. In addition, as required by the Regulatory Flexibility Act, the Department prepares a Regulatory Flexibility Analysis (RFA) for any regulation which is likely to have a significant economic impact on a substantial number of small entities.

Teenagers purchase and smoke approximately 1 billion packs of cigarettes each year, with a retail value of over $1.5 billion (DiFranza, J.R. and Tye, J.B., "Who profits from tobacco sales to children?", JAMA, 1991, vol. 266, pp. 3149–3153). As little as a 7 percent total reduction in sales within five years would have an economic effect of $100 million. We believe that a much greater reduction than this is likely to occur, possibly $1 billion a year within three years, depending on the emphasis that the States place on enforcement of their statutes and other factors.

In addition to overall reductions in tobacco sales, enforcement will affect the retail market. The money which would have been spent on tobacco products will be spent on other goods and services. Much may be spent in the same stores which sell tobacco products. However, in some instances (e.g., sales from free-standing vending machines) it is not clear that alternative products will raise the same volume of revenue for the store. Therefore, the statute and the Department's final rule may have a significant effect on some small businesses that currently sell tobacco products to minors. Thus, based on this information, both a RIA and an RFA are required.

The following analysis, in conjunction with the remainder of this preamble, presents a combined Regulatory Impact Analysis and Regulatory Flexibility Analysis, in compliance with E.O. 12291 and the Regulatory Flexibility Act.

In this analysis, the Department focuses mainly on cigarette sales, which account for the overwhelming majority of tobacco product sales to youth. Almost all of the analysis is, however, equally applicable to cigars as well as snuff, chewing, and pipe tobacco.

Magnitude of Effects

For purposes of the analysis, the Department assumes that States will take actions which reduce tobacco sales to minors by between one-third and two-thirds within three to four years. The reduction could be larger or smaller, however, depending upon how many minors are able to get cigarettes from older youths who can legally purchase cigarettes, the emphasis that States place on enforcing the laws, and the ease with which minors can purchase cigarettes by going to other outlets including vending machines which are harder to monitor.

Because minors will, in some cases, find other sources of cigarettes, a one-third or two-thirds reduction in illegal sales volume will only occur if there is an even greater reduction in the percentage of outlets making illegal sales. (For purposes of this analysis, the term "outlet" means any location that sells at retail or otherwise distributes tobacco products to consumers, including (but not limited to) locations that sell such products over-the-counter or through a vending machine.)

The proposed rule would require that States bring the percentage of outlets making illegal sales down to 20 percent within four years or risk loss of drug abuse funds. Some States, perhaps most States, may be able to bring failure rates well into the single digit range. The Department is aware of one community—Woodbridge, Illinois—that used a tobacco vending license and other tools to reach a failure rate of well under 5 percent for all types of outlets. (Jason, Leonard A., *et al.*, "Active Enforcement of Cigarette Control Laws in the Prevention of Cigarette Sales to Minors," JAMA, pages 3159–3161, December 11, 1991, Vol. 266, No. 22.) In this same community, cigarette use by youth decreased by half, despite the availability of illegal sales outlets in adjoining areas near the enforcing community.

Thus, even though we are proposing to set the compliance level for States at 20 percent after four years, our expectation is that actual violation levels in most States will be driven far lower by new State enforcement programs, perhaps near the level achieved in Woodbridge. We do not know, however, either what level the States will on average achieve, or precisely how that level will translate into reductions in teen smoking. Therefore, our estimates of actual smoking reductions by youth range from one-third to two-thirds.

A reduction in teen smoking implies an almost equally large reduction in adult smoking, over time. Some evidence suggests that approximately 71 percent of adult daily smokers became daily cigarette smokers by age 18 (Office on Smoking and Health, unpublished data from the 1991 SAMHSA National Household Survey on Drug Abuse). If most of the reduction in youth smoking translated into non-smoking adults, there would be a corresponding reduction over time in tobacco use by adults. This effect would be over and above the effects of smoking cessation programs, education, family pressures, and other public and private influences on the prevalence of smoking.

Thus, while the Department estimates a probable reduction in cigarette sales is valued on the order of $500 million to

$1 billion a year (i.e., from one-third to two-thirds) in the near term, this reduction would translate into an annual multi-billion dollar effect over the long run, as each cohort of non-smoking youth ages into non-smoking adults.

Benefit Estimates

The benefits of reducing tobacco use lie primarily in reducing the costs created by tobacco. There is a considerable amount of literature on the costs of smoking. Probably the best of these studies—and certainly the most careful at distinguishing among costs to smokers themselves and costs to the rest of society—is "The Taxes of Sin—Do Smokers and Drinkers Pay Their Way?" (Manning, Willard G. *et al.*, JAMA, pages 1604–1609, March 17, 1989, Vol. 261, No. 11).

This study estimated the net present value cost for 1986 to members of society other than the smokers of cigarettes, by comparing the excess costs of services used by smokers to the taxes and premiums paid by smokers. Several estimates of the cost were calculated, based on varying assumptions and discount rates. The best estimate for our purposes is a "present value" (discounted) cost of $0.39 per pack to persons other than the smokers themselves, under the assumption of a 5 percent discount rate applied to future costs. This cost contained the following component costs per pack: Employer and taxpayer share of excess medical bills incurred by smokers ($0.26); sick leave and group life insurance subsidies ($0.06); lost taxes on smokers' unrealized earnings ($0.09); the value of lives lost to passive smoking ($0.14); the material cost of fires caused by smoking ($0.02); and the value of lives lost to fires caused by smoking ($0.09). These costs were then offset by the reduction in pensions and nursing home benefits paid to smokers due to their premature deaths (−$0.27).

This study omitted several major components of external costs, such as cleaning costs in buildings where smokers are employed. Most importantly, it made no allowance for the cost of low-birthweight infants. Over 200,000 such infants are born each year in the United States. These 6 percent of all births account for over 50 percent of all acute inpatient infant care costs. (These data come from Schwartz, Rachel M., "What Price Prematurity?", pages 170–174, Family Planning Perspectives, August 1989, Vol. 21, No. 4.) The risk of having a low-birthweight infant doubles if the mother smokes. A recent study estimated the effects of smoking-induced perinatal problems to include 2,250 excess perinatal deaths and about 39,000 excess low-birthweight infants (one-half of these subsequently hospitalized in intensive care units). (Marks, James S. *et al.*, "A Cost-Benefit/Cost-Effectiveness Analysis of a Smoking Cessation Program for Pregnant Women", American Journal of Preventive Medicine, pages 282–289, Vol. 6, No. 5, 1990.) Extrapolating from the data in this study, the total costs of tobacco use by expectant mothers in 1989 were about $500 million for use of neonatal intensive care units, about $500 million in present value of future long-term care costs for disabled newborns, and about $8.7 billion for the value of 2,250 lost lives (using the same $1.66 million value for a lost life as in the paper written by Manning *et al.*). On the same discounted cost per pack basis used by Manning *et al.*, these costs would add at least 15 cents a pack more.

Thus, in 1989 the net external costs borne by non-smokers exceeded 50 cents for every pack of cigarettes sold (lost earnings and medical care costs borne by smokers themselves were shown by Manning *et al.* to be over $1 a pack). In 1989, this was equivalent to over one-third of the then-current price of cigarettes.

Translated into the terms of this initiative, the $½ to $1 billion annual reduction in cigarette purchases by youth that the Department postulates achieving in three or four years is worth one-sixth to one-third of a billion dollars annually to the rest of our society (in addition, of course, to the $½ to $1 billion that youth save from not purchasing cigarettes).

Over the longer run, and assuming that adult smoking is reduced correspondingly, the benefits of better law enforcement will be many billions of dollars annually. We do not calculate a precise estimate because there are so many uncertainities as to future outcomes. None of these uncertainties, however, are likely to reduce our estimates of benefits.

Costs

The primary cost of improved enforcement lies in enforcement costs themselves (see section below for estimates of transfer and other effects). The Department has no good data on the costs of enforcement because so little has been attempted in the past and because new methods may be needed. However, these costs need not be substantial in relationship to other costs of State and local law enforcement, or to other duties faced by retail business.

The Department assumes, for purposes of this cost analysis, that the upper end of possible enforcement costs will result if each State adopts the Model Law recommended by HHS. This Model Law is appended to this NPRM.

An HHS Inspector General's report, also appended here, contains an appendix showing the elements of each State's enforcement scheme in 1991, using headings corresponding to many elements of the Model Law. For example, 22 States have some form of vending machine restriction, and 14 provide for revocation of a license to sell tobacco products if illegal sales are made to minors. Most of these restrictions are relatively new and are not reflected in the studies summarized earlier in the preamble showing that about two-thirds of outlets sell tobacco products illegally.

The Model Law represents a substantial enforcement effort compared to current practice, but nowhere near the greatest effort possible. The Model Law would require a licensing apparatus to be set up, stores to be notified of their obligations, hearing procedures to be developed, inspections organized, fines to be levied, and the like. Even if a State were to piggyback this system on top of an alcohol licensing and enforcement system, it would require a staff of one or two dozen people and an annual budget of approximately $1 million. Across all jurisdictions, this implies costs on the order of $50 million for an effective enforcement effort.

The most cost-effective method of compliance enforcement appears to lie in well-designed "sting" operations in which clearly underage youth without false identification attempt to make illegal purchases under adult supervision. Assuming that 200–400 stings a year are conducted in the average State, that each sting requires 10 person-hours of participant time (for training, travel, etc.), and that the average hour is valued at $10, the total national cost of conducting stings would be $1–$2 million annually. Individual businesses may have to train staff, post signs, check for compliance, relocate vending machines, and the like. Annual compliance costs could average as much as $100 a retail store (much less in small stores, much more in the larger stores). The largest component of this would be time spent in instructing sales clerks that they must avoid selling to minors and in dealing with occasional lapses. The average store has only about 12 employees, but assuming that 1 million outlets sell cigarettes or other tobacco products, national compliance costs might reach $100 million.

Counting both public and private costs, the national cost total for careful enforcement using this model would be

on the order of $150 million. Assuming that States financed their costs by licensing fees, as suggested by the Model Law, the net budgetary cost to States would be close to zero, and retail outlets would bear the entire $150 million annually.

These gross cost estimates include no offset for present enforcement efforts. However, studies have consistently shown that many businesses do not sell tobacco products to minors. Effective staff training may already be in place in a third or more of all businesses. Most States have at least some pieces of enforcement machinery in place, even if none has a comprehensive scheme (see Appendix A of the appended Inspector General report). Therefore, the *net* costs of stringent enforcement efforts may be a third less, perhaps $100 million a year rather than $150 million, taking into account current levels of effort.

Enforcement costs could also be reduced if States undertook less comprehensive enforcement actions. For example, an "informational" strategy of publishing in local newspapers the names of stores caught selling illegally to minors might be effective in signalling consumers who would wish to steer their patronage to stores which do not violate the law. Presumably, outlets selling tobacco as one of many product lines would police themselves vigorously to avoid this much larger loss of business. Concentrating enforcement resources and levying large, multiple fines on repeat offenders might also prove less costly than creating a moderate, graduated penalty system as set forth in the Model Law. The compliance standard proposed in this NPRM—reducing the proportion of outlets selling illegally to 20 percent or less within 4 years—could probably be met by efforts less substantial than adoption of the entire model law. This could reduce gross enforcement costs to near the $100 million level, and net enforcement costs even lower. It is unlikely that net costs could go below $50 million, however, because the major costs arise from actions which outlets would have to take to make a serious reduction in illegal sales, regardless of precise target level and regardless of the precise enforcement approach used by the State.

As discussed further below, there may be some additional costs due to market dynamics over time. For example, some stores that barely break even on tobacco sales may decide to drop this product line rather than spend resources on efforts to prevent illegal sales of tobacco to minors, such as paying a licensing fee and training staff. Some vending machines currently located in businesses that cater to minors may have to be relocated or withdrawn prematurely from use, and vending machine sales will drop. Some adult consumers will be inconvenienced if fewer outlets sell cigarettes. The Department has no basis at this time for estimating the magnitude or actual costs of these effects. However, the Department sees no reason to expect that these will exceed a few million dollars a year.

These are very imprecise estimates. The Department welcomes comments on the estimates and suggestions for improvement. Note, however, that States remain free to devise any enforcement approaches that they find cost-effective. The Department encourages the public to provide us information on effective and economical approaches which can be shared with the States.

Comparison of Benefits to Costs

Based on the estimates above, the Department expects that in three or four years net enforcement costs on the order of $50 and possibly $100 million will generate social benefits on the order of one-sixth of a billion dollars and possibly one-third of a billion dollars, a return of potentially 2 or 3 to 1, depending on the cost estimate and actual effects on smoking by youth. The lower end of the range of both costs and benefits is most likely to arise from serious but modest State efforts, and the higher end of both from more substantial State efforts.

Over the longer run, the Department expects enforcement costs to decrease slightly and benefits to increase greatly. Costs will decrease as compliance approaches 100 percent because there will be fewer violations, and fewer enforcement actions. Benefits will increase because as larger cohorts of non-smoking youth pass into adulthood without addiction, smoking is expected to drastically decrease. The packs of cigarettes affected by these regulations are the packs that cause addiction. A smoking reduction now will itself cause a smoking reduction later. Thus, the benefits from not smoking these particular packs of cigarettes are likely to be many times the benefits from not smoking the "average" pack of cigarettes studied by Manning, *et al.*

Distributional and Transitional Effects

The estimates above deal with the ultimate effects of smoking reductions and activities directed toward reductions. There are additional economic consequences which are not part of these calculations but which are of concern.

First, this law enforcement effort will increase jobs and profits in the economy. When a teenager does not spend $1.50 or $2 for a pack of cigarettes, there is no loss to the economy. The money is spent on some other good or service instead. True, some particular jobs (ultimately, those in cigarette, cigar, snuff, and chewing and pipe tobacco factories, and in cancer wards of hospitals) will be affected by any large scale redirection of resources away from tobacco purchases. However, other jobs will be created instead. For example, if the money is spent on chewing gum and music tapes, there will be increases in jobs in gum factories and music studios. In fact, the excess of benefits over costs involved represents a pure gain to the economy, much of which will show up in increased productivity and job growth.

Second, there will be negligible adverse effects on the great majority of retail outlets. It is true that stores that currently sell tobacco products to minors will lose sales in the short run. These sales may or may not be offset by increases in sales of other items. However, with the single exception of vending machines (discussed below), we believe that these effects on sales will be small. There are approximately 1½ million retail sales outlets in the United States, and about two-thirds of these sell tobacco products (all data in this paragraph are obtained from the Statistical Abstract of the United States 1992, table 1284, p. 761). On average, tobacco products represent 5 percent of total sales in those outlets that sell tobacco. In 1987, according to the Statistical Abstract, retail establishments sold $23 billion of tobacco products (at current prices this number would exceed $30 billion). The potential $1 billion reduction (assuming a two-thirds reduction in smoking by youth) that the Department estimates in the near future represents less than 5 percent of that amount, and one-fourth of 1 percent of total sales in stores selling tobacco products. Considering that in many if not all cases the money not spent on tobacco will be spent on other products in the same stores, the negative economic effects on sales, costs, and profits will be negligible. Moreover, some outlets will actually increase tobacco sales as others decide to drop cigarettes and various forms of chewing tobacco as marginal product lines.

Third, the Department expects significant drops in vending-machine sales of tobacco products because of the actions that will have to be taken to prevent sales to minors from these devices. The access studies have shown

that vending machines provide by far the easiest method for youth to make purchases. For the youngest minors, they are often the only easy sources of purchase. A study for the vending machine industry shows that only 23 percent of smoking youth now use vending machines often or occasionally (Response Research, Inc., "Findings for the Study of Teenage Cigarette Smoking and Purchasing Behavior," June/July 1989). However, in the future this percentage would rise greatly—perhaps close to 100 percent—if enforcement eliminated other sources of illegal sales but left vending machines available to youth.

There are several options for preventing illegal sales from vending machines, including installing locking devices on tobacco vending machines—which allow use only after an employee verifies that the prospective purchaser is not under-age, and removing tobacco vending machines from locations where youth can legally approach them (e.g., removing them from all locations except bars where minors are not permitted). The experience of St. Paul, Minnesota, illustrates the difficulty of enforcement options short of bans: A year after enforcement began, about 30 percent of merchants had not installed locking devices, and even where these were installed, employees allowed illegal purchase about 40 percent of the time. On the other hand, communities that have banned these machines altogether show complete or near complete compliance. (See Forster, Jean L. *et. al.*, "Vending Machines: Evaluation of a City Ordinance," American Journal of Public Health, pages 1217–1220, September 1992, Vol. 82 No. 9). Quite apart from compliance, the St. Paul experience shows that locking devices are inconvenient to stores, cost as much as $100 a machine, and that a quarter of the merchants either switched to over-the counter sales or dropped tobacco vending when faced with a requirement for locking devices.

Based on these data, the Department would expect that States will face significant challenges in complying with the new law unless they impose strict controls on tobacco vending machines in locations accessible to minors. Data from the vending-machine industry sheds some light on the consequences of partial or total bans. (See the Statement of Richard W. Funk on behalf of the National Automatic Merchandising Association, Tobacco Issues (Part I), Hearings before the Subcommittee on Transportation and Hazardous Materials of the Committee on Energy and Commerce, U.S. House of Representatives, July 25, 1989, Serial No. 101–85, pages 240–245.) This testimony indicates that there are at least 1,400 vending-machine companies, of which 1,000 operate some 370,000 cigarette-vending machines, with average annual revenues of about $4,000 per machine. For the entire industry, including companies which do not sell tobacco, these machines account for 9.5 percent of vending sales in dollars and 3.6 percent of vending sales in units (taking into account taxes, it appears that vending sales represent about 7 percent of non-tax revenue for all these companies, and 10 percent for those companies selling tobacco products). About one-third of these machines are located in bars or cocktail lounges, but many are in motels, colleges, restaurants, and other locations readily accessible to youth. Depending on what actions States decided to take, two-thirds or more of these machines might be affected by ban or locking device. Assuming, for purposes of this analysis, that two-thirds of these machine were eliminated over a phased, three-year period, and that there were no offsetting increases in tobacco sales from the remaining machines, by the end of the third year 1,000 companies would face an annual loss of sales averaging about 7 percent of non-tax revenue (7 percent is ⅔ of the 10 percent discussed above). The sales reduction could be less than this or greater than this, depending on the precise actions taken by the States. It would also vary significantly from company to company. Companies could, of course, take actions to overcome such losses, such as replacing tobacco products with other products. States could mitigate these effects by phasing, banning only locations accessible to youth, and allowing use of locking devices. The Department solicits comments on this issue and on whether any other alternatives would be cost-effective.

Alternatives

Elsewhere in this preamble the Department has requested comment on several modifications to our proposed regulations. The main alternative the Department has considered and has temporarily rejected was to impose a more stringent standard on the States. There is a strong line of argument that near-100 percent compliance can be achieved over some period of time. One community, the city of Woodbridge, Illinois, essentially ended illegal sales to minors, apparently by using a licensing law (not rigidly enforced) and the part-time efforts of one police officer. (See Jason, Leonard A. *et al.*, "Active Enforcement of Cigarette Control Laws in the Prevention of Cigarette Sales to Minors," JAMA, pages 3159–3161, December 11, 1991, Vol. 266 No. 22). However, it would not be prudent to rely on the experience of one community in setting a national policy, and even in Woodbridge success took a number of years to achieve. Moreover, States have not had consistent success in enforcing laws against sale of alcohol to minors (see "Youth and alcohol: Laws and Enforcement," Office of the Inspector General, HHS, September 1991). Tobacco-law enforcement may turn out to pose similar hazards. Therefore, the Department believes that risking an error which would force us to take vitally needed drug-treatment funds from a State despite a serious enforcement effort is too dangerous at present. Hence, on an interim basis, and until the Department and the States gain some experience from serious State-wide efforts at enforcement, we have allowed the States both time and leeway to achieve compliance. Nonetheless, we welcome comments addressed to the feasibility and fairness of a stricter standard, such as penalizing States in which outlets with illegal sales exceed 20 percent in the third year, or 20 percent in the fourth year and 10 percent in the fifth year.

Second, the Department also considered specifying particular enforcement measures that States must take, such as requiring that stores illegally selling to minors lose a license to sell tobacco products, or imposing strict controls on vending machine sales of tobacco products. However, the same uncertainty that would make a near-100 percent compliance standard imprudent until we have more information appears to make imposing uniform processes on all States unwise. Furthermore, the Department believes that governors and States should have maximum flexibility to devise their own solutions. The Model Law represents the Department's best judgment as to cost-effective steps States might take, but the current state of knowledge does not necessarily justify imposing its components as requirements.

Third, the Department considered more stringent approaches to compliance measurement. As indicated above, stings are a low-cost and highly effective method of determining which outlets violate the law. The Department considered requiring States to conduct a minimum number of stings, such as 1 sting annually at 50 percent of all sales outlets. However, we decided that it would be premature to force a particular standard upon all States.

Fourth, the Department considered creating a special review process by which private groups could bring the

results of their own unannounced inspections directly to our attention, if they believed that States were not honestly reporting progress. This was rejected because the public is free to provide such information to the Department for its consideration.

Finally, a State could reduce use by minors, as well as increase State revenue, by placing higher taxes on cigarettes. Research has shown that youth are particularly sensitive to tobacco prices (Grossman, M., Coate, D., Lewit, E.M., and Shakotko, R.A. "Economic and other factors in youth smoking." Washington, DC: National Science Foundation; 1983. Final Report, Grant No. SES–8014959; and Lewit, E.M., Coate, D. and Grossman, M. "The effects of government regulations on teenage smoking. Journal of Law and Economics. Vol. XXIV, No. 3, pp. 545–569 (December 1981)). Thus, a State may choose to impose taxes so high as to discourage most youth purchases.

The Department requests comments on these and any other alternatives which might reduce costs or increase benefits.

Paperwork Reduction Act

This proposed rule contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. The title, description, and respondent description of the information collection are shown below with an estimate of the annual reporting burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: Minors' Access to Tobacco—42 CFR 96.122—NPRM.

Description: Data to be reported is required by 42 USC 300x–26 and will be used by the Secretary to evaluate State compliance with the statute, to report to Congress as required under 42 USC 300x–59, and to publish special analytic studies from time to time.

Description of respondents: State or local governments.

Estimated Annual Reporting Burden:

Section	Annual number of respondents	Annual frequency	Average burden/response	Annual burden hours
Application/Annual Report: 45 CFR 96.122(f)(5) and .130(d)	60	1	30 hrs	1800

We will submit a copy of this proposed rule to OMB for review of these information collections. Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing burden, may be sent to the agency official whose name appears in the FOR FURTHER INFORMATION section above, and to Allison Eydt, SAMHSA Desk Officer, Office of Information and Regulatory Affairs/OMB, room 3001, 725 17th St., NW., Washington, DC 20503.

Appendix A to Preamble—Model Sale of Tobacco Products to Minors Control Act; A Model Law Recommended for Adoption by States and Localities To Prevent the Sale of Tobacco Products To Minors

U.S. Department of Health and Human Services, May 24, 1990

Introduction

The great majority of states prohibit sale of tobacco products to minors. Yet over one million teenagers start smoking each year, and minors buy about one billion packs of cigarettes each year. Because nicotine is an addicting drug, a minor who starts smoking is likely to be a lifelong customer—and one in four will die prematurely of lung cancer or other smoking-related disease. Illegal tobacco sales dwarf illegal alcohol and hard drug sales to minors, and the resulting mortality is many times greater—390,000 deaths a year. These are preventable deaths, and many of them occur because youth can obtain tobacco products with ease. Over eighty percent of teenagers correctly believe that it is very easy for them to buy cigarettes.

Access of minors to tobacco is a major problem in every state of the Nation. About three-fourths of the million outlets which sell cigarettes to adults also sell cigarettes to minors. These stores ignore the laws of their states because enforcement is almost non-existent. Many retailers are even unaware that such sales are illegal. Yet there are straightforward enforcement approaches which can eliminate almost all sales to minors while yielding revenues to cover the cost of enforcement. Teenage smoking can be greatly reduced without disruption either to governments or to sales to adults.

Data on the nature and extent of the enforcement problem, and information on successful community efforts to prevent illegal sale of tobacco products to youth, are presented in the report of the Office of the Inspector General titled "Youth Access to Cigarettes," dated May, 1990. Additional information on this issue can be obtained from the Office on Smoking and Health, within the Centers for Disease Control of the Public Health Service.

The Department of Health and Human Services has reviewed options for improving enforcement. The approach we have developed is embodied in a draft model law. We recommend that each of the 50 states enact this model. No state now uses all of the tools needed to make enforcement effective. In states which are not immediately willing to adopt the model law, counties and cities can enact most features by ordinance and prevent children's access to tobacco products.

No enforcement scheme is perfect. Many of those who are already addicted will find ways to get tobacco to meet their craving for nicotine. But for most teenagers, easy access to tobacco products and addiction can be eliminated. For others, reductions in frequency and numbers of cigarettes smoked will decrease the likelihood of becoming long-term smokers.

Summary of the Model Law

The model law has several key features. These are summarized below and discussed further in the section-by-section analysis. Some of these features can and should be modified by each state to reflect its internal organization and processes. But the underlying approaches, however implemented, are key to effective enforcement. The model law would:

- Create a licensing system, similar to that which is used to control the sale of alcoholic beverages, under which a store may sell tobacco to adults only if it avoids making sales to minors. Signs stating that sales to minors are illegal would be required at all points of sale.
- Set forth a graduated schedule of penalties—monetary fines and license suspensions—for illegal sales so that owners and employees face punishment

proportionate to their violation of the law. Penalties would be fixed and credible. Those who comply would pay only a license fee.

- Provide separate penalties for failure to post a sign, and higher penalties for sales without a license.
- Place primary responsibility for investigation and enforcement in a designated state agency, and exclusive authority for license suspension and revocation in that agency, but allow local law enforcement and public health officials to investigate compliance and present evidence to the state agency or file complaints in local courts.
- Rely primarily on state-administered civil penalties to avoid the time delays and costs of the court system, but allow use of local courts to assess fines, similar to traffic enforcement. This would provide flexibility to both state and local authorities to target enforcement resources. (An illegal sale could not result in two fines, but a local conviction would be reported to the state and count towards possible license suspension).
- Set the age of legal purchase at 19. This is higher than under many existing state tobacco statutes, but lower than the age for alcohol. States may wish to consider age 21, because addiction often begins at ages 19 and 20, but rarely thereafter.
- Ban the use of vending machines to dispense cigarettes, parallel to alcohol practice and reflecting the difficulty of preventing illegal sales from these machines. (This is another area where states should examine options carefully; allowing sales in places not legally open to minors, or use of store-controlled electronic enabling devices, may be acceptable alternatives. States could also consider phasing of the ban to minimize disruption.)
- Contain a number of features to minimize burdens on retail outlets: Requiring identification only for those who are not clearly above the age of 19, allowing a driver's license as proof of age, setting a nominal penalty for the first violation, disregarding one accidental violation if effective controls are in place, having the state provide required signs, and setting license fees lower for outlets with small sales volume.

The model law does not explicitly address several topics, including possession of tobacco by minors, earmarking revenues for enforcement, allowing local ordinances to be stronger than the state law, and authorizing use of minors in "sting" operations to detect violations. This does not mean that states should not consider including such provisions, as discussed further below, but that we did not believe them necessary or appropriate within the statute. For example, use of stings will be vital to effective enforcement of this law, but like other investigative procedures need not be detailed in statute.

In summary, the model law attempts to create workable procedures which will provide retail outlets the incentive and tools to refuse to sell to minors, as already required by law in almost all states. Stores which comply will have no burden other than a licensing fee and, in some cases, replacement of vending machine by over-the-counter sales. Compliance by responsible stores, which would quickly become the great majority, will enable state and local authorities to concentrate enforcement efforts on a small number of recalcitrant outlets. The few stores which are unable or unwilling to prevent sales to minors may elect to stop carrying tobacco products, or will lose the license to sell tobacco products. Adults will continue to be able to buy cigarettes and other tobacco products at a wide range of outlets.

Ultimately, the effectiveness of this legislation depends on the willingness of concerned citizens to report violations to authorities who are responsible for taking investigatory and, if necessary, enforcement action. We are sure that enough citizens are concerned; the model law simply provides an effective and efficient system to handle their complaints, filling voids in almost all state enforcement schemes. Indeed, merely putting an effective enforcement mechanism in place is the single most important reform. The better the mechanism, the less likely it will have to be used.

Section-by-Section Analysis

Section 1 states the title of the bill, here suggested as "Sale of Tobacco Products to Minors Control Act."

Section 2 presents appropriate findings of fact. Most important, in this context, are that tobacco products are addicting, that addiction almost always starts in teenage years, and that smoking causes death on a large scale. States exploring these issues may wish to consult recent reports of the Surgeon General, which summarize and synthesize the large body of knowledge extant.

Section 3 establishes a state "Office of Tobacco Control" and the key powers of that office. Whether that office would best be located in the Department of Health or the state alcohol sales licensing agency, or established as an independent agency, is uniquely a matter for state-specific decision.

Two key provisions of section 3 require the Office to operate a licensing system and to prepare and distribute to licensed outlets signs concerning sales to minors. Requiring a license for sale of tobacco products conditions the privilege of sale on compliance with the law. Later in the bill heavy penalties are provided for any sales (or free distribution) to any persons without such a license. Failure of licensed outlets to prevent sale to minors leads to financial penalties and revocation of the license. The text is worded to allow licensing mobile vendors—it is not the purpose of the law to harm any small businesses.

The state agency is empowered to investigate and enforce the law. The investigative and enforcement techniques are not specified in detail, since these are generally routine and well-established administrative functions. However, the most powerful technique for both investigation and enforcement will in most circumstances involve testing compliance by sending underage persons to stores which sell tobacco products—especially those which have been reported for illegal sales. A request to purchase cigarettes is then made and the sale, if consummated, provides evidence of violation of the statute. Properly designed and supervised by state or local officials, such testing can readily and inexpensively establish whether an outlet violates the law, and provide the basis for a formal complaint and enforcement decision. States and communities now using this approach often hire teenagers to perform this function as temporary employees, to provide insurance protection to the teenagers and assure proper supervision. Depending on other law (e.g., whether possession by minors is illegal) and court rulings, some states may wish to authorize this approach explicitly. Tennessee does so now.

The model law provides that local officials may also investigate violations, and either assist the state agency by bringing evidence before it or bring cases directly in local courts. Local officials in some cities and counties will have the resources and expertise to contribute significantly to enforcement. Such contributions will not only speed enforcement directly, but allow the state agency to allocate its resources where they are most needed. In general, the assumption of the bill is that there will be substantial state and local cooperation, similar to the kinds of arrangements used for traffic violations. A varied local role in investigation and

enforcement will also be useful in identifying techniques which are particularly effective within each state.

The license fee is suggested as $300 for most stores but only $50 for stores with a volume of tobacco sales below $5,000 a year. This should provide enough revenue to make enforcement budget-neutral, while protecting small businesses from what might be perceived as an onerous cost in relation to sales. Of course, enforcement costs will not necessarily vary by size of outlet and a state could balance these considerations differently. Regardless, a state could use additional distinctions (e.g., by size, or whether licensed to sell alcoholic beverages) or set these fees higher or lower, depending on other licensing systems, its revenue goals, and whether it wishes the tobacco control system to be fully financed through license fees. We have not suggested earmarking revenues to accrue directly to the Tobacco Control agency rather than the general fund, but some states might wish to do this.

Section 4 requires license holders to display the license and sign (section 7 provides a monetary penalty for failure to display them). A visible sign provides continuing notice to all—sales clerks, underage customers, and older customers—as to the law's requirements and the store's declared willingness to comply. The sign also aids clerks in refusing to sell to underage customers.

Section 5 provides that both licensees and their employees may not sell or give tobacco products to individuals known to be under the legal age, or to individuals who are not clearly older or who do not have appropriate proof of age such as a driver's license. It also bans entirely sales of "broken packs" (cigarettes are sometimes sold one-by-one to minors), vending machine sales, and sales other than at licensed outlets.

Two of these provisions raise significant questions. First, why age 19, when alcohol purchase is illegal below age 21 and most states now ban tobacco sales at age 18 or below? To the significant extent that tobacco, like alcohol, has been an adult privilege to which many teenagers turn at the first legal opportunity, raising the age will postpone such exposure until the adolescent has reached an age at which mature judgment has a better chance of overcoming the intense pressure to experiment with "adult" behaviors. This postponement may be even more important for tobacco than for alcohol, since nicotine is rapidly addicting. Even a month or so of regular smoking is likely to create a lifelong addiction for most persons. Also, a realistic appraisal must concede that most teenagers a year younger than the legal age can readily obtain tobacco products from friends who can legally purchase them. Thus, an age 18 limit exposes most 16 and 17 year old youth to an easily exercised temptation. Only if the age limit is at least 19 can the state be confident that most high school students will not have ready access to tobacco. Of course, a few teenagers will be able to obtain such products from family or older friends; the issue here is ready access for *most* teenagers. Finally, only if the age limit is at least 19 will smoke-free school policies be fully enforceable—no students will have legal access to tobacco products. States are encouraged to consider age 21; this will parallel alcohol practice and also protect older teenagers during years in which many are still vulnerable.

Second, why ban vending machine sales? The basic problem with these sales is that they do not require human intervention—the active participation of a clerk who sells the product only after observing or checking age. Vending machines are often used now by adolescents, and vending machines will nullify otherwise effective action preventing over-the-counter sales. Sales personnel at a register cannot effectively police even nearby machines while serving other customers. Individual states may wish to consider two variations: Allowing vending machine sales in places which minors may not legally enter at all, or electronic disabling devices which require positive action by a clerk to activate. However, Utah found that disabling devices were ineffectual in practice. Finally, states could consider allowing a grace period for elimination of these machines to minimize disruption.

Section 6 prohibits unlicensed sale or distribution of tobacco products. It allows exceptions for distribution by relatives or friends on private property not open to the public (e.g., the home) and for wholesale distribution. Section 7 provides for a find of up to $1,000, and imprisonment of up to 30 days, for unlicensed sale or distribution.

Section 7 establishes two types of financial penalties for violations committed at licensed outlets—civil money penalties and fines. These financial penalties apply both to license holders and sales personnel. Sales personnel are subject to penalties both to emphasize their responsibility under the law and to protect employers against the carelessness of employees. Financial penalties rise progressively with repeated offenses, and are designed to avoid penalizing compliant stores for truly isolated lapses occurring over wide periods of time. A license holder may also avoid one penalty in any two year period by showing that an effective system to prevent violations is in place, i.e., that the sale was a true lapse. The suggested penalty for a first offense is $100 and no suspension; the fourth violation brings a $1,000 dollar fine and a 9 to 18 month suspension of the license. In effect, law abiding stores have nothing to fear; persistent offenders will lose the right to sell tobacco products to adults.

The Department of Health and Human Services has found that use of civil money penalties assessed through administrative law judges rather than the courts has greatly improved the effectiveness and efficiency of enforcing various statutes related to fraud and abuse. The capacity of the Federal criminal justice system is so stretched that without the alternative of civil money penalties, many "minor" frauds or other crimes simply could not be prosecuted. States face similar constraints. Using civil money penalties is not an "either-or" choice—under existing Federal law, *both* civil and criminal remedies are available and the choice of which to use in particular cases greatly facilitates effective enforcement. The advantage of this added tool is not only case-specific but systemic: The mere existence of a credible and workable civil money penalty raises the potential cost of statutory violations, and thereby deters violations.

Although the model law emphasizes civil money penalties, fines are authorized as well to provide an enforcement role for both state and local authorities and to provide flexibility of approach. For any particular instance of noncompliance, only one financial penalty may be assessed. Any penalties assessed at the local level must be reported to the Tobacco Control agency so that this agency can accumulate records needed for license suspensions.

Thus, the model law allows the following kinds of flexibility:

- The Tobacco Control agency may develop a backlog of cases nonrenewal. Starting with the second offense, there are progressively steeper periods of suspension: Seven days for the second offense, up to 9 to 18 months for the fourth violation. Section 8 also provides for suspension of licenses for all outlets of a chain if more than three outlets have violated the law more than three times in a two year period. This provision creates a strong incentive for retail chains to ensure compliance by all of their outlets.

Other Matters. The model law does not prohibit purchase or possession of tobacco products by minors. Some states

and communities already prohibit these and others may wish to consider this. We left out such provisions because in our judgment they would be far harder to enforce—and of less relevance to preventing widespread availability—than prohibitions on sales. Such provisions also raise such issues as use of minors as sales clerks; establishment of enforcement procedures; establishment of penalties (small fines, community service, or attending smoking cessation programs are commonly proposed); and possible need to exempt purchase by minors in supervised "sting" operations. Regardless, any underage person smoking in public would indicate a potential violation of the sales ban even absent a possession or purchase law. Authorities could investigate the source of these tobacco products whether or not purchase or possession were banned. States willing to invest in enforcement for *both* sales and possession should consider adding possession prohibitions.

Finally, while the model law provides for a significant local role in enforcement, it does not provide for independent local statutes. States might wish to empower municipalities to levy higher fines or otherwise exercise some independent authority. The worst possible outcome would be to enact a state statute which failed to establish an effective and workable enforcement system while preempting local governments from filling this void.

Conclusion

Existing state laws prohibiting sales of tobacco products to minors have largely been ineffectual. This enforcement failure is hypocritical and contributes to a scoff-law environment. Unlike some other law enforcement problems, this is neither inherent or insuperable. Eliminating virtually all sales to minors does not even present particularly difficult enforcement problems. It simply requires workable procedures which create swift and sure sanctions for violations, with minimal cost or inconvenience to retailers and adult customers. There is a large and articulate body of citizenry—including a large proportion of teenagers and retailers—who understand the gravity of tobacco consumption as a public health problem and who would welcome reasonable laws. Enactment and responsible implementation of this model law is the single most important reform to improve the health of its citizens that any state could undertake in the decade of the 1990s.

Model Sale of Tobacco Products to Minors Control Act

Section 1. *Short Title.*

This Act may be cited as the "Sale of Tobacco Products to Minors Control Act".

Sec. 2. *Findings.*

The Legislature finds that——

(1) Approximately 390,000 Americans die each year of diseases caused by cigarette smoking,

(2) The Surgeon General of the Public Health Service has determined that smoking is the leading cause of preventable death in this country,

(3) Nicotine in tobacco has been found by the 1988 report of the Surgeon General, *The Health Consequences of Smoking: Nicotine Addiction* to be a powerfully addictive drug, and it is therefore important to prevent young people from using nicotine until they are mature and capable of making an informed and rational decision,

(4) Most adults who smoke wish to quit, a majority of current adult smokers have tried to quit without success, and one-half of all teenagers who have been smoking for five years or more have made at least one serious but unsuccessful attempt to quit,

(5) Every day more than 3,000 minors begin smoking,

(6) One-half of smokers begin before the age of 18, and 90 percent begin before the age of 21, and

(7) Minors spend more than one billion dollars on cigarettes and other tobacco products every year.

Sec. 3. *Office of Tobacco Control.*

(a) *Establishment of Office.*—There is established in the Department of _____ an Office of Tobacco Control. The Office shall be headed by a Director.

(b) *Functions of Director.*—The Director shall—

(1) Issue licenses for the sale of tobacco products,

(2) Provide without charge signs (concerning the prohibition on sales to individuals under 19 years of age) that meet the requirements of subsection (d) to persons licensed to sell tobacco products,

(3) Investigate (concurrently with other State and local officials) violations of sections 4 through 6,

(4) Enforce civil money penalties under section 7, (5) enforce (concurrently with other State and local officials) fines under section 7, and

(6) Bring license suspension, revocation and nonrenewal actions under section 8.

(c) *Licenses.*— (1) A license for the sale of tobacco products shall be issued to a specific person for a specific outlet (a fixed location or mobile unit) and shall be valid for a period of one year.

(2) The annual fee for a license is $50 for an outlet whose annual volume of tobacco sales is less than $5000, and $300 for an outlet whose annual volume of tobacco sales is $5000 or more.

(d) *Signs Concerning Sales to Individuals Under Age 19.*—Signs to be provided under subsection (b)(2) shall—

(1) Contain in red lettering at least one-half inch high on a white background "IT IS A VIOLATION OF THE LAW FOR CIGARETTES OR OTHER TOBACCO PRODUCTS TO BE SOLD TO ANY PERSON UNDER THE AGE OF 19", and

(2) Include a depiction of a pack of cigarettes at least two inches high defaced by a red diagonal diameter of a surrounding red circle.

Sec. 4. *Display of License and Signs.*

A person that holds a license issued under section 3(b)(1) shall—

(1) Display the license (or a copy) prominently at the outlet for which the license is issued, and

(2) Display prominently at each place at that outlet at which tobacco products are sold a sign that meets the requirements of section 3(d).

Sec. 5. *Prohibitions Applicable To License Holders and Their Employees and Agents.*

(a) *Prohibition on sale or distribution to individuals under the age of 19 and in certain other cases.*—A person that holds a license issued under section 3(b)(1), or an employee or agent of that person, may not sell or distribute a tobacco product—

(1) To any individual that the license holder, employee, or agent knows is under 19 years of age,

(2) To any individual (other than an individual who appears without reasonable doubt to be over @9 years of age) who does not present a driver's license (or other generally accepted means of identification) that describes the individual as @9 years of age or older, contains a likeness of the individual, and appears on its face to be valid,

(3) In any form other than an original factory-wrapped package, or

(4) Other than at an outlet for which a license has been issued under section 3(b) (@@.

(b) *Prohibition on maintaining vending machines.*—A person that holds a license issued under section 3(b)(1), or an employee or agent of that person, may not maintain at a licensed outlet any device that automatically dispenses tobacco products.

(c) *No more than one violation on any one day.*—No person shall be liable under the preceding subsections for more than one violation on any one day.

Sec. 6. *Prohibition on unlicensed sale or distribution of tobacco products.*

(a) *General rule.*—No person, other than a person who holds a license issued under section 3(b) (@@, or an employee or agent of that person, may sell or distribute a tobacco product.

(b) *Exceptions.*—Subsection (a) does not apply to—

(1) Distribution by an individual to family members or acquaintances on private property that is not open to the public, or

(2) The sale or distribution to a manufacturer of tobacco products, to a wholesaler of tobacco products, or to a person who holds a license issued under section 3(b)(1).

Sec. 7. *Penalties.*

(a) *Nature and size of penalties.*—(1) Any license holder that violates a requirement of section 4 shall be subject to a fine or civil money penalty of not more than $100.

(2) Any license holder, employee, or agent that violates a prohibition of section 5 shall each be subject to—

(A) A fine or civil money penalty of $100, for the first violation within a two year period.

(B) A fine or civil money penalty of $250, for the second violation within a two year period,

(C) A fine or civil money penalty of $500, for the third violation within a two year period,

(D) A fine or civil money penalty of $1000, for any additional violation within a two year period.

(3) Any person that violates a prohibition of section 6 shall be subject to a fine of not more than $@000, or imprisonment of not more than 30 days, or both.

(b) *Exception for license holder.*—A person that holds a license issued under section 3(b)(1) shall not be subject to a fine or civil money penalty under subsection (a)(2) for a violation by an employee or agent of a prohibition under section 5, and an assessment of a fine or civil money penalty under subsection (a)(2) for a violation by an employee or agent shall be disregarded for purposes of section 8(a), if the license holder affirmatively demonstrates that the license holder has an effective system in place to prevent violations of the prohibitions under section 5. The exception prescribed by the preceding sentence applies only once to a license holder during any two year period.

(c) *No double penalty.*—(1) If an action has been commenced against a person under subsection (a)(1) or (a)(2) for a particular violation for the payment of a fine, no action may be commenced against that person for that violation for the payment of a civil money penalty.

(2) If an action has been commenced against a person under subsection (a)(1@ or @a) (2) for a particular violation for the payment of a civil money penalty, no action may be commenced against that person for that violation for the payment of a fine.

(d) *Notification to Office of Tobacco Control of Fines Imposed.*—A court shall notify the Director of the Office of Tobacco Control of any fine imposed under subsection (a)(2).

Sec. 8. *Suspension, revocation, and nonrenewal of licenses.*

(a) *Suspension, revocation, and nonrenewal of individual licenses.*—A license issued under section 3(b)(1) for a particular outlet shall be suspended or revoked, and not renewed, for a period of—

(1) 7 days, if a fine or civil money penalty has been imposed under section 7(a)(2) for the second violation at that outlet within two years,

(2) 1 to 6 months, if a fine or civil money penalty has been imposed under section 7(a)(2) for the third violation at that outlet within two years, or

(3) 9 to 18 months, if a fine or civil money penalty has been imposed under section 7(a)(2) for any additional violation at that outlet within two years.

(b) *Suspension, revocation, and nonrenewal of all licenses for outlets under common ownership or control.*—All licenses issued under section 3(b)(@) for outlets that are under common ownership or control shall be suspended or revoked, and not renewed, for a period of 9 to @8 months, if fines or civil money penalties have been assessed under section 7(a)(2) for three or more violations at three or more outlets within a two year period.

(c) *No double counting.*—A violation committed by an employee or agent, and attributed to a license holder, shall be counted only once for purposes of the preceding subsections.

(d) *Exception.*—See section 7(b).

* * * * *

Appendix B to Preamble—Youth Access to Tobacco

December 1992

Office of Inspector General

U.S. Dept. of Health and Human Services

Executive Summary

Purpose

To assess the level and characteristics of State and local enforcement of laws limiting youth access to tobacco.

Background

In 1990, the Office of Inspector General (OIG) inspection, "Youth Access to Cigarettes" found that 45 States had laws prohibiting the sale of cigarettes to minors. However, States were not enforcing their laws. The report provided information for the development of the Secretary's "Model Sale of Tobacco Products to Minors Control Act: A Model Law Recommended for Adoption by States or Localities to Prevent the Sale of Tobacco Products to Minors."

The Office of the Secretary has asked the Office of Inspector General (OIG) to conduct a follow-up survey of the enforcement of State laws limiting youth access to tobacco. In addition, the Congressional Subcommittee on Health and the Environment has requested the OIG's assistance in determining the extent to which States have adopted and are enforcing youth access laws.

Recently, significant youth access legislation has been enacted. In July 1992, the President signed the ADAMHA Reorganization Act, PL 102–321, which requires States to ban the sale and distribution of tobacco products to anyone under the age of 18 by October 1, 1994. It also requires States to enforce their laws "in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to underage youths."

Findings

Although most States prohibit the sale of tobacco to minors, their failure to enforce their laws would place them out of compliance with the new Federal law:

All but three States ban the sale of tobacco to minors under the age of 18. Montana does not have a law prohibiting the sale of tobacco, New Mexico only prohibits the sale of smokeless tobacco and Georgia bans sales to minors under 17 years of age rather than 18.

Only two States are enforcing their laws restricting the sale to minors statewide.

In Florida and Vermont, the liquor control agencies enforce their youth access laws statewide.

A few States are funding local initiatives to reduce youth access. Four States (California, New Jersey, North Dakota and Utah) make funds available specifically to limit youth access or as part of broader tobacco education and control efforts.

Low priority by police and lack of a designated enforcer are seen as obstacles to enforcement. State respondents also

frequently cite a lack of community awareness of youth access issues and a lack of commitment to enforcing these laws as serious problems.

Despite lack of State efforts, some localities are demonstrating enforcement is possible.

These localities have developed different enforcement models. All, however, enforce State or local laws, designate an agency responsible for enforcement, and choose a method of enforcing that best meets their needs.

Vending machine restrictions are the most common initiative. In addition to their State laws prohibiting the sale of tobacco to minors, 21 States and Washington DC have passed laws that restrict vending machines.

Conclusion

Our finding that most States are not enforcing their laws limiting youth access to tobacco is a major concern given the requirements of Public Law 102–321. While we found that most States have laws that prohibit the sale of tobacco to minors, they must move quickly to enforce their laws to avoid the penalty.

State Options

The models that exist at the State and local levels present successful options for enforcing youth access laws. This report describes steps that can be taken by States that can reasonably be expected to reduce tobacco usage by youth. The States can:

Designate an enforcer
Ban vending machines
Enact provision of the model law
Educate communities and vendors
Post signs
Conduct stings

Federal Options

HHS has already taken steps to provide guidance to the States, however, as the Department implements the new law, there may be other ways to provide leadership and direction to the States. The Department can:

Provide technical assistance to the States
Monitor States activities and collect base line data
Conduct research on effective enforcement models
Develop criteria

* * * * *

Youth Access to Tobacco

OEI–02–91 December 1992
Office of Inspector General
U.S. Dept. of Health and Human Services

Introduction

Purpose

To assess the level and characteristics of State and local enforcement of laws limiting youth access to tobacco.

Background

The Office of the Secretary has asked the Office of Inspector General (OIG) to conduct a follow-up survey to a 1990 OIG inspection of the enforcement of State laws limiting youth access to tobacco. In addition, the Congressional Subcommittee on Health and the Environment has requested the OIG's assistance in determining the extent to which States have adopted and are enforcing youth access laws.

Federal Initiatives

In 1990, the OIG surveyed States regarding their laws on the sale of cigarettes to minors. The OIG inspection, "Youth Access to Cigarettes," OEI–02–90–02310, reported that 45 States had laws prohibiting the sale of cigarettes to minors. However, States were not enforcing their laws. The five States that could provide statistical information documented a total of only 32 vendor violations in 1989. The few places actively enforcing youth access to tobacco laws were mostly localities.

The inspection report provided information for the development of the Secretary's "Model Sale of Tobacco Products to Minors Control Act: A Model Law Recommended for Adoption by States or Localities to Prevent the Sale of Tobacco Products to Minors." The model law called for: (1) Licensing of vendors and revocation of their license if they sell to minors, (2) a graduated schedule of penalties so that vendors and employees are punished proportionate to their violation of the law, (3) penalties for failing to post signs, (4) designating State or local, law or health officials for enforcement, (5) civil in addition to criminal penalties to avoid overloading the criminal justice system, (6) an age of legal purchase of at least 19, (7) banning or greatly restricting access to vending machines, and (8) minimizing the burden of compliance on retail outlets.

The model law was widely distributed. Each State governor received a copy, as did State health department officials and anti-smoking groups. The law was also made available to localities active in establishing and enforcing youth access laws, and to experts in the youth smoking field. Further, the Secretary and the Surgeon General frequently spoke about the model law.

The Centers for Disease Control's Office on Smoking and Health is the focal point within the Federal government for tobacco-related efforts. The office's activities include expanding the science base of tobacco control through implementation of epidemiologic studies, surveillance activities and publications such as the Surgeon General's Report on the Health Consequences of Smoking; coordinating national media information and education campaigns to educate the public on the health hazards of tobacco use; and assisting States to build their capacity to sustain broad-based tobacco control programs.

Other Federal activity includes the National Cancer Institute's (NCI) ongoing Community Intervention Trial for Smoking Cessation (COMMIT) and its American Stop Smoking Intervention Study for Cancer Prevention (ASSIST) programs. COMMIT promotes community health concepts and technologies in 11 cities. The ASSIST program incorporates COMMIT's strategy and efforts and extends it statewide. The ASSIST program, currently in 17 States, works to create comprehensive programs to prevent and control tobacco use. The NCI collaborates with the American Cancer Society (ACS), State and local health departments and other related organizations.

Recently, significant youth access legislation has been enacted regarding youth access to tobacco. In July 1992, the President signed the ADAMHA Reorganization Act, Public Law 102–321. This new law requires States to ban the sale and distribution of tobacco products to everyone under the age of 18. It also requires States to enforce their law "in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to underage youths." The States must annually submit a report to the Secretary describing their enforcement activities and annually conduct "random, unannounced inspections," commonly called stings or observed buys. States must implement these provisions by Fiscal Year 1994, or risk a reduction in Federal funds for mental health, alcohol and other drug abuse programs.

Tobacco Use Among Youth

Despite the States' laws and national attention to the problem, tobacco use continues to be widespread among youth. The Centers for Disease Control (CDC) estimates that as many as 1 million American minors start to smoke each year, about 3,000 per day. They also estimate that in 1990 teenagers

bought 947 million packs of cigarettes and 26 million cans of smokeless tobacco, which is chewing tobacco and snuff. Further, approximately 75 percent of current smokers became addicted to tobacco by age 18, generally before it was even legal for them to purchase tobacco products. About half of the tobacco industry's profits, $3.35 billion, derives from sales to smokers who became addicted as children.[1] Tobacco is also an initial drug preferred by young people and is associated with other drug use.[2]

Other studies also suggest tobacco use is prevalent among youth. The 1990 school-based Youth Risk Behavior Survey, conducted by the CDC, found that about 36 percent of all students nationally, in grades 9–12, reported using some form of tobacco during the 30 days preceding the survey. About 32 percent of students used cigarettes, 10 percent used smokeless tobacco, and some used both.[3]

Another study indicates minors use smokeless tobacco extensively. Between 1970 and 1986, the use of snuff increased 15 times and the use of chewing tobacco four times among males ages 17 to 19.[4] An OIG inspection, "Youth Use of Smokeless Tobacco: More Than a Pinch of Trouble," P–06–86–0058, published in 1986, concluded that "addiction is a serious problem for many (smokeless tobacco) users * * * youth use of smokeless tobacco is a growing national problem with serious current and future health consequences."[5]

Research shows that children can still easily buy tobacco products. A 1990 study by Drug Free Youth, covering 93 communities in 38 States, found that "merchants readily sell cigarettes to children in every city."[6] This study, as well as others, indicates that 70 to 80 percent of merchants sell cigarettes to minors. These sale rates support Secretary Sullivan's statement that "access of minors to tobacco products is a major problem in every State." Based on current rates of smoking, he projects 5 million American children alive today will die of a smoking-related disease.

A recent study by the American Cancer Society suggests that the public supports youth access laws and their enforcement. The survey of 1,096 adults from four States found that 86 percent believe there should be stronger laws to prevent tobacco sales to minors; 90 percent believe there should be better enforcement.[7]

[1] Footnotes to appear at end of article.

Methodology

The inspection team interviewed the 51 National Network of State Tobacco Prevention and Control contacts, a group of State health department officials representing the 50 States and Washington DC. The team asked these respondents to identify legislative and enforcement activity occurring at the State level. State respondents also identified local officials enforcing youth access laws and any research evaluating the effectiveness of enforcement.

Additionally, the team reviewed all State youth access laws. We requested the laws from each State contact and analyzed them according to key components. (See Appendix A).

The team also interviewed selected local officials to assess enforcement activity and to obtain their opinions and experience about effective methods of enforcement. These methods include stings and observed buys. For the purposes of this inspection, a sting is an enforcement technique where underage youth are accompanied by an enforcement agent and attempt to buy tobacco. An observed buy is a technique whereby the enforcer checks or watches stores to see if they sell to minors. The team selected localities based upon discussions with the State respondents, informal discussion with experts in the tobacco field and a review of the Tobacco Access Law News (a compilation of current legislative and enforcement activity). The local officials interviewed were also selected to represent different geographical locations and enforcement approaches.

Findings

Although Most States Prohibit the Sale of Tobacco to Minors, Their Failure to Enforce Their Laws Would Place Them out of Compliance With the New Federal Law

All but three States ban the sale of tobacco to minors under the age of 18.

Public Law 102–321 requires States by October 1, 1994 to ban the sale and distribution of tobacco products to minors under 18 years of age. All but three States have laws that ban the sale of tobacco to minors. Montana is the only State without any law prohibiting the sale of tobacco products. Georgia prohibits sales to minors under 17 years of age rather than 18 and New Mexico only prohibits the sale of smokeless tobacco. (All other laws include both cigarettes and smokeless tobacco.) Three States (Georgia, Louisiana and Virginia) however, only address the sale of tobacco products and not distribution. Since 1990, youth access legislation has been a dynamic area of change; 23 States have enacted new legislation.

States' youth access laws vary. Alabama, Alaska, and Utah prohibit tobacco sales to minors under 19. About two-thirds (36) of the States' laws are criminal; 13 States' laws are civil. California's laws may be enforced as either a criminal law or a civil law. However, very few States (8) name a specific agency or organization to enforce the law. Enforcement is often placed, almost be default, with local police departments. All of the States with laws have fines as a penalty for violating the law, and 17 include jail.

Many of the States (29) require that signs be present at the point of sale. Thirty-one States require vendors of tobacco products to be licensed. Further, 23 States make it illegal for minors to purchase tobacco products and 21 limit minors from possessing tobacco products. Lastly, five States preempt localities from creating more stringent local ordinances that relate to minors' access to tobacco products. (See Appendix A for a summary of State law provisions.)

Only two States are enforcing their laws restricting the sale to minors statewide.

State enforcement has not changed greatly since the previous OIG report, "Youth Access to Cigarettes," two years ago. Although States have laws, interviews with the State Tobacco Prevention and Control contacts indicate that 48 States and Washington D.C. do not enforce their laws statewide. Respondents in seven of these States report enforcement is minimal and is conducted randomly at the local level; they cite only a handful of vendor violations.

Florida and Vermont are the only States enforcing their laws statewide. Since 1990 Vermont is the only State that began enforcing youth access laws statewide. Both Florida and Vermont designate the state liquor control agency for this purpose. However, Florida's law is criminal and Vermont's is civil.

In Florida, the Department of Business Regulations enforces tobacco as well as alcohol access laws. It conducts stings, observes buys, and responds to complaints from the public of vendors selling to minors. Alcohol licensing fees in the past have funded these activities. However, recent legislation, effective January 1993, requires tobacco vendors to be licensed and their fees to be used to fund full-time tobacco enforcement staff. State respondents report it is easier to convict vendors in Florida by conducting a sting or a buy in response to a complaint because it establishes a predisposition.

Some judges consider random stings to be entrapment. Last year, Florida reported 22 violations.

Vermont has only recently begun enforcing its youth access law. The Department of Liquor Control enforces it statewide. Initially, the liquor agency sent signs, posters and license applications to retailers. Following this campaign, a team of 14 liquor control inspectors began making random unannounced visits twice a week to vendors. No violations have yet been reported.

Two other States, Utah and South Dakota, enforce youth possession laws. In 1991, Utah police and school monitors issued nearly 5,000 violations to minors, but only 30 to vendors. Similarly, in FY 1991 South Dakota police issued 58 violations to minors but only 3 to vendors. Pub. L. 102–321 does not address youth possession.

A few States are funding local initiatives to reduce youth access.

While not actually enforcing their State access laws, four States make funds available to localities interested in limiting youth access to tobacco. (Utah, California, North Dakota and New Jersey). Three of them, Utah, California, and New Jersey, encourage local initiatives to reduce youth access as part of broader tobacco education and control efforts. North Dakota makes grants specifically for youth access. Further, Utah and California make grants to all counties while the other two States fund only select local sites.

Utah's Department of Health contracts with district health departments to conduct tobacco control and prevention activities. Districts choose from a number of different tobacco initiatives, ranging from youth access to worksite smoking policies. Every district addresses youth access in some way. All twelve districts have extensive vendor education campaigns; five districts educate law enforcement officers about the importance of the law. Law enforcement and/or health departments conduct observed buys in six districts. In one district, law enforcement officials have issued violations.

California provides funding for local youth access initiatives. In 1988 California passed Proposition (Prop) 99, which increased the cigarette tax to 35 cents to fund anti-tobacco education and control programs. Prop 99 created tobacco control programs throughout the State by funding county health departments, nonprofit organizations and schools. These programs include prevention education, cessation and policy initiatives. Many of the programs target youth among other groups. Prop 99 funds two projects specifically to reduce youth access, STAMP, Stop Tobacco Access to Minors Project and TRUST, Teens and Retailers United to Stop Tobacco. So far, TRUST has conducted merchant education, while STAMP has more actively enforced youth access. In conjunction with STAMP, three communities in Solano County, conduct regular stings and issue violations. STAMP also conducts merchant and community education campaigns and underage buy surveys in six counties. Three counties are currently exploring civil prosecution of vendors who have repeatedly sold to minors. A study by the University of San Diego suggests that the anti-smoking campaign has contributed to a 17 percent decline in smoking from 1987 to 1990.

New Jersey makes youth smoking prevention grants to localities. The State Health Department issued eight three-year grants to local health departments to encourage innovative education and youth cessation programs. Most of the communities receiving grants focus on educating vendors. Some local health departments visit vendors to inform them of the State law and to encourage them to voluntarily comply. However, one community also uses the grant to conduct observed buys and stings, and to enforce a local vending machine restriction. This community began enforcing the law following a highly publicized educational campaign. So far, health department officials have issued warnings to vendors who violate the law and are planning to issue citations shortly.

North Dakota also encourages local youth access initiatives. Its Department of Health made youth access grants to seven cities. These grants encourage cities to educate and work with police and retailers, and to enact city ordinances limiting vending machines. The seven cities have achieved these goals to varying degrees. Some have successfully enacted local vending machine laws. A few have also conducted observed buys. So far, none have issued violations against vendors.

Low priority by police and lack of a designated enforcer are seen as obstacles to enforcement.

State respondents cite a number of problems in enforcing youth access laws. Most State youth access laws are criminal and, therefore, only enforceable by police. State respondents most frequently cite the low priority given by police to enforcing tobacco sale laws. One respondent notes, "Law enforcement agencies are understaffed and they have no desire to enforce anything not considered pressing." Other respondents cite the lack of an agency clearly identified as responsible for enforcement as a problem. One respondent, typical of many, said, "There's no one charged with enforcement, it's not coordinated in any way."

State respondents frequently cite a lack of community awareness of youth access and smoking and a lack of commitment to enforcing the laws as serious problems. Several believe that communities do not consider tobacco and youth access important issues. "We need an evolution of attitudes—the public has a general attitude that alcohol should not be sold to kids. They don't feel the same way about cigarettes." Several respondents report that the police will not enforce the law if the community is not supportive. One reports, "The community must motivate police to enforce youth access * * * the police will respond to this pressure." A few States also mention the lack of concern by vendors as a problem.

State respondents report difficulties in convicting vendors. Several State respondents believe State legislative language is vague and causes difficulties in enforcing the law. Several States' laws contain the phrase, "to knowingly sell tobacco products to minors." Respondents claim this makes it difficult to convict vendors because vendors claim they did not know the person they sold to was underage. Further, judges are sometimes reluctant to convict clerks for selling cigarettes to minors. They often dismiss the cases, believing the vendor should be penalized, not the clerk. Also, some judges dismiss violations issued as the result of random stings, considering them as entrapment.

Despite Lack of State Efforts, Some Localities Are Demonstrating Enforcement is Possible

Based on our interviews with State respondents and experts and a literature review, we identified localities that enforce laws prohibiting the sale of tobacco to minors and/or laws prohibiting the possession of tobacco by minors. In several instances State and Federal programs have encouraged localities, through grants and contracts, to enforce youth access laws. In other instances, individuals interested in the issue and grassroots groups have taken youth access on as their own cause. Some localities have developed coalitions, working together with advocacy groups and local health departments, to raise community awareness and win the support of local merchants and police. As one local respondent comments "We needed to develop enforcement at the local level

* * * there is no enforcement at the State level and it is easier to enforce at the local level."

Regarding sale to minors laws, we identified 52 localities in 19 States that enforce these laws and have developed varying models. All, however, enforce either State or local laws, designate an agency responsible for enforcement, and choose a method of enforcing that best meets their needs. Some have conducted research to evaluate the effectiveness of their efforts. The following are examples of how local models differ on these characteristics.

Type of law: Slightly more than half of the localities enforce State laws while the others have enacted and are enforcing local laws. Several localities enforce the State law prohibiting the sale of tobacco to minors, but have enacted and enforce local ordinances restricting vending machines.

Research suggests that the effect of enacting and implementing local ordinances varies. Preliminary analyses of a study, which compared Marquette County, Michigan to a county with no access law, indicates that passing a law does not significantly change the perceived difficulty of buying tobacco, knowledge of the legal age or smoking rates among youth.[8] However, the previously mentioned study by Drug Free Youth, conducted in 95 communities in 38 States, found that passage of an ordinance has some effect on sales to minors. Stores in cities with ordinances sold to minors about 48 percent of the time; stores in cities without ordinances sold to them about 82 percent of the time.[9]

Designated Enforcer: In 23 localities, local police enforce the law. In another 21 localities, local health officials enforce the law, and in the remaining localities licensing or regulatory agencies are responsible for enforcement. A few localities have coordinated efforts between the health department and police.

Opinions differ as to who should enforce youth access laws. State respondents most frequently designate health departments. The majority of these respondents believe that health departments are more concerned about tobacco than are police. One comments, "It is not a public safety issue, but rather a health issue." However, other State respondents consider police the best enforcers. Most of these respondents believe it is more appropriate for the police to enforce because as one says, "enforcement is their business." Still others believe licensing and other regulatory agencies should be responsible; since these departments would issue the license to sell tobacco, they would have authority to suspend it.

Method of Enforcement: Localities enforce their law differently.

They enforce access by using stings, observing buys, responding to complaints by the public or a combination of these mechanisms. Frequently, localities conduct an initial sting to document that minors can easily buy tobacco and use this information to attract the media, educate retailers and raise community awareness. Twenty-one localities have conducted stings for such educational purposes.

However, research appears to indicate that education alone is not enough. A study in Santa Clara, CA reports that while a retailer education campaign reduced sales to minors, one year later sales rebounded as a result of no enforcement.[10]

Other localities enforce the law more extensively. Twenty-one localities conduct stings or observed buys and penalize violators. They issue fines and/or suspend the vendor's license. Some have taken vendors or clerks to court. Several respondents in these localities believe the only way to get compliance is to penalize vendors. Many comment that if vendors are threatened with suspension of their license to sell tobacco they will comply.

The remaining localities conduct stings or buys, but do not issue violations. They usually warn the vendors or clerks who sell tobacco illegally to minors. Some believe initially warning vendors is only fair, but in the future plan to issue violations.

Others believe conducting observed buys without issuing violations sufficiently alerts vendors and discourages them from selling to minors.

Research suggests that regular stings and violations can be effective in reducing youth access and, in some cases, smoking. In Woodridge, Illinois, police conduct regular stings and issue criminal violations to vendors. As a result, tobacco sales to minors decreased from 70 percent to 5 percent. Experimentation and regular use of cigarettes by minors reportedly decreased 50 percent.[11] Another study conducted in Everett, Washington suggests that a local ordinance enforced by the threat of fines and license revocation reduced sales to minors and significantly reduced tobacco use among girls.[12]

Other studies indicate that enforcement decreases sales to minors significantly. In Solano County, California, local police in two towns conduct stings twice a year and issue citations. Researchers report that while originally 71 percent of vendors sold to minors, only 24 percent sold after citations were issued.[13] Likewise, in Sponkane County, Washington local health departments conduct regular stings but do not issue violations. Researchers here show that passing a local regulation and conducting regular views decreased sales to about 27 percent.[14]

A study, conducted in Bollingbrook, Illinois, suggests frequent checks are necessary to maintain compliance. In 1989 and 1990, when observed buys were conducted quarterly, only 18 percent of stores were noncompliant. In 1991, buys were conducted less frequently and 35 percent were noncompliant.[15]

Regarding youth possession laws, we identified a few localities that enforce youth possession laws to reduce youth access. Some localities in North Dakota, Wyoming and Minnesota issue violations for possession of tobacco by minors. In Gillete, Wyoming, for example, police issue violations to minors to discourage youth from using tobacco. Here, the police initially wanted to stop teens from loitering and they decided to enforce the law against possession of tobacco by minors. They now work successfully with schools to educate and reduce access and tobacco use among youth. They believe possession laws limit peer pressure and send a consistent message to youth to stop using tobacco.

Opinions differ as to whether possession should be made illegal. Some respondents want minors to share the blame with vendors. They believe that possession and sale laws send an appropriate message to both youth and vendors and will effectively reduce youth smoking. However, other respondents believe that youth should not be blamed and that vendors selling to minors is the issue.

Vending Machine Restrictions Are the Most Common Initiative

Restricting tobacco vending machines is the most commonly observed way States and localities limit youth access to tobacco. In addition to their State laws prohibiting the sale of tobacco to minors, 21 States and Washington DC have passed laws that restrict vending machines in some manner.

States have adopted different types of vending machine restrictions. Nine States and Washington DC restrict the placement of vending machines to areas inaccessible to minors, such as bars, liquor stores, work areas and private clubs. Five States require that vending machines be supervised by the owner or

an employee, or that the machines be equipped with a locking device that can be released once the age of the person using the machine is verified. Seven States combine these approaches by restricting the placement and/or requiring supervision. In five of these States localities have enacted even stricter local vending machine ordinances.

Over 140 localities in 19 States have enacted local ordinances limiting vending machines. Nearly one-third of these localities have banned vending machines altogether. The remaining localities have limited placement and/or required supervision or locking of vending machines.

All State respondents interviewed agree that vending machines should be limited in some way. One respondent expressed the beliefs of many when he said, "Ban all vending machines, they are easy access (for minors)." Others believe that localities should "put vending machines only in places that can be monitored or just get rid of them altogether."

Vending machine bans and placement restrictions require minimal enforcement. One State respondent comments, "vending machines are the only part (of youth access laws) that are enforceable." Often, localities can enforce vending machine restrictions by initially reviewing their placement and sending a follow-up notice to vendors not in compliance. Another State respondent said, a "letter can usually get rid of vending machines."

Ordinances that call for supervision or locking devices are not as easily enforced. Supervision of vending machines requires the same enforcement efforts as over the counter sales and are therefore, generally not being enforced. Additionally, a recent study in Minnesota concludes that "compliance with locking device laws is a problem." The study suggests that locking devices require additional enforcement to ensure compliance and may not be effective as vending machine bans. The author of the study also notes the importance of restricting vending machines, stating "it is hard to get over-the-counter merchants to take the age-of-sale laws seriously when they know that cigarettes are available in vending machines freely."[6]

Conclusion

Our finding that most States are not enforcing their laws limiting youth access to tobacco is a major concern given the requirements of Pub. L. 102–321. While we found that most States have laws that prohibit the sale of tobacco to minors, they must move quickly to enforce their laws to avoid the potential federal penalty on their FY 1994 ADAMHA Block Grant funds.

State Options

The models that exist at the State and local level present different successful options for enforcing youth access laws. Most often they include stings and vending machine restrictions. Each State must develop and implement its own enforcement program to reduce youth access and youth smoking. This report, however, describes several steps that can be taken by the States that can reasonably be expected to reduce tobacco usage by youth. The States can:

—Designate an enforcer
—Ban vending machines
—Enact provisions of the model law
—Educate communities and vendors
—Post signs
—Conduct stings

Federal Options

HHS has already taken steps to provide guidance to the States to assist them with their efforts to reduce the extent to which tobacco products are available to underage youth by developing and disseminating the Model law. However, as the Department implements the new law requiring that States ban the sale and distribution of tobacco products to anyone under the age of 18 and to enforce their laws, there may be other ways for the Department to provide leadership and direction to the States. The Department can:

—Provide technical assistance to the States
—Monitor States activities
—Conduct research on effective enforcement models
—Develop criteria
—Collect baseline data

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STATE LAW PROVISIONS*

[*See legend at end of matrix]

State	Age	Sale	Possession	Purchase	Licenses	Signs	Vending machines	Graduated penalties	Fines	Jail	Revocation	Enforcer	Preemption
AK	19	CV	Y		Y	Y	B		Y		Y		

STATE LAW PROVISIONS*

[*See legend at end of matrix]

State	Age	Sale	Possession	Purchase	Licenses	Signs	Vending machines	Graduated penalties	Fines	Jail	Revocation	Enforcer	Preemption
AL	19	CR			Y				Y	Y	Y		
AR	18	CR			Y	Y	B	Y	Y		Y		
AZ	18	CR	Y	Y	Y				Y				
CA	18	**				Y			Y				Y
CO	18	CR		Y		Y	B		Y				
CT	18	CV		Y	Y	Y	B	Y	Y				
DC	18	CR			Y	Y	P	Y	Y	Y	Y		
DE	18	CR	Y		Y				Y			Y	
FL	18	CR			Y	Y			Y	Y		Y	
GA	17	CR			Y	Y	S		Y		Y		
HI	18	CV	Y	Y		Y	P	Y	Y			Y	
IA	18	CR	Y	Y	Y		L		Y		Y	Y	Y
ID	18	CR	Y	Y	Y		S	Y	Y	Y			
IL	19	CR		Y		Y		Y	Y				
IN	18	CV	Y	Y		Y	P		Y				
KS	18	CR		Y	Y				Y	Y	Y		
KY	18	CR				Y		Y	Y				
LA	18	CR		Y		Y			Y				
MA	18	CR			Y	Y		Y	Y	Y			
MD	18	CV							Y	Y			
ME	18	CV		Y	Y	Y	S		Y				
MI	18	CR	Y	Y		Y			Y			Y	
MN	18	CR		Y	Y		B		Y	Y			
MO	18	CR				Y		Y	Y				
MS	18	CR							Y	Y			
MT	.....												
NC	18	CR							Y	Y			
ND	18	CR	Y		Y		S		Y	Y			
NE	18	CR	Y		Y		P		Y				
NH	18	CV	Y	Y	Y	Y		Y	Y				
NJ	18	CR			Y	Y			Y				
NM	18	CR		Y	Y	Y	P						Y
NV	18	CV			Y				Y		Y		
NY	18	CV			Y	Y	P	Y	Y		Y	Y	
OH	18	CR					B	Y	Y				
OK	18	CR	Y		Y				Y	Y			
OR	18	CV	Y	Y		Y	P		Y				
PA	18	CR		Y	Y			Y	Y	Y			
RI	18	CR	Y	Y	Y	Y		Y	Y		Y		
SC	18	CR							Y	Y			
SD	18	CR	Y	Y					Y				
TN	18	CR	Y		Y	Y		Y	Y	Y	Y		
TX	18	CR			Y	Y			Y				
UT	19	CR	Y	Y	Y		P	Y	Y	Y			
VA	18	CV	Y	Y		Y			Y				
VT	18	CV		Y	Y	Y	P	Y	Y		Y	Y	
WA	18	CR			Y				Y	Y	Y		
WI	18	CV	Y		Y	Y	B	Y	Y		Y	Y	Y
WV	18	CR	Y					Y	Y				
WY	18	CR	Y	Y		Y	P		Y				Y

Legend

State: The name of the State in abbreviation.
Age: The age at which a person may purchase tobacco products.
Sale: Type of sale law. CR indicates the law is criminal and CV indicates the law is civil. **indicates that the law may be enforced as a civil law or a criminal law.
Possession: Possession by a minor. Y indicates that it is illegal for a minor to possess tobacco products.
Purchase: Purchase by a minor. Y indicates that it is illegal for a minor to purchase tobacco products.
License: Licenses for vendors. Y indicates that vendors must have licenses to sell tobacco products.
Signs: Signs at the point of sale. Y indicates that a sign at the point of sale must be present.
Vending machines: Vending machine restrictions. S indicates that vending machines (vm) have to be supervised by an employee. P indicates that vm are restricted in placement (to areas where minors are not present). B indicates that vm have to be supervised and/or restricted in placement. L indicates that vm must have locking devices.
Graduated penalties: Y indicates that there is a set graduated scale of penalties for each offense.
Fines: Y indicates that fines may be a penalty for noncompliance.
Jail: Y indicates that jail time may be penalty for noncompliance.
Revocation: Revocation of license. Y indicates that the revocation of a vendor's license may be a penalty for noncompliance.
Enforcer: Enforcer of law. Y indicates that the enforcer is stated in the law.
Preemption: Preemption clause. Y indicates that there is a preemption clause not allowing localities to create stricter laws regarding youth access.

List of Subjects in 45 CFR Part 96

Alcohol abuse, Alcoholism, Confidentiality, Drug abuse, Health records.

For the reasons set out in the preamble, the Secretary proposes to amend part 96 of title 45 of the Code of Federal Regulations, as set forth below.

Dated: August 12, 1993.

Philip R. Lee,

Assistant Secretary for Health.

Dated: August 19, 1993.

Donna E. Shalala,

Secretary.

PART 96—BLOCK GRANTS

1. The authority citation for 45 CFR part 96, subpart L continues to read as follows:

Authority: 42 U.S.C. 300x–21 to 300x–35 and 300x–51 to 300x–64

§ 96.122 [Amended]

2. Subpart L is amended to add § 96.122(f)(6) to read as follows:

* * * * *

(f) * * *

(6) For the first applicable year for which the State is applying for a grant, a copy of the statute enacting the law as described in § 96.130(a), a description of the strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought, and, if the State desires, a description of the activities undertaken during the previous fiscal year to enforce any law against the sale or distribution of tobacco products to minors that may have existed; and for subsequent fiscal years for which the State is applying for a grant, the annual report as required by § 96.130(d) and any amendment to the law described in § 96.130(a).

* * * * *

§ 96.123 [Amended]

3. Subpart L is amended to add § 96.123(a)(5) to read as follows:

(a) * * *

(5) the provisions of § 96.130 relating to the sale of tobacco products to minors are being carried out as prescribed by law;

* * * * *

4. Subpart L is amended to add § 96.130 as follows:

§ 96.130 State law regarding sale of tobacco products to individuals under age of 18.

(a) The Secretary may make a grant to a State only if the State has the following:

(1) Except as provided in paragraph (a)(2) of this section, the State shall for fiscal year 1994 and subsequent years, have in effect a law providing that it is unlawful for any manufacturer, retailer, or distributor of tobacco products to sell or distribute any such product to any individual under the age of 18 through any sales or distribution outlet.

(2) In the case of a State whose legislature does not convene a regular session in fiscal year 1993, and in the case of a State whose legislature does not convene a regular session in fiscal year 1994, the requirement described in paragraph (a)(1) of this section as a condition of a receipt of a Block Grant shall apply only for fiscal year 1995 and subsequent fiscal years.

(b) For purposes of this section, the term *first applicable fiscal year* means fiscal year 1995, in the case of any State described in paragraph (a)(2) of this section, and fiscal year 1994, in the case of any other State. The term "outlet" is any location which sells at retail or otherwise distributes tobacco products to consumers including (but not limited to) locations that sell such products over-the-counter or through vending machines.

(c) For the first applicable fiscal year and for subsequent fiscal years, the State (directly or through local governments or private entities) will, at a minimum, enforce the law described above as follows:

(1) The State shall conduct annual, random and targeted, unannounced inspections of both over-the-counter and vending machine outlets. The random inspections shall cover a range of outlets (not preselected on the basis of prior violations) to measure overall levels of compliance as well as to identify violations. Random, unannounced inspections shall be conducted annually and shall be conducted in such a way as to ensure a scientifically sound estimate of the success of enforcement actions being taken throughout the State. Thus, the State shall give due consideration to the methodological design of the inspection effort and the adequacy of the sample design. The sample shall reflect the distribution of the population of those under 18 throughout the State and the distribution of outlets throughout the State. The sample shall further reflect that, because of location (e.g. near schools) or other factors, some outlets are more likely to be used by minors. States are to ensure that the inspections occur at times when minors are likely to purchase tobacco products. Targeted inspections shall focus on outlets which have a history of prior violations.

(2) The State shall have in place other well-designed procedures for reducing the likelihood or prevalence of violations, such as, for example, a tobacco sales or distribution licensing system similar to that used for alcoholic sales, a graduated schedule of penalties for illegal sales or distribution culminating in loss of license, controls on tobacco vending machines in locations accessible to youth, publication of the names of outlets making illegal sales, or use of local enforcement to supplement central enforcement.

(d) The State shall annually submit to the Secretary with its application a report which shall include the following:

(1) A detailed description of the State's activities to enforce the law required in paragraph (a) of this section during the fiscal year preceding the fiscal year for which that State is seeking the grant;

(2) A detailed description regarding the overall success the State has achieved during the previous fiscal year in reducing the availability of tobacco products to individuals under the age of 18, including the results of the unannounced inspections as provided by paragraph (c)(1) of this section for which the results of over-the-counter and vending machine outlet inspections shall be reported separately;

(3) A detailed description of how the unannounced inspections were conducted and the methods used to identify outlets; and

(4) The strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought.

(e) The annual report required under paragraph (d) of this section shall be made public within the State and public comment shall be obtained and considered by the State prior to its submission to the Secretary.

(f) Before making a Block Grant to a State, the Secretary shall make a determination as to whether the State has maintained compliance with this section. In making this determination, the Secretary will consider the following factors:

(1) Except as provided by paragraph (f)(2) of this section, the State must demonstrate that its random, unannounced inspections were conducted in a scientifically sound manner and the results of the random, unannounced inspections submitted by the State in its annual report must show that the percentage of the sampled distributors that made illegal sales do not exceed:

(i) More than fifty (50) percent during the first applicable fiscal year;

(ii) More than forty (40) percent during the second applicable fiscal year;

(iii) More than thirty (30) percent during the third applicable fiscal year; and

(iv) More than twenty (20) percent during the fourth applicable year and subsequent fiscal years.

(2) If a State is not in substantial compliance with paragraph (f)(1) of this section, the Secretary, in extraordinary circumstances, may consider a number of factors, including scientifically sound survey data showing that the State is making significant progress toward reducing use of tobacco products by children and youth, data showing that the State has progressively decreased the availability of tobacco products to minors, the composition of the outlets inspected as to whether they were over-the-counter or vending machine outlets, and the State's plan for improving the enforcement of the law in the next fiscal year.

(g) If, after notice to the State and an opportunity for a hearing, the Secretary determines that the State is not in compliance with this section, the Secretary will reduce the amount of the allotment in such amounts as is required by section 1926 of the PHS Act.

(h) The State shall not expend the Block Grant program funds for enforcement activities under this section. However, the Block Grant funds which States are permitted to use for administrative purposes may be used for enforcement. Block Grant program funds may be used to provide technical assistance to communities to maximize procedures for enforcing the law regarding tobacco as provided in § 96.125(a)(6), including providing guidance on effective community approaches in enforcing the law.

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Federal Register

Thursday
August 26, 1993

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Public and Indian Housing

Notice of Fund Availability for the Indian CDBG Program for Fiscal Year 1993

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–93–3642; FR–3505–N–01]

Community Development Block Grant Program for Indian Tribes and Alaskan Native Villages; Notice of Fund Availability

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Fund Availability for Fiscal Year 1993.

SUMMARY: This Notice of Fund Availability (NOFA) announces HUD's funding for the Community Development Block Grant Program for Indian tribes and Alaskan native villages for Fiscal Year 1993. In the body of this document is information concerning the following:

(a) The purpose of the NOFA, and information regarding eligibility, available amounts, and selection criteria;

(b) Application processing, including how to apply and how selections will be made; and

(c) A checklist of steps and exhibits involved in the application process.

DATES: Applications may be mailed to HUD, provided that they are postmarked no later than midnight on the deadline date: November 9, 1993. Applications that are physically delivered to HUD must be received by the appropriate HUD Field Office (FO) no later than 4:30 p.m. November 9, 1993. Application materials will be available from each field OIP.

FOR FURTHER INFORMATION CONTACT: Applicants should contact the HUD Field Office serving their geographic area.

Isaac Pimentel, Chicago Regional Office, Office of Indian Programs, Housing and Community Development Division, 77 West Jackson Blvd., Chicago, Illinois 60604. Telephone (312) 353–1683.

Jules Valdez, Oklahoma City Office, Indian Programs Division, CPD Branch, Murrah Federal Building, 200 NW 5th St., Oklahoma City, OK 73102–3202. Telephone (405) 231–5968.

Gloria Dale Lewis, Denver Regional Office, Office of Indian Programs, Housing and Community Development Division, Executive Tower Bldg., 1405 Curtis St., Denver, CO 80202–2349. Telephone (303) 844–6481.

Gerald Hammon, Office of Indian Programs, Region IX, CPD Division, Two Arizona Center, Suite 1650, 400 N. Fifth Street, Phoenix, Arizona 85004–2361. Telephone (602) 379–4197.

Robert Barth, Office of Indian Programs, CPD Division, Program Management Team, (San Francisco) Phillip Burton Federal Bldg. and U.S. Courthouse, 450 Golden Gate Ave., P.O. Box 36003, San Francisco, CA 94102–3448. Telephone (415) 556–9200.

Jeanne McArthur, Seattle Regional Office, Office of Indian Programs, CPD Division, Federal Office Building, 909 First Avenue, Suite 200 , Seattle, WA 98104–1000. Telephone (206) 553–0760.

Colleen Craig, Anchorage Office, CPD Division, 949 E. 36th Avenue, Suite 401, Anchorage, AK 99508–4135. Telephone (907) 271–4684.

With general program questions, contact Dom Nessi, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4140, 451 Seventh Street SW, Washington, DC 20410. Telephone (202) 708–1015. The Telecommunications Device for the Deaf (TDD) number is (202) 708–2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Requirements

The information collection requirements contained in this notice 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 have been assigned OMB control number 2506–0043.

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I. Purpose and Substantive Description:

A. Authority

Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et seq.*); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); 24 CFR Part 571.

B. Funding

Amendments to Title I of the Housing and Community Development Act of 1974 have required that the allocation for Indian Tribes be on a competitive basis in accordance with selection criteria contained in a regulation promulgated by the Secretary after notice and public comment. The interim regulation containing the selection criteria was issued April 7, 1992.

The Department has determined that only quality Indian Community Development Block Grant (ICDBG) projects are to be funded. Section 571.100(b)(2) prohibits HUD field offices (FO) from funding applications that do not meet a serious need or which do not impact on the needs identified in the application. Accordingly, even if funds were available to fund a project based on its rating, if that project did not meet these criteria, it would not be funded. The funds would be used to fund the next highest ranking project or could be carried forward to the next funding cycle, if none of the lower ranking projects met a serious need or impacted on the needs identified in the application. All grant funds awarded in accordance with this NOFA are subject to the requirements of 24 CFR 571.

Documentation and Public Access Requirements; Applicant/Recipient disclosures: HUD Reform Act

Documentation and public access requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these documentation and public access requirements.)

Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports -- both applicant disclosures and updates --will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

1. *Allocations.* The requirements for allocating funds to field offices responsible for program administration are found at 24 CFR 571.101. Following these requirements, the allocation for FY 1993 is as follows:

Chicago	$ 2,965,000
Oklahoma	7,538,000
Denver	6,302,000
Phoenix	17,809,000
Seattle	2,182,000
Anchorage	3,204,000
Total	$40,000,000

2. *Grant Ceilings.* The authority to establish grant ceilings is found at 24 CFR 571.100(b). These grant ceilings are established for FY 1993 funding at the following levels:

Region/ Field Offices	Population	Ceiling
Region 5 (Chicago).	ALL	$300,000
Region 6 (OK City).	5,001+	500,000
	1,001–5,000	400,000
	1,000 or less	300,000
Region 8 (Denver).	ALL	800,000
Region 9 (Phoenix).	50,001+	5,000,000
	10,501–50,000	2,500,000
	9,001–10,500	2,000,000
	7,501–9,000	1,500,000
	6,001–7,500	1,000,000
	4,501–6,000	750,000
	3,001–4,500	650,000
	1,501–3,000	550,000
	1–1,500	450,000
Region 10 (Seattle).	ALL	270,000
Anchorage.	ALL	500,000

3. *Imminent Threats.* The criteria for grants to alleviate or remove imminent threats to health or safety that require immediate solution are described at Subpart E of Part 571. The following field offices are setting aside funds for imminent threats:

Region 9 (Phoenix) $400,000. These funds will be available until the Phoenix Office receives its FY 1994 ICDBG allocation.

Seattle $250,000. These funds will be available until Seattle completes the rating and ranking process for funds distributed under this NOFA.

Anchorage $500,000. These funds will be available until the Anchorage Office receives its FY 1994 ICDBG allocation.

C. Eligibility of Activities

Activities that are eligible for CDBG funds are identified at 24 CFR Part 570 Subpart C. Both the National Affordable Housing Act (NAHA) (P.L. 101–625) and the Housing and Community Development Act of 1992 (the 1992 Act) (P.L. 102–550) amended Title I of the Housing and Community Development Act of 1974 (HCD Act). Various amendments made by these two recent acts are applicable, as described below, to the funds made available under this NOFA.

1. *Program Income.* Section 804 of the 1992 Act deletes any consideration of

whether the grantee is still participating in the CDBG program in determining the applicability of CDBG requirements to the use of program income.

2. *Microenterprise and Small Business Development.* Section 807(c) of the 1992 Act defines a small business as one that meets the criteria set forth in section 3(a) of the Small Business Act (15 USC 632(a)) and defines a microenterprise as a commercial enterprise having five or fewer employees, one or more of whom owns the enterprise.

This section further directs HUD in the provision of assistance under § 570.203(b) to for-profit microenterprises and small businesses not to consider the use of CDBG funds for training, technical assistance, and other support costs provided to such entities to be planning or administrative costs.

The section also directs HUD not to consider CDBG funds to be for a planning or administrative activity when used to pay costs to develop the capacity of the grantee or a subrecipient to provide training, technical assistance or other support services to small businesses or microenterprises. Consequently, since these activities are not to be considered as planning or administrative activities, they are subject to compliance with the national objective requirements.

3. *Lump Sum Drawdowns.* The use of lump sum drawdowns for residential rehabilitation has been reauthorized by section 909 of the NAHA for CDBG funds appropriated after Fiscal Year 1992.

4. *Eligible Activities.*

a. *Changes Affecting Existing Categories*

(1) Assistance to For-profit Businesses. Section 806(b) of the 1992 Act amends Section 105(a) of the HCD Act so that CDBG assistance to for-profit businesses shall not be limited to activities for which no other forms of assistance are available, or to activities that could not be accomplished but for that assistance.

(2) Direct Homeownership Assistance. NAHA amended Section 105(a) of the HCD Act to add as an eligible activity direct assistance to facilitate and expand homeownership among persons of low- and moderate-income. Under this provision, CDBG funds may be used to: subsidize interest rates and mortgage principal amounts for low- and moderate-income homebuyers; finance the acquisition by low- and moderate-income homebuyers of housing that is occupied by homebuyers; acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that assistance under Title I of the HCD Act may not be used by recipients or subrecipients to directly guarantee such mortgage financing); provide up to 50 percent of the downpayment required from low-and moderate-income buyers; and pay reasonable closing costs normally associated with the purchase of a home incurred by a low- and moderate-income homebuyer. While this provision was set to expire on October 1, 1993, it has been extended to October 1, 1994, by section 807(b) of the 1992 Act.

(3) Code Enforcement. Section 807(e) of the 1992 Act adds private improvements or services undertaken in an area to the activities that may be considered together with code enforcement in order to determine whether CDBG funds may be used to pay for the code enforcement in that area.

(4) Loans to Subrecipients. Section 807(d) of the 1992 Act amends section 105(a)(14) of the HCD Act to authorize CDBG assistance to be provided for such activities in the form of loans, both interim and long-term, as well as grants.

(5) Neighborhood-based Nonprofit Organizations. Section 807(f) of the 1992 Act amends section 105(a)(15) of the HCD Act to add nonprofit organizations serving the development needs of communities in nonentitlement areas as eligible entities to carry out CDBG activities.

b. *New Categories of Eligibility*

(1) Nonprofit Capacity Building. Section 807(a)(4) of the Housing and Community Development Act of 1992 makes eligible the provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities, and makes clear that such use of funds is not to be considered as a planning or administrative cost of the program. Prior to the amendment, such a use of funds has only been eligible under § 570.205 and therefore subject to the cap on planning and administration at § 570.200(g). While nonprofit capacity building is now eligible under the new provision and not subject to a percentage limitation, it should be noted that any such use of funds under the new authority must be shown to meet one of the national objectives. This may be difficult in some cases since it appears that all activities carried out by the nonprofit using the added capacity will need to be considered for that purpose.

(2) Institutions of Higher Education. Section 807(a)(4) of the 1992 Act makes it eligible for the grantee to provide CDBG funds to institutions of higher education to carry out activities otherwise eligible for CDBG assistance, provided it can be determined that the institution has demonstrated capacity to carry out such activities.

(3) Acquisition by Tax Foreclosure. Section 807(a)(4) of the 1992 Act makes eligible the use of CDBG funds to make essential repairs and to pay operating expenses necessary to maintain the habitability of housing units acquired through tax foreclosure proceedings in order to prevent abandonment and deterioration of such housing in primarily low- and moderate-income neighborhoods.

(4) Microenterprises. Section 807(a)(4) of the 1992 Act establishes a new category of eligibility under which CDBG funds may be used to provide assistance to public and private organizations, agencies, and other entities (including nonprofit and for-profit entities) to enable such entities to facilitate economic development by:

- providing credit (including providing direct loans and loan guarantees, establishing revolving loan funds, and facilitating peer lending programs) for the establishment, stabilization, and expansion of microenterprises;
- providing technical assistance, advice, and business support services (including assistance, advice, and support relating to developing business plans, securing funding, conducting marketing, and otherwise engaging in microenterprise activities) to owners of microenterprises and persons developing microenterprises; and
- providing general support (such as peer support programs and counseling) to owners of microenterprises and persons developing microenterprises.

(5) Housing Services. Section 807(a)(4) of the 1992 Act establishes a new category of eligibility for housing services. Such activities include housing counseling, energy auditing, preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in housing activities authorized under the CDBG program or the HOME program. Activities that are carried out under this provision are to be subject to the 20 percent limitation on administrative expenses.

It is important to note that almost all of these activities are currently eligible in the CDBG program when carried out in conjunction with rehabilitation (see 24 CFR 570.202(b)(9)), and thereby not

subject to the administrative cap on expenditures.

(6) Lead-Based Paint Hazards. Section 1012 of the 1992 Act amends section 105(a) by stating that CDBG funds may be used for lead-based paint hazard evaluation and reduction, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992. It should be noted that § 570.202(a)(iv) currently authorizes inspection and abatement of lead-based paint in conjunction with CDBG-assisted rehabilitation. Moreover, § 570.205 authorizes evaluation of lead-based paint hazards within the grantee's jurisdiction generally. Until the regulations are modified to incorporate this new provision, grantees may use the new authority to fund lead-based paint inspection of houses whether or not rehabilitation of the houses will be CDBG-funded. The new authority may also be used to fund large scale evaluation of lead based-paint hazards in the grantee's jurisdiction (assuming that it is an approved activity in the Indian Community Development Block Grant application), outside of the 20 percent limitation on planning and administration cost, if the grantee can demonstrate that the evaluation addresses a CDBG national objective.

c. *Changes Concerning National Objectives—Low/Mod Jobs Presumption.* Section 806(e) of the 1992 Act amends section 105(c) of the HCD Act by adding a subparagraph (4) which states that, for purposes of determining whether an activity involves the employment of persons the majority of whom are low- and moderate-income persons, a person may be presumed to be a low- or moderate-income person if they reside in a census tract where not less than 70 percent of the residents are low- and moderate-income persons.

D. Applicant Eligibility

To apply for funding in a given fiscal year, an applicant must be eligible as an Indian tribe or Alaskan native village, or as a tribal organization by the application submission date.

"Tribal organizations" are permitted to submit applications under 24 CFR 571.5(b) on behalf of eligible tribes or villages when one or more eligible tribe or village authorize the organization to do so under concurring resolutions. The Tribal organization must also be eligible under the Indian Self-Determination Act. If a tribe or tribal organization claims that it is a successor to an eligible entity, the FO must review the documentation to determine whether it is in fact the successor entity.

Due to the unique governmental structure of Alaskan Native Villages there is on occasion more than one group that could be recognized as the governing body of an eligible entity as set forth at 24 CFR 571.5.

On December 29, 1988, the Bureau of Indian Affairs (BIA) published a Federal Register Notice entitled "Indian Entities Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs". This Notice included an alphabetical listing of all Alaskan entities eligible to receive funding and services from the Bureau of Indian Affairs. Each entity listed qualified under one of the nine criteria set forth in the Notice. The Notice stated that an entity which qualified under criteria 1, 2, 3, 4, or 9 is also an "Indian tribe" under the definition of that term used for the purposes of the Indian Self-Determination Act. The criteria are:

1. "Tribes" as defined or established under the Indian Reorganization Act (IRA) as supplemented by the Alaska Native Act.

2. Alaska Native Villages defined in or established pursuant to the Alaska Native Claims Settlement Act (ANCSA).

3. Village corporations defined in or established pursuant to ANCSA.

4. Regional corporations defined in or established pursuant to ANCSA.

9. Tribes which have petitioned to be acknowledged and have been determined to exist as tribes pursuant to 25 CFR Part 83. (A BIA regulation)

The hierarchy for funding priority continues to be the IRA Village Council, then the Traditional Village Council, followed by the Village Corporation and the Regional Corporation. Since there may only be one application submitted for an ICDBG grant for each area within the jurisdiction of an entity eligible under 24 CFR 571.5, if a Village Corporation or Regional Corporation submits an application for an ICDBG grant for activities in the jurisdiction of one or more eligible tribes or villages, it must include a concurring resolution from each such tribe or village authorizing the submittal of the application. Each such resolution must also indicate that the tribe or village does not itself intend to submit a ICDBG application for that funding round.

If possible, questions regarding eligibility determinations and related documentation requirements should be referred to the Anchorage FO prior to the deadline for submitting an application. (See 24 CFR 571.5 for a complete description of eligible applicants.)

E. Selection Criteria/Rating Factors

1. Rating and Ranking System

Prior to the rating process, field offices will screen applications to ensure that they meet the acceptance criteria in 24 CFR 571.301(a). Field offices will review each application that passes the screening to ensure that each proposed project meets all of the requirements in 24 CFR 571.302(a), as implemented by this NOFA.

The field office will determine the proper category and component (e.g., Housing Rehabilitation) under which to rate each project. Each component is worth 100 points, which is the maximum that a project can receive.

All projects that meet the acceptance criteria and threshold requirements will be reviewed and rated by a field office rating team of at least three voting members. The rating team will normally consist of representatives from the Indian CDBG staff. Voting members may be selected from other HUD divisions, such as the non-CPD portion of the Office of Native American Programs, and non-Indian CPD. The rating panel may solicit technical advice from experts such as attorneys, economists and cost analysts. Experts may be voting or non-voting members.

After each of the applications has been rated, the projects will be ranked in order of the point totals they received, regardless of the rating category or component under which the points were awarded. Projects will be selected for funding based on their ranking, in accordance with the requirements of § § 571.100(b) and 571.302(c).

2. Thresholds

The ICDBG regulation (24 CFR Part 571) contains two types of general thresholds: those that relate to applicants, and those that address overall community development appropriateness. Project-specific definitions and thresholds will be addressed within the pertinent project selection criteria categories.

Applicant thresholds focus on the administrative capacity of the applicant to undertake the proposed project(s), and on its past performance in the ICDBG and Housing programs. An applicant that has participated in the ICDBG program previously must have performed adequately. In cases of previously documented deficient performance, the applicant must have taken appropriate corrective action to improve its performance prior to submitting an ICDBG application to HUD.

In order for the project(s) contained in applications that have passed the initial screening tests outlined in section 571.301 to be rated and ranked, field offices must determine that the proposed project(s) meets the

community development appropriateness thresholds and (a) has costs that are reasonable, (b) is appropriate for the intended use, and (c) will normally be completed within two years.

If an applicant fails to meet the applicant-specific thresholds, its application cannot be accepted for rating and ranking. Project(s) that do not meet the community development appropriateness or project-specific thresholds will not be considered for funding.

a. Applicant-Specific Thresholds—Capacity and Performance

(1) *Capacity.* The field office will assume, absent evidence to the contrary, that the applicant possesses, or can obtain the managerial, technical or administrative capability necessary to carry out the proposed project(s). The application should address who will administer the project(s) and how the applicant plans to handle the technical aspects of executing the project(s). If the field office determines, based on substantial evidence, that the applicant does not have or cannot obtain the capacity to undertake the proposed project(s), the project(s) will be rejected from further consideration.

(2) *Performance.* If an applicant has participated in the ICDBG Program previously, the field office shall determine whether the applicant has performed adequately in grant administration and management. Where an applicant was found to be performing inadequately, the field office shall determine whether the applicant is following a schedule to correct performance, to which the applicant and HUD have agreed. In cases of previously documented deficient performance, the field office must determine that the applicant has taken appropriate corrective action to improve its performance.

(a) *Community Development.* The applicant is presumed to be performing adequately unless the field office makes a performance determination to the contrary by monitoring.

(b) *Housing assistance.* The applicant is presumed not to have taken actions to impede the provision of housing assistance for low- and moderate-income members of the tribe or village. Any action that is known to HUD to prevent or obstruct the provision or operation of assisted housing for low and moderate income persons shall be evaluated in terms of whether it constitutes inadequate performance by the applicant.

In addition, tribes have certain responsibilities and obligations to Indian Housing Authorities (IHAs), outlined in Article VIII of HUD's Model Tribal Ordinance. In instances where a tribe has established or joined an IHA, and has obtained housing assistance from HUD, its compliance with the resolution set forth in Article VIII will be a performance consideration.

Applicants will not be held accountable for the poor performance of Indian Housing Authorities (IHAs). However, if inadequate performance is found to be a direct result of the applicant's action or inaction, the application will be rejected from further consideration. Applicants who are members of "umbrella" IHAs will be judged only on their individual performance and will not be held accountable for the poor performance of other tribes that are represented by the IHA.

In the case of tribes that have not established or are not members of housing authorities, HUD will consider in making its determination, whether the tribe received CDBG funds for the provision of new housing, and if so: (i) whether the proposed units were constructed; (ii) whether housing assistance was provided to the beneficiaries identified in the application, and if not, why not; (iii) whether the tribe followed the provisions of its housing plan and procedures; and (iv) whether there were sustained complaints from tribal members regarding provision and/or distribution of CDBG housing assistance.

(c) *Audits.* This threshold requires the applicant to meet the following performance criteria:

(i) The applicant cannot have an outstanding ICDBG obligation to HUD that is in arrears, or it must have agreed to a repayment schedule. An applicant that has an outstanding ICDBG obligation to HUD that is in arrears, or one that has not agreed to a repayment schedule, will be disqualified from the current competition and from subsequent competitions, until the obligations are current. If a grantee that was current at the time of application submission becomes delinquent during the review period, the application may be rejected.

(ii) The applicant cannot have an overdue or unsatisfactory response to an audit finding(s). If there is an overdue or unsatisfactory response to an audit finding(s), the applicant will be disqualified from current and subsequent competition until the applicant has taken final action necessary to close the audit finding(s). The field office director may provide exceptions to this disqualification in cases where the applicant has made a good faith effort to clear the audit finding(s). Only when a satisfactory arrangement for repayment of the debt has been made, and payments are current, will an exception be granted when funds are due HUD.

b. Community Development Appropriateness.

The following criteria must be met by all applicants:

(1) Costs are reasonable. The project(s) must be described in sufficient detail so that HUD can determine: (a) that costs are reasonable; and (b) that the funds requested from the CDBG program and all other sources are adequate to complete the proposed activity(ies) described in the application.

(2) The project(s) is appropriate for the intended use.

(3) The project(s) is usable or achievable in a timely manner, generally within a two-year period. The applicant must indicate its timetable for project implementation and completion. A period of more than two years is acceptable in certain circumstances, which are beyond the applicant's control. For example, a construction season may be limited by severe weather, or extra time may be required to coordinate different funding dates for other entities assisting the same project.

3. Tiebreakers

When rating results in a tie among projects, field offices shall approve projects that can be fully funded over those that cannot be fully funded. When that does not resolve the tie, the following factors should be used in the order listed to resolve the tie:

a. Chicago Office

(1) The application that benefits the highest percentage of low-and moderate-income persons.

(2) The application that benefits the most low-and moderate-income persons.

b. Oklahoma City Office

(1) The application that benefits the highest percentage of low-and moderate-income persons.

(2) The applicant with the fewest active grants.

(3) The application that benefits the most low-and moderate-income persons.

c. Denver Office

(1) The application that benefits the highest percentage of low-and moderate-income persons.

(2) The application that benefits the most low-and moderate-income persons.

d. Phoenix Office

(1) The applicant with the fewest active grants.

(2) The applicant that has not received a block grant over the longest period of time.

(3) The application that benefits the highest percentage of low-and moderate-income persons.

e. Seattle Office

(1) The applicant that has not received a block grant over the longest period of time.

(2) The applicant that has received the fewest CDBG dollars since the inception of the program.

(3) The application that benefits the highest percentage of low-and moderate-income persons.

f. Anchorage Office

(1) The applicant that has not received a block grant over the longest period of time.

(2) The application that benefits the highest percentage of low-and moderate-income persons.

(3) The application that benefits the most low-and moderate-income persons.

4. General Definitions

Adopt. To approve by formal tribal resolution, as defined at 24 CFR Part 571.4.

Assure. To comply with a specific NOFA requirement. The applicant should state its compliance or its intent to comply in its application.

Document. To supply supporting written information and/or data in the application, which satisfies the NOFA requirement.

Leverage. Resources the grantee can use in conjunction with CDBG funds to achieve the objectives of the project. Resources include, but are not limited to: tribal trust funds, loans from individuals or organizations, state or federal loans or guarantees, other grants, as well as noncash contributions and donated services. Funds from any source must be documented by a written commitment and may be contingent on approval of the CDBG award. Resources will be counted only if they are currently available or will be available within 3 months of grant notification. If delays in the Federal funding process preclude an agency from making a firm funding commitment, resources will be counted if the agency issues a written statement indicating that it is extremely likely that the applicant will be funded within 6 months of the date of grant notification. Donated services will be accepted, provided: (1) the costs are demonstrated and determined necessary and directly attributable to the actual development of the project; and (2) comparable costs and time estimates are submitted which support the donation.

Project Cost. Total cost to implement the project. Project cost includes both CDBG and non CDBG funds.

Tribe. Indian tribe, band, group or nation, including Alaskan Indians, Aleuts, Eskimos and Alaskan native villages.

5. Project Definitions, Thresholds and Selection Criteria

a. Housing

(1) *Definition—Section 8 standards.* Standards contained in the Section 8 Housing Assistance Payments Program—Existing Housing (24 CFR 882.109).

(2) *General Thresholds.* Households that have been evicted from HUD housing within the past five years may not be assisted, except in emergency situations, which will be reviewed by field offices on a case-by-case basis.

(3) *Rehabilitation*

(a) *Thresholds*

(i) All applicants for housing rehabilitation grants shall adopt rehabilitation standards and rehabilitation policies, prior to submitting an application.

(ii) Any units to be rehabilitated must be the permanent non-seasonal residence of the occupant(s). The resident(s) must live in the unit at least nine months per year.

(iii)) Housing units slated for eventual replacement may only receive repairs essential for health and safety.

(iv) The applicant shall provide an assurance that it will use project funds to rehabilitate HUD assisted units only where the tenant/homeowner's payments are current or the tenant/homeowner is current in a repayment agreement that is subject to approval by the field office. The field office may grant exceptions on a case-by-case basis, to the requirement that beneficiaries be current to permit housing rehabilitation in emergency situations.

(v) Houses that have received comprehensive rehabilitation assistance from any CDBG or federal grant within the past 8 years cannot receive CDBG funds to make the same repairs if the repairs are needed as a result of abuse or neglect.

(b) *Applicant Guidance.* The following requirements apply to all successful applicants for rehabilitation funds provided for under this NOFA. All single family units to be rehabilitated must be occupied by low-and moderate-income households. If a structure contains two units, at least one must be occupied by a low-or moderate-income household. If a structure contains more than 2 units, at least 51 percent of the units must be occupied by low-and moderate-income households. When two or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered a single structure for the purpose of calculating low- and moderate-income occupancy. Low- and moderate-income tenants occupying a rehabilitated dwelling shall pay no more than 30 percent of their household income in rent.

(c) *Grant limits.* Rehabilitation grant limits for each field office jurisdiction are as follows:

(i) Region 5 (Chicago)	$15,000
(ii) Region 6 (OK City)	15,000
(iii) Region 8 (Denver)	33,500
(iv) Region 9 (Phoenix)	25,000
(v) Region 10 (Seattle)	18,000
(vi) (Anchorage)	Lesser of $35/square feet or $25,000

(d) *Selection Criteria.* Applicants for housing rehabilitation projects will be rated based on the following:

(i) Project Need and Design (45 points)

(A) The percentage of CDBG funds committed to bring the housing up to standard condition as defined by the applicant. Standard condition is defined as adoption of standards at least as stringent as Section 8. Exceptions, which must be approved by the field office, may be made when local conditions make the use of Section 8 standards infeasible. For example, units may be too remote to make the provision of electricity and running water economically feasible, or Section 8 standards may not be met for historic preservation reasons. In all cases, to be considered in standard condition, a home must be in safe, sanitary, and physically sound condition with all systems performing their intended functions.

Administrative and technical assistance expenditures are excluded in computing the percentage of CDBG funds committed to bring housing up to standard condition. The percentage of CDBG funds not used to bring housing up to standard condition should be used for emergency repairs, demolition of substandard units, planning related to the particular project or another purpose closely related to the housing rehabilitation project.

Percentage of CDBG Funds Committed to bring housing up to standard condition	Points
1 91–100%	25
2 81–90%	10
3 80% and less	0

(B) The applicant's selection criteria give priority to the neediest households. "Neediest" is defined as households whose current residences are in the

greatest disrepair in the project area, or very low-income households.

1 YES (10 points)
2 NO (0 points)

(C) Documentation of project need with a housing survey of all of the units to be rehabilitated with CDBG funds. This survey should include standard housing data on each unit surveyed (e.g., age, size, type, rooms, type of heating). The survey should show the number of standard units, the number of substandard units suitable for rehabilitation with the deficiencies listed for each unit, and the number of substandard units unsuitable for rehabilitation. A definition of "suitable for rehabilitation" should be included. At a minimum, this definition should not include units that need only minor repairs, or units that need such major repairs that rehabilitation is structurally or financially infeasible.

Submission of acceptable survey of deficiencies.

1 YES (10 points)
2 NO (0 points)

(ii) Planning and Impiementation (45 points)

(A) Rehabilitation Policies including:

1 Adopted rehabilitation standards. Adopted rehabilitation standards should be at least equal to Section 8 standards except that the field office can approve lesser standards as provided in Paragraph I.E.5.a.(3)(d)(i). Tribes may submit their request for lesser standards prior to the application due date. If the request is submitted with the application, applicants should not assume automatic approval from the field office.

- YES (5 points)
- NO (0 points)

2 Rehabilitation selection criteria. Rehabilitation selection criteria include property selection standards, cost limits, type of financing (e.g., loan or grant), homeowner costs and responsibilities, procedures for selecting households to be assisted, and income verification procedures.

- MAXIMUM (11 points)

The application contains all the selection criteria listed above.

- MODERATE (5 points)

The application does not contain all the selection criteria listed above, but a sufficient number to enable the project to proceed effectively; OR the application contains all the selection criteria listed above, but in insufficient detail.

- UNSATISFACTORY (0 points)

The submission does not meet the MODERATE criteria.

3 Project planning documents and applicable policies and procedures. Project planning documents include surveys, time schedules, and work priorities. Policies and procedures include: inspections, contractor payment (an inspection to ensure the work is successfully completed before the contractor is paid), household involvement in the rehabilitation (e.g., helping select the contractor and signing off on inspections), contractor selection, contractor forms, complaints, contract or dispute resolution, and repayment provisions for early sale, (i.e., before 5 years).

- MAXIMUM (5 points)

The application contains all the policies and procedures listed above, and they will enable the project to be effectively implemented.

- MODERATE (3 points)

The application contains some but not all of the policies and procedures listed above, and they are sufficient for the project to proceed effectively.

- UNSATISFACTORY (0 points)

The submission does not meet the MODERATE criteria.

(B) Post rehabilitation maintenance policies, including counseling and training homeowners on maintenance.

1 MAXIMUM (7 points)

The policy contains a well-planned counseling and training program. Training will be provided for assisted households, and provision is made for households unable to do their own maintenance (e.g., elderly and handicapped). The policy includes follow-up inspections after rehabilitation is completed to ensure the unit is being maintained.

2 MODERATE (4 points)

The policy contains a well-planned homeownership maintenance training and counseling program.

3 UNSATISFACTORY (0 points)

The submission does not meet the MODERATE criteria.

(C) Quality of cost estimates. Cost estimates have been prepared by a qualified individual.

1 MAXIMUM (12 points)

Costs must be documented on a per unit basis and must be justified. Applicants must include work write-ups based on tribal specifications or estimates by a qualified individual. Work write-ups state what needs to be done to correct the deficiency (e.g., provide an oil heater to correct a deficiency of an inadequate heating system). The tribal specifications state the quality and the dimensions of the improvements (e.g., the heating unit must be capable of putting out x BTU's in order to heat the unit to a temperature of 70 degrees when the outside temperature is 0 degrees).

2 HIGH (8 points)

Cost estimates developed by a qualified individual have been prepared on each dwelling unit to be rehabilitated to determine the total rehabilitation cost. Costs to rehabilitate each house are documented by a deficiency list.

3 MODERATE (3 points)

A qualified individual has prepared cost estimates only for the project based on surveys, but not for individual units.

4 UNSATISFACTORY (0 points)

The submission does not meet the criteria in paragraph 3.

(D) Cost effectiveness of the rehabilitation program. This measures the efficiency of the expenditures that are made for housing rehabilitation, considering the needs of the unit. Projects should propose rehabilitation that is needed to bring units up to standard in the most efficient manner and at a reasonable cost. Cost savings may be realized through efforts such as energy conservation, or a partnership or affiliation with technical experts to develop an innovative approach.

1 Rehabilitation project is cost effective (5 points)

2 Rehabilitation project is not cost effective (0 points)

(iii) Leveraging (10 points)

Points under this component will be awarded based on the definition of "leverage" under General Definitions, and the following breakdown:

Non-CDBG % of Project Cost	Points
25 and over	10
20–24	8
15–19	6
10–14	4
5–9	2
0–4	0

(4) *Land to Support New Housing*

(a) *Thresholds*

(i) The net usable acres acquired must not exceed the amount of property needed to construct the proposed houses utilizing prudent site design.

(ii) Housing assistance needs must be clearly demonstrated, for example, with a survey or an IHA-approved waiting list.

(b) *Applicant Guidance*

The HUD FO may not enter into a contract with a successful applicant for funds provided under this NOFA if the following circumstances exist.

(i) There can be no outstanding reasons why the IHA cannot receive

housing units from HUD if units are to be provided by HUD Indian Housing.

(ii) Where a dwelling(s) currently exists on the land to be acquired, and the tribe plans to use that unit for housing for qualified households, the applicant must submit with the application a proposed plan that contains a method for selecting the recipient(s), housing maintenance and a description of the type of housing being acquired. If the unit(s) can be rehabilitated or can be occupied without rehabilitation, the unit(s) must meet tribal or Section 8 standards, whichever is higher.

(iii) If the CDBG funding cycle is before the Housing Development funding cycle (for housing projects proposed to be constructed with HUD Traditional Indian Housing Development funds), successful applicants in Land Acquisition for Housing will be issued a contract for the full amount of the grant. The contract will contain a condition that until the project receives Housing Development approval, CDBG funds may be expended only to secure an option. If the IHA is not selected for Housing Development Program funds, the balance of the CDBG grant will be canceled.

(iv) If it can be demonstrated that a commitment has been made by the Bureau of Indian Affairs (BIA) under the Home Improvement Program (HIP) for funding new housing construction, the 2-year time period for project completion may be extended to be consistent with the commitment identified. The commitment should indicate that the funds committed will be used to build housing on the land to be acquired.

(c) *Selection Criteria.*

Applications for land purchase will be selected based on the following:

(i) Project Need (40 Points)

(A) MAXIMUM (40 points)

The applicant has no suitable land to construct new housing and needed amenities (e.g., water and sewer) for new housing.

(B) HIGH (30 points)

The applicant has land suitable for housing construction and infrastructure, but the land is officially dedicated to another purpose.

(C) MODERATE (25 points)

The applicant will be acquiring land to construct new housing and to provide needed amenities (e.g., water and sewer) to both new housing and existing housing.

(D) LOW (15 points)

The applicant will be acquiring land to construct amenities (e.g., water and sewer) for existing housing.

(E) UNSATISFACTORY (0 points)

The submission does not meet the criteria in paragraph d.

(ii) Planning and Implementation (60 points)

(A) Suitability of land to be acquired. A preliminary investigation has been conducted by a qualified entity independent of the applicant (e.g., BIA or IHS). Based on the preliminary investigation, the land appears to meet all applicable requirements, soil conditions appear to be suitable for individual and/or community septic systems, if appropriate, and the land has adequate drainage and access to water, electricity and community sewer collection systems. Land has adequate access, and appears to comply with environmental requirements. Land is available at a reasonable price. Future land development costs are expected to be consistent with other area subdivision costs. (Subdivision costs include the cost of constructing each unit, plus the land, water and sewer service, electrical service and roads required to serve the subdivision.) The site complies with all applicable requirements.

1 YES (18 points)

2 NO (0 points)

(B) Housing resources are committed at the time of project application.

1 Conditional commitment or approvable application submitted. (5 points)

2 No Conditional commitment or approvable application submitted. (0 points)

(C) Availability/accessibility of supportive services and employment opportunities. Upon completion of construction, fire and police protection, road accessibility and utilities will be available to the site, and medical and social services, schools, employment opportunities, and shopping will be accessible from the site, i.e., according to the community's established norm.

1 YES (8 points)

2 NO (0 points)

(D) Commitment that families will move into the new housing.

1 Documented commitment from families that they will move into new housing. (5 points)

2 No documented commitment. (0 points)

(E) Land can be taken into trust or provisions have been made for taxes and fees. There must be a written assurance from the BIA that the land will be taken into trust within one year, or the applicant must be able to show the financial capability and commitment to pay the property taxes and fees on the land for the foreseeable future. This commitment should take the form of a resolution by the governing body indicating that the applicant will pay or guarantee that all taxes and fees on the land will be paid.

1 Documentation that land can be taken into trust or provisions made for taxes and fees. (4 points)

2 Inadequate or no documentation. (0 points)

(F) A plan for any infrastructure needed to support housing to be developed. This includes a conditional commitment for funds to develop necessary water, sewer, electricity and roads to support the housing to be developed.

1 Financial commitment provided or infrastructure is in place. (10 points)

2 A plan, but no financial commitment, is in place. (5 points)

3 No financial commitment or plan. (0 points)

(G) The extent to which the proposed site meets the applicant's housing needs. The application shows that the tribe has examined and assessed the appropriateness of alternative sites. The applicant submits comparable sales that show the cost is reasonable.

1 YES (10 points)

2 NO (0 points)

(5) *New Housing Construction/Direct Homeownership Assistance*

(a) *New Construction*

(i) Thresholds

(A) New housing construction can only be implemented through a nonprofit organization that is eligible under Section 571.202 or a nonprofit organization serving the development needs of the communities of nonentitlement areas or as otherwise eligible under Section 570.207(b)(3).

(B) All applicants for new housing construction grants must document the following in their application:

1 No other housing is available in the immediate reservation area that is suitable for the families to be assisted.

2 No other funding sources can meet the needs of the household(s) to be served.

3 Rehabilitation of the unit occupied by the family to be housed is not economically feasible, or the family to be housed is currently in an overcrowded unit (sharing unit with other household(s), or the family to be housed has no current residence.

(C) All applicants for housing construction grants shall adopt construction standards and construction policies, prior to submitting an application. Applicants must identify the building code they will use to construct the unit(s). The building code may be a locally adopted tribal building

code or a nationally recognized model code. If the code is a locally adopted code, it must regulate all of the areas and subareas identified in 24 CFR 200.925(b), and it must be reviewed and approved by the HUD field office. If the code is recognized nationally, it must be the latest edition of one of the codes incorporated by reference in 24 CFR 200.925(c).

(D) Any units to be constructed must be the permanent non-seasonal residences of the recipient. The residents must live in the unit at least nine months per year.

(E) The applicant shall assure that it will use project funds to construct units only where the tenant's/homeowner's payments are current or the tenant/homeowner is current in a repayment agreement that is subject to approval by the field office. The field office may grant exceptions, on a case-by-case basis, to the requirement that beneficiaries be current to permit new construction, in emergency situations.

(ii) Selection Criteria

(A) New construction under Section 248 of the National Housing Act will be rated under the Direct Homeownership Assistance Selection criteria. The New Construction thresholds will be used for Section 248 New Construction.

(B) Project Need and Design (45 points)

1 The applicant either is not a member of an IHA, or the umbrella IHA to which it belongs has not provided assistance to the applicant in a substantial period of time, or the IHA serving the applicant has not received HUD Public and Indian Housing new construction or modernization assistance in a substantial period of time, due to a lack of funds. The period of time during which the IHA serving the applicant does not receive funding for inadequate or poor performance by the applicant does not count towards the period of time that no assistance has been provided by HUD.

- No assistance from IHA for 10 years or longer. (15 points)
- No assistance from IHA for 6–9.9 years. (10 points)
- No assistance from IHA for 0–5.9 years. (0 points)

2 Adopted housing construction policies and plan. The plan should include a description of the proposed subrecipient and its relationship to the tribe. In addition, the policies and plan should include:

- A selection system that gives priority to the neediest households. Neediest shall be defined as households whose current residences are in the greatest disrepair, or very low-income households, or households without permanent housing.
- A system effectively addressing long-term maintenance of the constructed units.
- Estimated costs and identification of the responsible entity for paying utilities, fire hazard insurance and other normal maintenance costs.
- Policies governing ownership of the units, including the status of the land.
- Description of a comprehensive plan or approach being implemented by the tribe to meet the housing needs of its members.
- Policies governing disposition or conversion to non-dwelling uses of substandard units that will be vacated.

- Acceptable policies and plan. (20 points)

- Unacceptable policies and plan. (0 points)

3 Beneficiary identification (all beneficiaries are low- and moderate-income.)

- Beneficiaries to be housed are identified. (10 points)
- Beneficiaries are not identified. (0 points)

(C) Planning and Implementation (45 points)

1 Occupancy Standards. The proposed housing will be designed and built according to adopted reasonable standards that govern the size of the housing in relation to the size of the occupying family (minimum and maximum number of persons allowed for the number of sleeping rooms); the minimum and maximum square footage allowed for major living spaces (bedrooms, living room, kitchen and dining room).

- Applicant has adopted reasonable occupancy standards. (10 points)
- Applicant has no occupancy standards or standards are inappropriate. (0 points)

2 Site Acceptability. This includes consideration of land control, access, utilities, infrastructure, physical characteristics, and whether the site is held in trust.

The applicant has control of the land. The applicant has written assurance from the BIA that the land is (or will be) taken into trust within one year, or the applicant must be able to show the financial capability and commitment to pay the property taxes and fees on the land for the foreseeable future. This commitment should take the form of a resolution by the governing body within one year of the application deadline indicating that the applicant will pay or guarantee that all taxes and fees on the land will be paid.

A preliminary investigation has been conducted by a qualified entity independent of the applicant (e.g., BIA or IHS). Based on the preliminary investigation, the land appears to meet all applicable requirements, soil conditions appear to be suitable for individual and/or community septic systems, if appropriate, land has adequate drainage and accessibility to water, electricity and community sewer collection systems. Land has adequate access, and appears to comply with environmental requirements.

- YES (15 points)
- NO (0 points)

3 Energy Conservation Design. The project is designed so that energy consumption will meet or exceed state conservation standards for similar units in the same general area. Special design features and methodology should be described in detail.

- YES (5 points)
- NO (0 points)

4 Housing Survey. The survey should include all of the units in the service area for the new housing. The survey should include standard housing data on each unit surveyed (e.g., age, size, type, rooms, type of heating), as well as the components listed below.

i Total number of existing housing units in the community.

ii Number of occupied units.

iii Number of vacant units (line A minus line B).

iv The number of standard units.

v The number of substandard units suitable for rehabilitation with the deficiencies listed for each unit. A definition of "suitable for rehabilitation" should be included.

vi The number of substandard units unsuitable for rehabilitation.

vii Number of vacant units that are in standard condition available and affordable to low-and moderate- income families.

viii Number of Indian/native families living with other families resulting in overcrowded conditions.

ix Number of Indian/native families living in units which are below standard and that are not cost effective to rehabilitate.

x Number of homeless Indian/native families.

xi Number of families living in below standard conditions

(Lines *viii*, plus *ix*, plus *x* equal line *xi*.)

- Acceptable survey. (10 points)
- Unacceptable survey. (0 points)

5 Cost effectiveness of new housing construction. This measures the efficiency of the expenditures. Projects should provide new units in the most

efficient manner and at a reasonable cost. Cost savings may be realized through efforts such as the use of cost effective construction techniques, a partnership or affiliation with technical experts to develop an innovative approach, or a repayment provision.

- New Housing Construction is Cost Effective (5 points)
- New Housing Construction is not Cost Effective (0 points)

(D) Leveraging (10 points). Applicants must provide documentation of the amount and sources of additional funds. Sources may include private contributions including equity and loans, applicant and other non-CDBG governmental funding.

Non-CDBG % of Project Cost	Points
25 and over	10
20–24	8
15–19	6
10–14	4
5–9	2
0–4	0

(b) *Direct Homeownership Assistance*

(i) Thresholds

(A) No other funding sources can meet the needs of the household(s) to be served.

(B) The unit occupied by the family to be housed does not meet Section 8 standards, and rehabilitating the unit is not economically feasible, or the family to be housed currently is in an overcrowded unit (sharing unit with other household(s), or the family to be housed has no current residence.

(C) Any units to be occupied must be the permanent non-seasonal residences of the recipient. The residents must live in the unit at least nine months per year.

(D) The applicant shall assure that it will use project funds to provide direct homeownership assistance only where the tenant's payments are current or the tenant is current in a repayment agreement that is subject to approval by the field office. The field office may grant exceptions, on a case-by-case basis, to the requirement that beneficiaries be current to permit direct homeownership assistance in emergency situations.

(ii) Selection Criteria

(A) Project Need and Design (45 points)

1 Adopted housing policies and plan. The plan should include a description of the proposed subrecipient (if applicable) and its relationship to the tribe. In addition, the policies and plan should include:

- A selection system that gives priority to the neediest qualifiedhouseholds. Neediest may be defined as households whosecurrent residences are in the greatest disrepair, very low- income households, or households without permanent housing.
- Description of a comprehensive plan or approach being implementedby the tribe to meet the housing needs of its members.
- Policies governing disposition or conversion to non-dwelling uses of substandard units that will be vacated.
- A system effectively addressing long-term maintenance of theunits.
- Estimated costs of utilities, fire hazard insurance and other normal maintenance costs.
- Policies governing ownership of the units, including the status of the land.
- The units will meet Section 8 standards or another standard approved by the field office.

i The policies and plan are acceptable and contain all of the items listed above. (30 points)

ii The policies and plan contain only the first three items listed above, and they are acceptable. (20 points)

iii The policies and plan contain only the last four items listed above,and they are acceptable. (10 points)

iv The policies and plan do not meet the criteria of paragraphs *i, ii,* or *iii.* (0 points)

2 Beneficiary identification. (All beneficiaries are low and moderate income.)

- Beneficiaries are identified. (15 points)
- Beneficiaries are not identified. (0 points)

(B) Planning and Implementation (45 points)

1 Occupancy Standards. The housing units will meet adopted reasonable standards that govern the size of the housing in relation to the size of the occupying family (minimum and maximum number of persons allowed for the number of sleeping rooms); and the minimum and maximum square footage allowed for major living spaces (bedrooms, living room, kitchen and dining room).

- Applicant has appropriate occupancy standards. (13 points)
- Applicant has no occupancy standards or standards are inappropriate. (0 points)

2 Site Acceptability. This includes consideration of land control, access, utilities, infrastructure, physical characteristics, whether the site is held in trust, and available services, such as fire and police protection.

The applicant or prospective homeowner has control of the land. Applicant has a written assurance from the BIA that the land is (or will be) taken into trust within one year, or the applicant must be able to show the financial capability and commitment to pay the property taxes and fees on the land for the foreseeable future.

A preliminary investigation has been conducted by a qualified entity independent of the applicant (e.g., BIA or IHS). Based on the preliminary investigation, the land appears to meet all applicable requirements, soil conditions appear to be suitable for individual and/or community septic systems, if appropriate, land has adequate drainage and accessibility to water, electricity and community sewer collection systems. Land has adequate access, and appears to comply with environmental requirements.

- YES (20 points)
- NO (0 points)

3 Energy Conservation Design. The project is designed so that energy consumption will be no greater than that of similar units in the same general area. Special design features and methodology should be described in detail.

- YES (6 points)
- NO (0 points)

4 Cost effectiveness of program. This measures the efficiency of the expenditures that are made for direct homeownership. Cost savings may be realized through efforts such as the use of cost effective construction techniques, a partnership or affiliation with technical experts to develop an innovative approach, provision of the least amount of assistance necessary for each homeowner to acquire the unit, or a provision for the homeowner to repay the tribe.

- YES (6 points)
- NO (0 points)

(C) Leveraging (10 points). Points under this component will be awarded based on the definition of "leverage" under General Definitions, and the following breakdown:

Non-CDBG % of Project Cost	Points
70 and over	10
60–69	8
50–59	6
40–49	4
30–39	2
0–29	0

b. Community Facilities

(1) *General Thresholds.* The applicant shall describe the problem, the proposed project and the anticipated impact on the tribe/village if the problem is not solved immediately.

(2) *Infrastructure*

(a) *Applicant Guidance*

(i) For all projects which include provision of water, waste water treatment or solid waste disposal facilities, the applicant shall include with the application evidence that the project has been submitted to the Indian Health Service (IHS) for review and comment.

(ii) If the project consists of new or existing community water system improvements (defined as serving more than 25 persons or 15 households), the applicant must provide evidence that the project has been submitted to the Environmental Protection Agency (EPA) for review and comment. Community water systems serving fewer than 25 persons or 15 households are eligible for CDBG funding, but do not require EPA review.

(b) *Selection Criteria*

(i) Project Need and Design (60 points)

(A) Meets an essential community development need by addressing a basic need that is critical to the orderly development of the community and to the provision of basic human services. (Example: water/sewer, waste disposal)

1 Permanent solution. The project offers a long-term solution. (17 points)

2 Health and safety intermediate solution. The project responds to a health or safety problem by offering a solution which is not permanent (e.g., providing potable water from elsewhere). (15 points)

3 Intermediate solution. The project responds to a problem which is not related to health or safety by offering a solution which is not permanent (e.g., providing a gravel road to a reservation where no road exists). (12 points)

4 Inadequate solution. (0 points)

(B) Benefits the neediest segment of the population, as identified below. Applications must include tribal, BIA, IHS or other documentation that:

1 MAXIMUM (22 points)

90 percent or more of the beneficiaries are low and moderate income (80 percent of area income).

2 MODERATE (13 points)

75–89.9 percent of the beneficiaries are low and moderate income.

3 UNSATISFACTORY (0 points)

Less than 75 percent of the beneficiaries are low and moderate income.

(C) Provides infrastructure that does not currently exist for the area to be served OR replaces an existing facility that no longer functions adequately to meet the current needs OR eliminates or substantially reduces a health or safety problem. If the project addresses a health and safety problem, the applicant must provide documentation consisting of a signed study or letter from a reliable independent authority (e.g., state health officials, state fire marshals, BIA, IHS, EPA) verifying that: (1) a threat to health and safety exists which has caused or has the potential to cause serious illness, injury, disease or death; and (2) the threat can be substantially eliminated if the CDBG project is funded.

1 MAXIMUM (21 points)

The infrastructure does not exist or no longer functions, or does not meet health and safety standards. (Examples: there is no sewage treatment plant; paved roads do not exist or must be reconstructed due to severe deterioration.)

2 MODERATE (15 points)

The infrastructure no longer functions adequately or does not meet current needs. (Example: capacity of existing sewage treatment plant is insufficient to meet the demands of area residents.)

3 UNSATISFACTORY (0 points)

The infrastructure does not meet the criteria of *1* or *2*.

(ii) Planning and Implementation (30 points)

(A) A viable plan for maintenance and operation. The tribe must adopt a maintenance plan addressing maintenance, repair and replacement of items not covered by insurance, and operating resources, if applicable. The applicant must submit this plan. The plan must identify a funding source to assure that the facility will be properly maintained and operated. The resolution must identify the total annual dollar amount the tribe will commit, as well as the source and availability of funds, including evidence that funds will be available within sixty days of project completion. If an entity other than the Tribal Council commits to pay for maintenance and operation, that entity must submit a letter of commitment which identifies the responsibilities the entity will assume and the amount of funds that will be provided annually to the project. Points will only be awarded if the field office is able to determine that the entity is financially able to assume the costs of maintenance and operation.

1 YES (15 points)

2 NO (0 points)

(B) An appropriate and effective design, scale and cost. The applicant shows that it has proposed the most appropriate and cost effective approach to address its identified need(s). The applicant shows that it has considered initial construction and lifetime operation costs, as well as the use of existing facilities and resources, and alternatives, including method of implementation and cost. If only one approach is feasible, the applicant should explain why.

1 YES (15 points)

2 NO (0 points)

(iii) Leveraging (10 points). Points under this component will be awarded based on the definition of "leverage" under General Definitions, and the following breakdown:

Non-CDBG % of Project Cost	Points
a 25+	10
b 20–24	8
c 15–19	6
d 10–14	4
e 5–9	2
f 0–4	0

(3) *Buildings*

(a) *Thresholds.* Tribes proposing a facility which would provide health care services must assure the facility meets IHS requirements.

(b) *Selection Criteria.* Applications for Community Facilities will be evaluated based on the following:

(i) Project Need and Design (60 points)

(A) Benefits the neediest segment of the population, as identified below. Applications must include tribal, BIA, IHS or other documentation that:

1 MAXIMUM (28 points)

90 percent or more of the beneficiaries are low and moderate income (80 percent of area median).

2 MODERATE (18 points)

75–89.9 percent of the beneficiaries are low and moderate income.

3 UNSATISFACTORY (0 points)

Less than 75 percent of the beneficiaries are low and moderate income.

(B) Provides a building that serves a function that does not currently exist either within or outside (nearby) the community or reservation OR replaces an existing facility that no longer functions adequately to meet current needs. (Examples: health clinic; subsistence food processing facility, Alaska.)

1 MAXIMUM (15 points)

The building does not exist or does not meet health and safety standards.

2 MODERATE (12 points)

The building no longer functions adequately or does not meet current needs.

3 UNSATISFACTORY (0 points)

The building does not meet the criteria of *1* or *2*.

(C) Provides multiple uses or multiple benefits, or has services

available 24 hours a day. The application must show that the proposed facility will house more than one broad category of activity. "Broad category" means a single activity or group of activities which serves a particular group of beneficiaries (e.g., senior citizens) or meets a particular need (e.g., literacy). No one category of activity will occupy more than 75 percent of the available space for more than 75 percent of the time. The use of space must be actually committed and documented in writing. Multipurpose buildings do not automatically meet these criteria, nor do buildings that provide a variety of activities for one client group.

1 YES (3 points)
2 NO (0 points)

(D) Meets an essential community development need by addressing a basic need that is critical to the orderly development of the community and to the provision of basic human services; OR eliminates or substantially reduces a health or safety problem. If the project addresses a health or safety problem, the applicant must provide documentation consisting of a signed study or letter from a reliable independent authority (e.g., state health officials, state fire marshals, BIA, IHS, EPA) verifying that: (1) a threat to health and safety exists which has caused or has the potential to cause serious illness, injury, disease or death; and (2) the threat can be substantially eliminated if the CDBG project is funded.

1 YES (14 points)
2 NO (0 points)

(ii) Planning and Implementation (30 points)

(A) A viable plan for maintenance and operation. The tribe must adopt a maintenance plan addressing maintenance, repair and replacement of items not covered by insurance, and operating resources, if applicable. The applicant must submit this plan. The plan must show that adequate funds are available for future replacements and identify a funding source to assure that the facility will be properly maintained and operated. The adopted resolution must identify the total annual dollar amount the tribe will commit, as well as the source and availability of funds, including evidence that funds will be available within sixty days of project completion. If an entity other than the Tribal Council commits to pay for maintenance and operation, that entity must submit a letter of commitment which identifies the responsibilities the entity will assume and the amount of funds that will be provided annually to the project. Points will only be awarded if the field office is able to determine that the entity is financially able to assume the costs of maintenance and operation.

1 YES (15 points)
2 NO (0 points)

(B) An appropriate and effective design, scale and cost. The applicant documents that it has proposed an appropriate and cost effective approach to address its identified need(s). The applicant documents that it has considered initial construction and lifetime operation costs, as well as the use of existing facilities and resources, and alternatives including, method of implementation and cost. If only one approach is feasible, the applicant should explain why.

1 YES (15 points)
2 NO (0 points)

(iii) Leveraging (10 points). Points under this component will be awarded based on the definition of "leverage" under General Definitions, and the following breakdown:

Non-CDBG % of Project Cost	Points
a 25+	10
b 20–24	8
c 15–19	6
d 10–14	4
e 5–9	2
f 0–4	0

c. Public Services

(1) *Thresholds*

(a) Public services activities may comprise no more than 15 percent of the total grant award. Such projects must therefore be submitted with one or more other projects, which must comprise at least 85 percent of the total grant award. A public service project will be funded only if both the public service project itself *and* the other project(s) with which it is submitted rank high enough to be funded.

(2) *Selection Criteria.* Applications for Public Services will be evaluated based on the following:

(a) *Project Need and Design (45 points)*

(i) Meets an essential community development need by addressing a basic need that is critical to the orderly development of the community and to the provision of basic human services.

(A) YES (15 points)
(B) NO (0 points)

(ii) Benefits the neediest segment of the population, as identified below. Applications must include tribal, BIA, IHS or other documentation that:

(A) MAXIMUM (27 points)

90 percent or more of the beneficiaries are low and moderate income (80 percent of area median).

(B) MODERATE (16 points)

75–89.9 percent of the beneficiaries are low and moderate income.

(C) UNSATISFACTORY (0 points)

Less than 75 percent of the beneficiaries are low and moderate income.

(iii) Provides a service(s) that will eliminate or substantially reduce a health or safety problem. The applicant must provide documentation consisting of a signed study or letter from a reliable independent authority (e.g., state health officials, state fire marshals, BIA, IHS, EPA) verifying that: (1) a threat to health and safety exists which has caused or has the potential to cause serious illness, injury, disease or death; and (2) the threat can be substantially eliminated if the CDBG project is funded.

(A) YES (3 points)
(B) NO (0 points)

(b) *Planning and Implementation (45 points)*

(i) A viable plan for continuing provision of the service(s). The tribe must adopt a plan to address continuing provision of the service(s). The applicant must submit this plan. The plan must identify a funding source to assure that the public service(s) will be properly carried out. The resolution must identify the total annual dollar amount the tribe will commit, as well as the source and availability of funds, including evidence that funds will be available within sixty days of project completion.

(A) YES (15 points)
(B) NO (0 points)

(ii) An appropriate and effective design, scale and cost. The applicant shows that it has proposed an appropriate and cost effective approach to address its identified need(s). The applicant shows that it has considered initial and long-term costs, as well as the use of existing services and resources, or has submitted an analysis from a qualified authority addressing alternatives, method of implementation and cost. If only one approach is feasible, the applicant should explain why.

(A) YES (15 points)
(B) NO (0 points)

(iii) An innovative method of using the public service to resolve the problem (e.g., original treatment methods, program delivery system, or use of technology).

(A) YES (15 points)
(B) NO (0 points)

(c) *Leveraging (10 points).* Points under this component will be awarded based on the definition of "leverage" under General Definitions, and the following breakdown:

Non-CDBG % of Project Cost	Points
(i) 25+	10
(ii) 20–24	8
(iii) 15–19	6
(iv) 10–14	4
(v) 5–9	2
(vi) 0–4	0

D. Economic Development

(1) *Thresholds*

(a) Economic development assistance may be provided only when a financial analysis is done which shows public benefit commensurate with the assistance to the business can reasonably be expected to result from the assisted project, and the project has a reasonable chance of success. The applicant shall demonstrate the need for grant assistance by providing documentation to support a determination that the assistance is appropriate to implement an economic development project.

(b) All economic development projects must meet one of the national objectives. A general claim of cash flow or benefit to the tribe as a whole does *not* demonstrate low- and moderate-income benefit.

(2) *Applicant Guidance.* The applicant shall submit a project description. This description should include the following information:

(a) *The product or service:* what the enterprise will do or produce.

(b) *The location and physical facilities:* regional, local and site-specific location; description of existing and proposed facilities. If land is to be acquired for the specific economic development project, the applicant must either submit evidence that the land will be taken into trust, or demonstrate compliance with zoning and other local requirements, and show that the tribe or the entity operating the business, has the ability to pay all required taxes on that land.

(c) *Key production factors:* requirements relating to utilities, transportation access, special technical and/or equipment requirements, market, raw materials, and labor force.

(d) *Jobs/labor available:* justification that the number of permanent full time equivalent jobs proposed to be created or retained by the project (full and part-time) is realistic; evidence that the project can support job costs/salaries.

(e) *The developmental entity:* identification of entity to be used (e.g., local development corporation, tribe/village, private developer, joint venture).

(f) *Equipment:* projects that include the purchase of equipment must demonstrate the appropriateness and cost effectiveness of purchasing versus leasing. The use of lease financing is encouraged wherever possible to help contain development costs.

(g) *Financial information:* applicants shall submit a detailed cost summary, evidence of funding sources, and five year operating or cash flow financial projections. For existing businesses, financial statements for the most recent three year period shall be submitted. Financial statements include the balance sheet, income statement and statement of retained earnings. For new start-up businesses, current financial or net worth statements on the principal business owners or officers are needed unless the tribe or Alaskan Native Village will be the owner of the business.

(h) *Economic strategy and objectives:* the applicant shall demonstrate how the proposed project will meet the tribe's/village's economic development strategy and objectives (e.g., to create or retain permanent, private sector jobs or provide a product and service needed and affordable to native members).

(3) *Selection Criteria.* Applications for Economic Development projects will be evaluated based on the following:

(a) *Project Viability (55 points)*

The application will be rated on the adequacy and quality of the following subparts:

(i) Market analysis

(A) MAXIMUM (10 points)

An independent third party feasibility/market analysis, generally not older than two years, which identifies the market and demonstrates that the proposed activities are highly likely to capture a fair share of the market.

(B) MODERATE (6 points)

Feasibility/Market Analysis which identifies the market and demonstrates that the proposed activities are reasonably likely to capture a fair share of the market.

(C) LOW (0 points)

The submission does not meet the criteria in paragraph b.

(ii) Management capacity

(A) MAXIMUM (10 points)

A management team with qualifying *specialized* training or technical/managerial experience in the operation of a similar business has been identified. If the grant is approved, the business will hire the identified team or persons with similar training and experience. Applicants must submit job descriptions of key management positions as well as resumes showing qualifying specialized technical/managerial training or experience of the identified management team.

(B) MODERATE (6 points)

A management team with qualifying general business training or experience will be hired if the grant is approved. Applicants must submit job descriptions of key management positions.

(C) UNSATISFACTORY (0 points)

The submission does not meet the criteria in paragraph b.

(iii) Organization

(A) MAXIMUM (8 points)

1 The tribe or entity that will operate the business has anon-going successful business enterprise. The applicant mustdescribe this enterprise and provide documentation of itshealthy financial condition (e.g., audited financial statements for the past three years); and

2 The tribe or entity that operates the business has an acceptable business management system for project development and operation.

(B) MODERATE (5 points)

The tribe or entity that will develop and operate the business has an acceptable business management system for project development and operation.

(C) UNSATISFACTORY (0 points)

The submission does not meet the criteria in paragraph b.

(iv) Viability of the Business (excluding microenterprises). The viability of an economic development project will be determined by an analysis of financial and other project related information. Components of the financial analysis are: costs, sources of funds, cash flow projections and financial statements. The applicant must submit: a detailed cost summary, evidence of funding sources; five year operating or cash flow financial projections; and business financial statements for the most recent three year period. For start-up businesses, that are not owned by the grantee, current financial or net worth statements on principal business owners or officers are needed. Financial statements include the balance sheet, income statement and statement of retained earnings.

The information derived from the analysis will be reviewed and compared to local or national industry standards to assess reasonableness of development costs, financial need, profitability, and risk as factors in determining overall project viability. In determining whether a project is viable, the field office will also consider current and

projected market conditions and profitability measures such as cash flow return on equity, cash flow return on total assets and the ratio of net profit before taxes to total assets. Sources of industry standards include Marshall and Swift Publication Company, Robert Morris Associates, Dun and Bradstreet, the Chamber of Commerce, etc. Local standards may also be used.

(A) MAXIMUM (15 points)

Based on the analysis, the project has excellent prospect of achieving viability.

(B) MODERATE (7 points)

The project has an average prospect of achieving viability.

(C) LOW (0 points)

The project has a minimal prospect of achieving viability.

(v) Viability of the Microenterprise. Microenterprises employ five or fewer employees, including the entrepreneur. The viability of a microenterprise will be determined by an analysis of financial and other project related information. Components of the financial analysis are: costs, sources of funds, cash flow projections and financial statements. The applicant must submit: a detailed cost summary, evidence of funding sources; five year operating or cash flow financial projections and monthly projections until the cash flow is positive; and business financial statements for the most recent three year period. For start-up businesses, current financial or net worth statements on principal business owners or officers are needed. Financial statements include balance sheet, income statement and statement of retained earnings.

In determining whether a project is viable the field office will also consider current and projected market conditions and profitability measures such as net profit to total assets ratio, as well as other information that the field office has that will have an effect on the project's potential viability.

(A) MAXIMUM (15 points)

1 The project will generate income for the entrepreneur, over a minimum of five years, at or above 125 percent of the annual county average individual income; and

2 Based on the analysis, the project has excellent prospect of achieving viability.

(B) MODERATE (7 points)

1 The project will generate income for the entrepreneur at or above 100 percent of the annual county average individual income; and

2 The project has an average prospect of achieving viability.

(C) UNSATISFACTORY (0 points)

The submission does not meet the criteria in paragraph *(B)* above.

(vi) Leveraging. Points under this component will be awarded based on the definition of "leverage" under General Definitions, and the following breakdown:

Non-CDBG % of Total Project Cost	Points
30%+	12
20–29%	8
10–19%	4
less than 10%	0

(b) *Permanent Full-Time Equivalent Job Creation.* Provide total number of permanent full-time jobs expected to be created and/or retained as a result of the project. Provide a summary of job descriptions and skills required. Identify the number and kind(s) of jobs expected to be available to low-and moderate-income persons. (30 points)

(i) CDBG cost per job

(A) MAXIMUM (13 points)
$15,000 or less

(B) MODERATE (10 points)
$15,001–25,000

(C) LOW (7 points)
$25,001–35,000

(D) UNSATISFACTORY (0 points)
$35,001+

(ii) CDBG cost per job targeted to low-and moderate-income persons.

(A) MAXIMUM (13 points)
$15,000 or less

(B) MODERATE (10 points)
$15,001–25,000

(C) LOW (7 points)
$25,001–35,000

(D) UNSATISFACTORY (0 points)
$35,001+

(iii) Quality of jobs targeted to low-and moderate-income persons.

(A) The jobs offer wages and benefits comparable to area wages and benefits for similar jobs, provide opportunity for advancement, and teach a transferable skill; OR

(B) The employer commits to provide training opportunities (submit a description of planned training program).

1 YES (4 points)

2 NO (0 points)

(c) *Additional Considerations (15 points).* A project must meet three of the following criteria to receive 15 points. Maximum 15 points.

(i) Use, improve or expand members' special skills. Special skills are those that members have developed through education, training or traditional cultural experiences (e.g., technical expertise in electronic assembly; making traditional native crafts).

(A) YES (5 points)

(B) NO (0 points)

(ii) Provide spin-off benefits beyond the initial economic development benefits to employees or to the community (e.g., create new investment opportunities in the area; provide a consumer product or service not currently available on or near the reservation, or provide an available consumer product or service at a significant reduction in cost).

(A) YES (5 points)

(B) NO (0 points)

(iii) Provide special opportunities for residents of federally-assisted housing (e.g., employ residents for maintenance services).

(A) YES (5 points)

(B) NO (0 points)

(iv) Provide benefits to other businesses owned by Indians or Alaska natives (e.g., increase their sales).

(A) YES (5 points)

(B) NO (0 points)

(v) Loan Repayment/Reuse of CDBG funds. If the business is not tribally owned, at least 50% of the CDBG assistance to the business will be repaid to the grantee within a 10 year period. If the business is tribally owned, the tribe agrees within a 10 year period to use funds equal to 50% of the CDBG assistance for eligible activities that meet a national objective. These funds should come from the profits of the tribally owned business.

(A) YES (5 points)

(B) NO (0 points)

II. Application Process

A. An application package may be obtained from the HUD Field Offices of Indian Programs in the following geographic locations:

Region V.

Chicago Regional Office, Office of Indian Programs, Housing and Community Development Division, 77 West Jackson Blvd., Chicago, Illinois 60604. Telephone: (312) 353–1684 (all states east of the Mississippi River, plus Iowa and Minnesota)

Region VI.

Oklahoma City Office, Indian Programs Division, CPD Branch, Murrah Federal Bldg., 200 N.W. 5th Street, Oklahoma City, OK 73102–3202. Telephone: (405) 231–5968 (Louisiana, Kansas, Oklahoma, and Texas, except West Texas)

Region VIII.

Denver Regional Office, Office of Indian Programs, Housing and

Community Development Division, CPD Staff, Executive Tower Bldg., 1405 Curtis Street, Denver, CO 80202–2349. Telephone: (303) 844–6481 (Colorado, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming)

Region IX.

Indian Programs Office, Region IX, CPD Division, Two Arizona Center, Suite 1650, 400 N. Fifth Street, Phoenix, Arizona 85004–2361. Telephone: (602) 379–4197 (Arizona, New Mexico, Southern California, West Texas)

Indian Programs Office, CPD Division, Program Management Team (San Francisco), Phillip Burton Federal Bldg. and U.S. Courthouse, 450 Golden Gate Ave., P.O. Box 36003, San Francisco, CA 94102–3448. Telephone: (415) 556–9200 (Northern California and Nevada)

Region X.

Seattle Regional Office, Office of Indian Programs, CPD Division, Federal Office Building, 909 First Avenue, Suite 200, Seattle, WA 98104–1000. Telephone: (206) 220–5271 (Idaho, Oregon, Washington)

Anchorage Office, CPD Division, 949 E. 36th Avenue, Suite 401, Anchorage, AK 99508–4135. Telephone: (907) 271–4684 (Alaska)

B. Completed applications should be submitted to the appropriate HUD Field Office, listed above, from which application information and packages were obtained.

C. Applications may be mailed to HUD, provided that they are postmarked no later than midnight on the deadline date: November 9, 1993. Applications that are physically delivered to HUD must be received by the appropriate HUD Field Office no later than 4:30 p.m. November 9, 1993.

III. Checklist of Pre-application and Application Submission Requirements

A. *Citizen participation.* Prior to submitting an application, the applicant shall certify, by an official tribal resolution, that it has:

1. Furnished residents with information concerning amounts of funds available and the range of activities to be undertaken;

2. Held one or more public meetings to obtain the views of residents;

3. Developed and published or posted a community development statement which gives affected residents an opportunity to review it and comment on it;

4. Given residents an opportunity to review and comment on the applicant's performance under any active community development block grant;

5. Considered public comments and, if the applicant deems it appropriate, modified the application accordingly; and

6. Made the modified application available to residents.

B. Applicants shall submit an application to the appropriate field office. In accordance with the requirements of Section 571.300(f) the application should include:

1. Standard Form 424;

2. Community Development Statement which includes:

a. Components that address the relevant selection criteria

b. A brief description or an updated description of community development needs;

c. A brief description of proposed projects to address needs, including scope, magnitude, and method of implementing the project.

d. A schedule for implementing the project (form HUD–4125);

e. Cost information by project, including specific activity costs, administration, planning, and technical assistance, total HUD share (form HUD–4123); and

3. A map showing project location, if appropriate;

4. If the proposed project will result in displacement or temporary relocation, include a statement that identifies (a) the number of persons (families, individuals, businesses and nonprofit organizations occupying the property on the date of the submission of the application (or date of initial site control, if later); (b) the number to be displaced or temporarily relocated; (c) the estimated cost of relocation payments and other services; (d) the source of funds for relocation; and (e) the organization that will carry out the relocation activities.

5. Citizen Participation. Certify, in the form of an official tribal resolution, that citizen participation requirements of section 571.604 have been met;

6. Form HUD–2880, Applicant/Recipient Disclosure/Update Report, as required under Subpart C of 24 CFR part 12, Accountability in the Provision of HUD Assistance.

IV. Corrections to Deficient Applications

HUD will not accept unsolicited information from the applicant regarding the application after the application deadline has passed.

HUD may advise applicants of technical deficiencies in applications and permit them to be corrected. A technical deficiency would be an error or oversight which, if corrected, would not alter, in either a positive or negative fashion, the review and rating of the application. Examples of curable technical deficiencies would be a failure to submit proper certifications or failure to submit an application containing an original signature by an authorized official. The field office also may, at its discretion, request information to resolve inconsistencies or ambiguities in the application.

HUD will notify applicants in writing of any curable technical deficiencies in applications. Applicants will have 14 calendar days from the date of HUD's correspondence to reply and correct the deficiency. If the deficiency is not corrected within this time period, HUD will reject the application as incomplete.

V. Other Matters

A. *Environmental Statement.* 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, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, S.W., Washington, D.C. 20410.

B. *Federalism Executive Order.* The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this NOFA will not have substantial, direct effects on states, on their political subdivisions, or on their relationship with the Federal Government, or on the distribution of power and responsibilities between them and other levels of government. While the NOFA will provide financial assistance to Indian tribes and Alaskan native villages, none of its provisions will have an effect on the relationship between the Federal Government and the states or their political subdivisions.

C. *Family Executive Order.* The General Counsel, as the Designated Official for Executive Order 12606, *The Family*, has determined that the policies announced in this NOFA would not have the potential for significant impact on family formation, maintenance and general well-being and thus is not subject to review under the Order.

D. *Registration of Consultants.* Section 13 of the Department of Housing and Urban Development Act contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes

disclosure requirements on those who are typically involved in these efforts -- those who pay others to influence the award of assistance or the taking of a management action by the Department *and* those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 22912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in Appendix A of the rule.

Any questions regarding the statute described above should be directed to the Director, Office of Ethics, Room 2158, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Telephone: (202) 708–3815; TDD/Voice. (This is not a toll-free number.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

E. *Prohibition of Advance Disclosure of Funding Decisions.* HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 was published May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation, codified as 24 CFR Part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of the applications and in the making of funding decisions are restrained by Part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Regional or Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

Authority: 42 U.S.C. 5301, *et seq.*; 42 U.S.C. 3535(d); 24 CFR part 571.

Dated: August 10, 1993.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

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August 26, 1993

Part IV

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 201

Warning Statements for Over-the-Counter Drugs Containing Water-Soluble Gums; Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 201

[Docket No. 90N–0200]

RIN 0905–AA06

Warning Statements Required for Over-The-Counter Drugs Containing Water-Soluble Gums as Active Ingredients

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule requiring specific warning and direction statements in the labeling of all over-the-counter (OTC) drug products containing as active ingredients water-soluble gums, hydrophilic gums, and hydrophilic mucilloids, including, but not limited to, agar, alginic acid, calcium polycarbophil, carboxymethylcellulose sodium, carrageenan, chondrus, glucomannan ((B-1,4 linked) polymannose acetate), guar gum, karaya gum, kelp, methylcellulose, plantago seed (psyllium), polycarbophil, tragacanth, and xanthan gum. The warning and direction statements will alert users of these products to consume adequate fluid and to avoid using such products if the person has previously experienced any difficulty in swallowing. FDA is issuing this final rule after evaluating reports of esophageal obstruction and asphyxiation involving OTC drug products containing water-soluble gums as active ingredients. Water-soluble gums as active ingredients have been used in OTC antidiarrheal, laxative, and weight control drug products. They are currently used primarily in OTC laxative drug products and are under review in the ongoing rulemaking for OTC laxative drug products as part of FDA's OTC drug review. FDA has determined that implementation of specific warning and direction statements for these ingredients should not await completion of the OTC drug review process. Therefore, the warning and direction statements will now be required to support the safe use of OTC drug products containing water-soluble gums as active ingredients. The warning and direction statements will be incorporated into the pertinent OTC drug monographs as the rulemakings for these drug products are completed.

EFFECTIVE DATE: February 28, 1994.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD–810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 30, 1990 (55 FR 45782), FDA proposed to amend 21 CFR part 201, subpart G, *Specific Labeling Requirements for Specific Drug Products*, to require a warning for all OTC drug products containing water-soluble gums as active ingredients. The agency proposed the following warning: (Select one of the following, as appropriate: "Take" or "Mix") "this product with at least 8 ounces (a full glass) of water or other fluid. Taking this product without adequate fluid may cause it to swell and block your throat or esophagus and may cause choking. Do not take this product if you have ever had difficulty in swallowing or have any throat problems. If you experience chest pain, vomiting, or difficulty in swallowing or breathing after taking this product, seek immediate medical attention." The agency considered this warning necessary because water-soluble gums used as active ingredients in certain orally-administered OTC drug products have been associated with esophageal obstruction and asphyxiation.

Water-soluble gums have primarily been used in OTC bulk laxative and weight control drug products. The ingredients involved are natural or semisynthetic hydrocolloid gums including, but not limited to, agar, alginic acid, calcium polycarbophil, carboxymethylcellulose sodium, carrageenan, glucomannan [1], guar gum, karaya gum, kelp [2], methylcellulose, plantago seed (psyllium) [3], polycarbophil, polycarbophil calcium, tragacanth, and xanthan gum. The ingredients polycarbophil and calcium polycarbophil are also used in OTC antidiarrheal drug products.

Because of the hydrophilic nature of water-soluble gums, when water is added to the gum it swells and increases in bulk. If inadequate water is added, a viscous, semi-solid mass forms. The rate and degree of swelling, as well as the viscosity and adhesiveness of the mass, vary from product to product depending on the amount of gum present. When orally-administered OTC drug products containing a high level of one of these gums are used by individuals who have difficulty in swallowing, or when such products are taken with an inadequate amount of water or other fluid, there is a risk that the product will swell and form a viscous adhesive mass that can block the throat or esophagus. The type and degree of adverse effects are influenced by the amount of fluid taken with the product.

As discussed in the proposed rule (55 FR 45782 at 45783 to 45784), esophageal obstruction and asphyxiation associated with the ingestion of water-soluble gums have been reported in the literature since the 1930's, although such reports were relatively rare. However, in recent years FDA has become aware of an increased number of reports. FDA is aware of at least 191 cases of esophageal obstruction and 8 cases of asphyxia associated with orally-administered OTC laxative and weight control products containing these ingredients between 1970 and May, 1992. Death occurred in 18 of these cases (Refs. 1 and 2).

As part of FDA's OTC drug review, water-soluble gums were reviewed as OTC bulk laxatives by the Advisory Review Panel on OTC Laxative, Antidiarrheal, Emetic, and Antiemetic Drug Products (Laxative Panel) and as OTC weight control drug products by the Advisory Review Panel on OTC Miscellaneous Internal Drug Products (Miscellaneous Internal Panel).

The Laxative Panel, in its report published in the **Federal Register** of March 21, 1975 (40 FR 12902), classified five water-soluble gums in Category I (safe and effective)—carboxymethylcellulose sodium, karaya gum, methylcellulose, polycarbophil, and psyllium. Three additional water-soluble gums were classified in Category III (insufficient effectiveness data)—agar, carrageenan, and guar gum. In its discussion of these bulk laxative ingredients, the Laxative Panel acknowledged the risk of esophageal obstruction from water-soluble gums (40 FR 12902 at 12907) and specifically noted with respect to psyllium:

> Esophageal, gastric, small intestinal and rectal obstruction due to the accumulation of mucilaginous derivatives of psyllium preparations have been described on several occasions. The common denominator in most cases has been insufficient water intake or underlying organic disease which resulted in

[1] Glucomannan is the commonly used name for the glucose/mannose polymer(B-1,4 linked) polymannose acetate.

[2] The panel that evaluated this ingredient as part of FDA's OTC drug review designated it "sea kelp." However, "kelp" is the official name for this ingredient in the "USAN and the USP dictionary of drug names, 1992."

[3] The panel that evaluated the ingredients "plantago ovata husks, plantago seeds, psyllium hemicellulose, psyllium hydrophilic mucilloid, psyllium seed, and psyllium seed husks" as part of FDA's OTC drug review designated these ingredients as "psyllium." However, "plantago seed" is the official name for these ingredients in the "USAN and the USP dictionary of drug names, 1992."

compromise of the intestinal lumen, (40 FR 12908).

The Laxative Panel recommended that labeling for bulk laxative ingredients stress the importance of adequate fluid intake, i.e., 8 ounces (oz) of liquid, with each dose.

After reviewing the recommendations of the Laxative Panel and considering public comments received following publication of its report, FDA published a tentative final monograph on OTC laxative drug products in the **Federal Register** of January 15, 1985 (50 FR 2124). The risk of esophageal obstruction from certain bulk laxative ingredients, including water-soluble gums, and the need for adequate fluid intake (8 oz) with each dose of these ingredients was again discussed in comments 36 and 37 of the tentative final monograph (50 FR 2124 at 2131 and 2132).

In an amendment to the tentative final monograph on OTC laxative drug products, published in the **Federal Register** of October 1, 1986 (51 FR 35136), FDA proposed that bulk laxative ingredients be administered in divided doses rather than a single daily dose. This action was taken because it was noted that: "* * * the maximum daily dose of some bulk laxatives is so large that it may pose a risk of esophageal obstruction if taken at one time," (51 FR 35136). In response to these proposals, a major manufacturer of psyllium-containing bulk laxatives commented in support of FDA's recommendation regarding adequate fluid intake (8 oz) with each dose of a bulk laxative. This manufacturer recommended that all bulk laxatives bear the following warning (Ref. 3):

> Bulk forming agents have the potential to block the esophagus, particularly in the presence of esophageal narrowing or when consumed with insufficient fluid. Patients with esophageal narrowing should not use this product. If you observe symptoms of esophageal blockage, including chest pain/pressure, regurgitation and difficulty swallowing, seek immediate medical attention.

In the **Federal Register** of November 7, 1990 (55 FR 46914), FDA published a final rule establishing that certain active ingredients in OTC drug products are not generally recognized as safe and effective or are misbranded. Among the ingredients listed in this final rule under active ingredients for bulk laxative drug products were agar, carrageenan (degraded), carrageenan (native), and guar gum. No substantive comments or new data had been submitted to support the reclassification of any of these ingredients to monograph status. The final rule stated that the listed active ingredients should be eliminated from OTC drug products by May 7, 1991, regardless of whether further testing was undertaken to justify future use, and regardless of whether the relevant OTC drug monographs had been finalized by that date. Therefore, on or after May 7, 1991, no OTC laxative drug product containing any of these four water-soluble gum active ingredients could be initially introduced or initially delivered for introduction into interstate commerce unless it was the subject of an approved application.

In its report on OTC weight control drug products, published in the **Federal Register** of February 26, 1982 (47 FR 8466), the Miscellaneous Internal Panel classified the water-soluble gums alginic acid, carboxymethylcellulose sodium, carrageenan, chondrus[4], guar gum, karaya gum, methylcellulose, psyllium, sea kelp, and xanthan gum in Category III. The Miscellaneous Internal Panel noted, with respect to carboxymethylcellulose sodium and methylcellulose, that occasional cases of esophageal obstruction have occurred when these ingredients are chewed or swallowed without liquid (47 FR 8466 at 8477 and 8478). While concluding that the water-soluble gums listed above are safe, the Miscellaneous Internal Panel recommended that directions for these products state: "Take a full glass of water (8 ounces) with each dose," (47 FR 8477 to 8479).

In the **Federal Register** of October 30, 1990 (55 FR 45788), the agency published a notice of proposed rulemaking stating that certain ingredients in OTC weight control drug products are not generally recognized as safe and effective and are misbranded. Among the ingredients proposed as nonmonograph were the water-soluble gums, alginic acid, carboxymethylcellulose sodium, carrageenan, chondrus, guar gum, karaya gum, kelp, methylcellulose, plantago seed, and xanthan gum. The agency determined that no substantive comments or additional data had been submitted to the OTC drug review to support any of these ingredients as being generally recognized as safe and effective in OTC weight control drug products.

In the **Federal Register** of March 6, 1991 (56 FR 9312), the agency issued a clarification of this October 30, 1990, notice of proposed rulemaking. The purpose of this clarification was to make clear that the addition of the proposed warning statement in product labeling was not a sufficient basis to permit the continued marketing of OTC weight control drug products containing guar gum.

In the **Federal Register** of August 8, 1991 (56 FR 37792), FDA issued a final rule establishing that certain active ingredients in OTC weight control drug products are not generally recognized as safe and effective or are misbranded. Among the ingredients subject to this final rulemaking are the water-soluble gums alginic acid, carboxymethylcellulose sodium, carrageenan, chondrus, guar gum, karaya gum, kelp, methylcellulose, plantago seed, and xanthan gum. On or after February 10, 1992, no OTC drug product containing any of these active ingredients for weight control use could be initially introduced or initially delivered for introduction into interstate commerce unless it was the subject of an approved application.

Although many drug products containing these water-soluble gums can no longer be initially introduced or initially delivered for introduction into interstate commerce, laxative drug products containing the water-soluble gums carboxymethylcellulose sodium, karaya gum, methylcellulose, polycarbophil, and psyllium may continue to be marketed. In addition, water-soluble gums may be present as active ingredients in other than laxative and weight control drug products, e.g., polycarbophil in antidiarrheal drug products. Accordingly, the agency is requiring these new warning and direction statements at this time, without waiting for the completion of any OTC drug review rulemakings related to such products.

In response to the proposed rule requiring a warning in the labeling of all OTC drug products containing water-soluble gums as active ingredients, nine manufacturers, one drug manufacturers' association, one individual, one health department, and six professional associations submitted comments. Copies of the comments received are on public display in the Dockets Management Branch, Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Additional information that has come to the agency's attention since publication of the proposed rule is also on public display in the Dockets Management Branch.

[4] Chondrus was classified in Category III as a separate ingredient by the Miscellaneous Internal Panel; however, chondrus is but one of several sources of carrageenan.

References

(1) Department of Health and Human Services, FDA, Adverse Drug Reaction Reports for the years 1971 to 1992, in OTC

Volume 20 FR, Docket No. 90N–0200, Dockets Management Branch.

(2) Adverse Drug Reaction Reports, Reference No. 7 in OTC Volume 20 TFR, Docket No. 90N–0200, Dockets Management Branch.

(3) Comment No. C00100, Docket No. 78N–036L, Dockets Management Branch.

I. The Agency's Conclusions on The Comments

1. One comment supported the intent of the proposed warning for OTC drug products containing water-soluble gums, stating that there is sufficient evidence to mandate the inclusion of a warning for these products. Another comment stated that the warning requirement is appropriate and is preferable to FDA's October 30, 1990, proposal (55 FR 45788) to ban the use of guar gum in OTC weight control drug products. The comment added that the warning would allow consumers to continue using products they wish to use, while eliminating the potential for safety hazards in connection with such products.

The agency notes that this current rulemaking does not allow the use of guar gum in OTC weight control drug products even with the accompanying warning label. Since this comment was submitted, the agency published a clarification notice (March 6, 1991, 56 FR 9312) and a final rule for OTC weight control drug products (August 8, 1991, 56 FR 37792), in which it concluded that certain active ingredients, including guar gum, in OTC weight control drug products are not generally recognized as safe and effective and are misbranded. Accordingly, use of the warning and direction statements provided for in this final rule is not a basis for the continued use of guar gum or any other water-soluble gums as an active ingredient in OTC weight control drug products. As noted above, the warning and direction statements must appear on all OTC drug products containing a water-soluble gum as an active ingredient, including OTC bulk-forming laxative drug products containing carboxymethylcellulose sodium, karaya gum, methylcellulose, psyllium, or polycarbophil as an active ingredient.

2. Three comments stated that a warning is not necessary for water-soluble gum products because adverse reactions were reported by only a very small percentage of product users. Two comments suggested that the situation could be handled by manufacturers identifying the water-soluble gum ingredients on the product label so that the subpopulation of sensitive individuals can avoid these products. The comments stated that this approach is consistent with the FDA's long-term policy regarding the identification of ingredients as the primary means of notifying sensitive individuals who may react to certain ingredients. Two comments noted that even though many common foods (e.g., milk, eggs, nuts, shellfish) cause adverse reactions, which range from mild to life-threatening, in subgroups of the population, they are not required to have warning labels.

The agency agrees that listing ingredients on the product label is necessary and often sufficient to alert consumers who are sensitive to certain ingredients. In the present case, however, the problem presented is not one of the sensitivity of a subset of the population but of vulnerability to serious adverse outcomes in all members of the population who use the drugs incorrectly. The purpose of the warning for drug products containing water-soluble gums is to ensure that consumers know how to use the products safely, specifically, in a way that avoids esophageal obstruction. Merely identifying the water-soluble gum ingredient(s) on the product label would not alert consumers to the problem or to the remedy. Foods are discussed in comment 3.

3. One comment, which agreed with the need for a warning statement for OTC drug products containing water-soluble gums, recommended that the agency also address food products that contain approximately the same amount of these ingredients per serving as is used in a dose of certain OTC drug products. The comment mentioned a cereal product that contains 3.5 to 3.7 grams (g) of psyllium per serving, and an OTC laxative drug product containing 3.6 g of psyllium per dose. The comment was concerned that individuals taking both the OTC laxative drug product and one or more servings of such a cereal would increase their odds of having esophageal or bowel obstruction.

The agency is aware that there are many food products on the market containing water-soluble gums. The agency is concerned about the potential hazards of these ingredients, whether present in drug or food products, and has established standards for a number of water-soluble gums used as food additives. For example, the use of psyllium as an optional ingredient in certain frozen desserts at levels not exceeding 0.5 percent was provided for in a final rule establishing standards of identity for frozen desserts published by the agency in 1960 (25 FR 7126, July 27, 1960). Maximum usage levels also have been set for guar gum (21 CFR 184.1339), agar-agar (21 CFR 184.1115), karaya gum (21 CFR 184.1349), and gum tragacanth (21 CFR 184.1351). The percentage of water-soluble gums allowed in food products is generally low, and the agency has not seen any problems of esophageal obstruction or asphyxiation associated with the use of water-soluble gums at these levels in food products.

Although water-soluble gums used in food products are not included in this rulemaking, the agency will continue to evaluate and monitor these ingredients when they are used in any products marketed for human consumption. Appropriate warnings will be proposed if a need to do so is found to be necessary.

4. Several comments suggested that the proposed warning for OTC drug products containing water-soluble gums should apply only to products in a dry or unhydrated form. One comment mentioned that the cases of esophageal obstruction discussed in the proposed rule (55 FR 45782 at 45783) referred to gums in tablet form and agreed that the proposed warning is appropriate for this type of product. However, the comment contended that insufficient evidence exists to mandate the proposed warning for OTC drug products containing water-soluble gums in powder form which are dissolved in 8 oz of water prior to ingestion. The comment argued that little evidence exists that such water-based products, when taken according to the label directions by individuals without esophageal or throat problems, pose a risk of asphyxiation or esophageal obstruction.

The agency agrees that water-soluble, gum-containing products that are marketed in a fully hydrated form (e.g., in a solution) do not pose any significant risk of causing esophageal obstruction and that the warning statement is not necessary for those products. The problem with esophageal blockage associated with the use of water-soluble, gum-containing OTC drug products has been limited to those products marketed in the unhydrated form. Products that are marketed in a dry or incompletely hydrated state (intended to be dissolved in water by the consumer prior to ingesting, or taken with water or other liquid), whether in tablet (see comment 5), capsule, powder, or other form, have the potential for causing obstruction if the product is taken with inadequate fluid or if it is taken by individuals with swallowing or other throat problems. The agency acknowledges that the dosage forms involved in the cases of esophageal obstruction due to guar gum, which were discussed in the proposed

rule (55 FR 45782 at 45783), were tablets. However, a number of cases of esophageal obstruction due to other water-soluble gums have involved different dosage forms (e.g., powdered forms of psyllium, and granular forms of psyllium, karaya gum, and tragacanth) (see 55 FR 45783 and 45784: specifically references 7 through 10, 13, 15, and 16). Although dry forms of water-soluble gums could be hydrated according to label directions, prior to ingestion, and safely used by most consumers, the agency believes a warning will decrease the extent to which these products could be misused by some individuals with possible adverse consequences. Further, the agency does not have any data to show how much time is necessary to fully hydrate these products after mixing them with water. The agency therefore concludes that it is appropriate to require the warning for all dosage forms of OTC drug products containing water-soluble gums as active ingredients in dry or incompletely hydrated form, including those intended to be hydrated by the consumer (i.e., with label directions to dissolve the product in water). The agency has included this information in new § 201.319(b). Those OTC drug products marketed in a completely hydrated form will not require the warning.

5. One comment agreed that the proposed warning is appropriate for OTC drug products containing water-soluble gums in tablet form, but contended that the warning would be inaccurate for two-piece, hard-shell capsules that require significant exposure to fluid before dissolving. The comment claimed such an environment does not exist in the throat and therefore the risk is moot. The comment added that virtually all reports of esophageal blockage cited by the agency in the proposal (55 FR 45782 at 45783) involved tablets. The comment recommended that the warning be modified for water-soluble gums marketed in two-piece, hard-shell capsules to read as follows:

> Take this product with at least 8 ounces (a full glass) of water or other fluid. If you experience chest pain, vomiting, or difficulty in swallowing or breathing after taking this product, seek immediate medical attention.

The comment concluded that this approach would encourage industry to adopt the safest known dosage forms and would minimize potential consumer confusion and loss of confidence in the safety of many other OTC drug products offered as capsules and tablets.

As discussed in comment 4, the agency is aware of numerous cases of esophageal obstruction due to various dosage forms of water-soluble gum OTC drug products (i.e., tablets, granules, powder). Although capsules may be a safer dosage form than tablets for administering water-soluble gums, the agency believes capsules could also be potentially hazardous if they are chewed or otherwise broken before or during ingestion. For instance, a consumer who has difficulty swallowing may chew the capsule to allow for greater ease in swallowing, thereby releasing the capsule contents in the throat or esophagus. Because of the small size of the released particles, greater hydration and greater swelling could occur from the broken capsule than from a tablet. Therefore, because esophageal obstruction could occur when capsules are broken, the agency believes that safer consumer use would result by having the same warnings for capsules as other dosage forms containing water-soluble gums. Accordingly, the warning in § 201.319(b) is being required for all dosage forms (e.g., capsules, granules, powders, tablets, wafers) of unhydrated water-soluble gums when used as active ingredients in OTC drug products. However, the agency will consider exempting a water-soluble gum product from the warning statements on the basis of data demonstrating that no swelling occurs for that particular ingredient in a specific dosage form or formulation. Such requests for exemption from the warning should be submitted in the form of a citizen petition as provided in § 10.30 (21 CFR 10.30). However, the mere submission of a citizen petition does not allow an exemption from the required warning while the citizen petition is being evaluated.

6. Four comments objected to the proposed warning statements being applicable to psyllium, calcium polycarbophil, and methylcellulose dry powder. Two comments contended that the proposed warnings should not apply to psyllium on the basis of a 1982 evaluation by the Select Committee of GRAS Substances (a group of leading food experts). This Committee reviewed 60 years of data on psyllium and stated (Ref. 1):

> There is no evidence in the available information on psyllium seed husk gum that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.

One comment stated that calcium polycarbophil is not a soluble fiber and does not swell appreciably in the upper gastrointestinal tract. The comment contended that, based on the drug's chemical characteristics and reported adverse drug reactions, esophageal obstruction due to swelling of the product is not an adverse reaction associated with calcium polycarbophil. Another comment contended that the proposed warnings are not appropriate for the methylcellulose dry powder formulation used in its product because there is no evidence that this formulation causes esophageal obstruction. The comment submitted results of some simple in-vitro comparison tests carried out by mixing methylcellulose-based formulations and ground psyllium-based formulations with grossly underrecommended quantities of water and observing the resulting properties of the mixtures. The comment argued that, even when dispersed in inadequate amounts of water, its methylcellulose formulation does not form a gel that could cause esophageal obstruction. The comment requested a hearing on this issue.

The comments' arguments that the proposed warnings should not apply to specific water-soluble gums are not persuasive. Because ingestion of water-soluble gums with inadequate amounts of fluid or by individuals with difficulty in swallowing could potentially cause esophageal obstruction, the agency believes that the warning statements are necessary to ensure the safe use of these drug products. Swelling and increased bulk are known results of adding water to a water-soluble gum. Even though different formulations and types of gums vary in their swelling volume, the degree of swelling remains uncertain. Although the in-vitro tests indicated a difference in the viscosities of methylcellulose-based formulations and ground psyllium-based products, no data were submitted to indicate how these results would apply to the in-vivo situation, where variables such as individual body temperature, additional food intake, or esophageal motility might affect the ingredients. The agency concludes that it cannot accept contentions of no evidence of a hazard as a basis for exempting specific water-soluble gum ingredients from the warning requirement. As noted in comment 5, the agency will consider an exemption from the required warning. The agency concludes that, without adequate data at this time, insufficient justification exists to grant a hearing.

Reference

(1) "Evaluation of the Health Aspects of Oat Gum, Okra Gum, Quince Seed Gum, and Psyllium Seed Husk Gum as Food Ingredients," Report of the Select Committee on GRAS Substances, Life Sciences Research

Office, Federation of American Societies for Experimental Biology, Bethesda, MD, 1982.

7. Several comments contended that proposed § 201.319(b) is too broadly worded in that it requires the warning statement on any drug products containing water-soluble gums. The comments suggested that the warning be revised to clarify its application only to those drug products containing water-soluble gums as active ingredients. The comments stated that the warning was not necessary on drug products that contain water-soluble gums in small quantities as inactive ingredients because such products do not pose a risk of esophageal obstruction. Several comments mentioned that water-soluble gums are used as suspending agents in many liquid drug products for both prescription and OTC use, and claimed there is no risk of esophageal obstruction associated with those products. One comment added that certain water-soluble gums have been used as a tablet disintegrant for more than 25 years with no known adverse incidents.

The agency concurs that the warning should be clarified to state its application only to those OTC drug products containing water-soluble gums as active ingredients. Many currently marketed products contain water-soluble gums as inactive ingredients used as suspending agents, binders, tablet disintegrants, etc. The agency is not aware of any reports showing that the amount of a water-soluble gum used as an inactive ingredient produces the potential for esophageal obstruction and thus poses a threat to consumer safety. Accordingly, the agency is revising the language in the heading in § 201.319 to read: § 201.319 *Water-soluble gums, hydrophilic gums, and hydrophilic mucilloids (including * * *) as active ingredients; required warnings and directions*, and paragraph (b) of § 201.319 to read: "Any drug products for human use containing a water-soluble gum, hydrophilic gum, or hydrophilic mucilloid as an active ingredient in an oral dosage form when marketed in a dry or incompletely hydrated form as described in paragraph (a) of this section are misbranded within the meaning of section 502 of the Federal Food, Drug, and Cosmetic Act unless their labeling bears the following warnings and directions in bold print and capital letters: * * *."

8. Three comments contended that the concerns raised by the proposed warning statements for OTC drugs containing water-soluble gums could be adequately addressed under "Directions for Use." One comment mentioned that the first statement of the proposed warning currently exists under "Directions for Use" for OTC bulk-forming laxatives. Another comment stated that the directions for use found on its product label (both descriptive and pictorial) adequately convey appropriate product use, which is supported by actual consumer experience. The comment mentioned the very low incidence rate of serious esophageal blockage reports for its products, which are mixed with liquid prior to ingestion. The comment requested an oral hearing if the agency disagrees with its position and maintains that the warning is warranted (for its product).

Two comments suggested adding the following sentence to the "Directions for Use": "Taking this product without enough liquid may cause choking." One of the comments stated that the term "choking" encompasses several of the other proposed consequence terms of the warning and thus would eliminate the need for the part of the proposed warning that states: "If you experience chest pain, vomiting, or difficulty in swallowing or breathing after taking this product, seek immediate medical attention." The comment recommended that the proposed warning appear under the "Directions for Use" as follows:

(Select one of the following, as appropriate: "Take" or "Mix") "this product with at least8 ounces (a full glass) of liquid. Taking this product without enough liquid may cause choking."

Three comments suggested an alternative to the proposed warning in the form of an "instructive warning," which states: "*VERY IMPORTANT*—Take (or mix) this product with at least 8 ounces (a full glass) of water or other fluid."

The agency has considered the comments' recommendations and agrees that information conveying the proper use of OTC water-soluble, gum-containing drug products should be included under the "Directions" section of the product's labeling (see also comment 9). Therefore, the agency is establishing a "Directions" section in § 201.319 that states: "(Select one of the following as appropriate: 'TAKE' or 'MIX') 'THIS PRODUCT (CHILD OR ADULT DOSE) WITH AT LEAST 8 OUNCES (A FULL GLASS) OF WATER OR OTHER FLUID. TAKING THIS PRODUCT WITHOUT ENOUGH LIQUID MAY CAUSE CHOKING. SEE WARNINGS." This new direction statement will be required in the labeling of OTC water-soluble, gum-containing drug products upon the effective date of this final rule. At a later date, when the final rules for OTC laxative and antidiarrheal drug products are published, the warnings and directions included under § 201.319 will be incorporated into the labeling of bulk laxative drug products in § 334.52 and antidiarrheal drug products in § 335.50, respectively.

The agency concludes that critical information alerting the consumer about the possible consequences of not taking these products correctly should be appropriately placed in both the "Warnings" and the "Directions" sections of the products' labeling. The agency believes that the significance of the information will be emphasized if it appears in both sections of the labeling. Further, because of possible adverse reactions that can occur if the product is not taken correctly, the agency considers it very important that consumers' attention also be directed to the warning information. Therefore, to help draw attention to the warning statement, the agency is also adding the phrase "SEE WARNINGS" at the end of the "Directions" in § 201.319, to read: "(Select one of the following as appropriate: 'TAKE' or 'MIX') 'THIS PRODUCT (CHILD OR ADULT DOSE) WITH AT LEAST 8 OUNCES (A FULL GLASS) OF WATER OR OTHER FLUID. TAKING THIS PRODUCT WITHOUT ENOUGH LIQUID MAY CAUSE CHOKING. SEE WARNINGS."

The agency denies one comment's request for a hearing at this time because of a lack of adequate data showing that the warning is not warranted for a specific product. However, as noted in comment 5, the agency will consider requests for an exemption from the warning, submitted in the form of a citizen petition as provided in § 10.30. Interested parties must provide documentation of the safety and low incidence rate of esophageal blockage for their specific product(s) in the citizen petition.

9. One comment contended that the proposed warning is inaccurate, overly broad in scope, and would not serve properly to warn consumers. The comment pointed out that the requirement to state "at least 8 ounces (a full glass) of water or other fluid" does not take into account the lower recommended dosages for some of these ingredients for children ages 6 to under 12. The comment stated that lesser amounts of liquid are appropriate for those users, and the warning should be modified to recognize the different dosages for these products.

The purpose of the warning is to ensure safe and effective use by both adults and children of OTC drug products containing water-soluble gums

as active ingredients; specifically, to prevent esophageal blockage that could result from taking or mixing these drugs with inadequate amounts of water or from use by individuals with swallowing difficulties. Although the maximum single dose of water-soluble gums for children (ages 6 to under 12) generally equals one-half the maximum single dose for adults, the minimum single dose for children is frequently the same as that for adults. For instance, in the tentative final monograph for OTC laxative drug products, the agency proposed that the minimum single dose of psyllium as a bulk forming laxative for both adults and children (ages 6 to under 12) is 2.5 g (51 FR 35136 at 35137). Similarly, for methylcellulose and sodium carboxymethylcellulose the proposed minimum single dose for adults and children is 0.45 g. Thus, because a child (age 6 to under 12) would take the same minimum single dose as an adult, the child would need to consume the same amount of fluid to avoid swelling and possible blockage problems. Therefore, the directions statement included in this final rule state that the same amount of fluid (at least 8 oz) should be taken with both children's and adult's doses of water-soluble gum products.

10. A number of comments suggested revising the third and fourth sentences of the proposed warning, which state:

DO NOT TAKE THIS PRODUCT IF YOU HAVE EVER HAD DIFFICULTY IN SWALLOWING OR HAVE ANY THROAT PROBLEMS. IF YOU EXPERIENCE CHEST PAIN, VOMITING, OR DIFFICULTY IN SWALLOWING OR BREATHING AFTER TAKING THIS PRODUCT, SEEK IMMEDIATE MEDICAL ATTENTION.

The comments described these statements as "unduly alarming," "without sufficient justification," "not easily understood," "too strongly worded," "too broad and too vague," and "ambiguous." Several of the comments contended that the phrase "if you have ever had difficulty in swallowing or have any throat problems" could apply to almost all consumers because nearly everyone at some time has had a sore throat (from a cold, cough, minor irritation, or smoking) that resulted in difficulty in swallowing. Several comments expressed concern that if people take the warning literally, the market for water-soluble, gum-containing OTC drug products would be severely damaged. The comments mentioned that many of the water-soluble gums are already generally recognized as safe as food ingredients, and that these products are currently being used safely by millions of people.

Two comments argued that the statement about difficulty in swallowing or throat problems should be eliminated or, if retained, modified to refer only to persons with diagnosed swallowing problems or a history of throat problems. Another comment suggested modifying the statement to read: "Do not take this product if you have esophageal narrowing or dysfunction."

Two comments suggested revising the proposed warning statement to direct individuals with throat problems to seek the advice of a doctor prior to using the product. One comment suggested the following: "If you have been diagnosed with a condition that causes difficulty in swallowing, consult a doctor before using this product." The other comment suggested different wording, as follows: "If you have been diagnosed with esophageal narrowing or have difficulty swallowing, consult a doctor before taking this product."

The agency agrees that the third sentence of the proposed warning could be revised to make the statement more specific. Individuals who have had swallowing difficulties in the past due to minor sore throat, colds, or coughs need not be excluded from taking water-soluble gum drug products; however, individuals with medically-related swallowing problems must be warned to avoid these products. The agency does not believe a statement advising consumers with swallowing difficulties to seek the advice of a doctor before taking this type of product is appropriate because water-soluble, gum-containing products should not be taken by those individuals. Further, the agency does not believe that the terms "esophageal narrowing" or "esophageal dysfunction" should be used in the warning because they are too technical. The agency believes that the term "difficulty in swallowing" is better understood by consumers. The agency also is not including the term "diagnosed" in the warning statement because individuals could have throat problems without the problems having been diagnosed by a physician. None of the comments requested a specific revision in the fourth sentence of the warning. If chest pain, vomiting, or difficulty in swallowing occur after taking a water-soluble gum-containing drug product the agency finds it appropriate to alert consumers to seek immediate medical attention. Accordingly, in this final rule, the third sentence of the warning statement is revised and the fourth sentence remains as proposed, to read:

DO NOT TAKE THIS PRODUCT IF YOU HAVE DIFFICULTY IN SWALLOWING. IF YOU EXPERIENCE CHEST PAIN, VOMITING, OR DIFFICULTY IN SWALLOWING OR BREATHING AFTER TAKING THIS PRODUCT, SEEK IMMEDIATE MEDICAL ATTENTION.

11. One comment stated that if this final rule becomes effective before the monographs for OTC laxative and weight control drug products, it must provide adequate time for manufacturers to develop and implement new labeling. The comment recommended that the effective date of any final rule be at least 12 months after the date of publication in the **Federal Register**, and that consideration be given to requests for limited extensions based on extenuating circumstances.

A final rule on OTC weight control drug products containing water-soluble gum active ingredients was published in the **Federal Register** of August 8, 1991 (56 FR 37792). All water-soluble gum active ingredients were found to be not generally recognized as safe and effective for this use. A final rule for OTC laxative and for OTC antidiarrheal drug products will not be published until after this final rule for water-soluble gums becomes effective. The final rules for OTC laxative and antidiarrheal drug products may include several water-soluble gum active ingredients. Drug products containing these active ingredients will need to be relabeled to bear the directions and warning statements required by this final rule (21 CFR 201.319) before the final monographs for OTC laxative and antidiarrheal drug products become effective. Normally, when a monograph is published, the agency provides a 12-month period for any necessary reformulation, relabeling, and stability testing that needs to be done. In the current situation, no reformulation or stability testing needs to be done. The only required action is relabeling to add several additional statements. The agency recognizes that in order for manufacturers to comply with this final rule for OTC drug products containing water-soluble gums, new labels will have to be written, ordered, received, and incorporated into the manufacturing process. However, this required relabeling relates to a safety problem, for which the agency has determined that a shorter deadline than the customary 12 months should be established. Therefore, this final rule will be effective 6 months after the date of publication in the **Federal Register**. The agency believes that 6 months is sufficient time for most manufacturers to bring their products into compliance with this final rule, which affects only the labeling of the product. Therefore, any OTC drug product that is subject to

this rule that is initially introduced or initially delivered for introduction into interstate commerce, or that is repackaged or relabeled, after the effective date of the rule must be in compliance with the rule regardless of the date the product was manufactured, initially introduced, or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with this rule at the earliest possible date. Requests for a limited extension of time will be considered by the agency only if extenuating circumstances are adequately documented. Any such requests should be sent to the Food and Drug Administration, Division of Drug Labeling Compliance (HFD–310), 7520 Standish Pl., Rockville, MD 20855.

II. Summary of Significant Changes From The Proposed Rule

1. The agency has clarified § 201.319 to state that the warning and direction statements apply only to OTC drug products containing a water–soluble gum as an active ingredient. (See comment 7.)

2. The agency has revised § 201.319(b) to indicate that the warning and direction statements are required only for water-soluble gum products marketed in a dry or incompletely hydrated form. (See comments 4 and 5.)

3. The agency is deleting the first sentence of the warning proposed in § 201.319(b) and is, instead, adding "Directions" in § 201.319(b) that state: (Select one of the following, as appropriate: "TAKE" or "MIX") "THIS PRODUCT (CHILD OR ADULT DOSE) WITH AT LEAST 8 OUNCES (A FULL GLASS) OF WATER OR OTHER FLUID. TAKING THIS PRODUCT WITHOUT ENOUGH LIQUID MAY CAUSE CHOKING. SEE WARNINGS." (See comment 8.) These directions indicate that the same amount of fluid (at least 8 ounces) should be mixed or taken with the product by an adult as well as a child. (See comment 9.)

4. The agency is revising the third sentence of the warning statement proposed in § 201.319 to read: "DO NOT TAKE THIS PRODUCT IF YOU HAVE DIFFICULTY IN SWALLOWING." (See comment 10.)

III. The Agency's Final Conclusions on The Safety of Water-Soluble Gums in Orally-Administered OTC Drug Products

Based on available evidence, the agency is issuing a final rule requiring specific warning and direction statements in the labeling of all OTC drug products for human use containing a water-soluble gum, hydrophilic gum, or hydrophilic mucilloid as an active ingredient when marketed in a dry or incompletely hydrated form to include, but not limited to, the following dosage forms: capsules, granules, powders, tablets, and wafers. Esophageal obstruction and asphyxiation due to orally-administered OTC drug products containing water-soluble gums, hydrophilic gums, and hydrophilic mucilloids as active ingredients are significant health risks when these products are taken without adequate fluid or when they are used by individuals with esophageal narrowing or dysfunction, or with difficulty swallowing. Therefore, the agency is requiring specific warning and direction statements for all OTC drug products containing water-soluble gums as active ingredients prior to the completion of rulemakings for certain classes of OTC drug products that contain these ingredients. These ingredients include, but are not limited to, agar, alginic acid, calcium polycarbophil, carboxymethylcellulose sodium, carrageenan, chondrus, glucomannan ((B-1,4 linked) polymannose acetate), guar gum, karaya gum, kelp, methylcellulose, plantago seed (psyllium), polycarbophil, tragacanth, and xanthan gum. (NOTE: Although some of these ingredient names are no longer official, they do appear in the labeling of some products. Therefore, the agency is including all ingredient names, whether official or not, in this final regulation.)

Because of the potential serious health risk involved, the warning and direction statements must appear in bold print and in capital letters. The required statements are as follows:

"*WARNINGS*: TAKING THIS PRODUCT WITHOUT ADEQUATE FLUID MAY CAUSE IT TO SWELL AND BLOCK YOUR THROAT OR ESOPHAGUS AND MAY CAUSE CHOKING. DO NOT TAKE THIS PRODUCT IF YOU HAVE DIFFICULTY IN SWALLOWING. IF YOU EXPERIENCE CHEST PAIN, VOMITING, OR DIFFICULTY IN SWALLOWING OR BREATHING AFTER TAKING THIS PRODUCT, SEEK IMMEDIATE MEDICAL ATTENTION."

DIRECTIONS: (Select one of the following, as appropriate: "TAKE" or "MIX") "THIS PRODUCT (CHILD OR ADULT DOSE) WITH AT LEAST 8 OUNCES (A FULL GLASS) OF WATER OR OTHER FLUID. TAKING THIS PRODUCT WITHOUT ENOUGH LIQUID MAY CAUSE CHOKING. SEE WARNINGS."

The warning and direction statements in § 201.319 will be incorporated into the labeling contained in the monographs for OTC laxative and antidiarrheal drug products, or any other applicable monograph, as the monographs are finalized. The agency concludes that it would be an unacceptable health risk to delay implementation of these warning and direction statements until these rulemakings are completed. Manufacturers are encouraged to comply with this final rule at the earliest possible date.

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking (55 FR 45782 at 45784). The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this final rule for specific warning and direction statements for OTC drug products containing water-soluble gums as active ingredients, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (Pub. L. 96–354). That assessment included a discretionary regulatory flexibility analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC drugs containing water-soluble gums as active ingredients is not expected to pose such an impact on small businesses. The final rule will impose direct one- time costs associated with changing product labels, but that cost is estimated to total less than $1 million. Manufacturers will have 6 months in which to implement this relabeling. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 201

Drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 201 is amended as follows:

PART 201—LABELING

1. The authority citation for 21 CFR part 201 is revised to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 508, 510, 512, 530–542, 701, 704, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 358, 360, 360b, 360gg–360ss, 371, 374, 379e); secs. 215, 301, 351, 361 of the Public Health Service Act (42 U.S.C. 216, 241, 262, 264).

2. Section 201.319 is added to subpart G to read as follows:

§ 201.319 Water-soluble gums, hydrophilic gums, and hydrophilic mucilloids (including, but not limited to agar, alginic acid, calcium polycarbophil, carboxymethylcellulose sodium, carrageenan, chondrus, glucomannan ((B-1,4 linked) polymannose acetate), guar gum, karaya gum, kelp, methylcellulose, plantago seed (psyllium), polycarbophil tragacanth, and xanthan gum) as active ingredients; required warnings and directions.

(a) Reports in the medical literature and data accumulated by the Food and Drug Administration indicate that esophageal obstruction and asphyxiation have been associated with the ingestion of water-soluble gums, hydrophilic gums, and hydrophilic mucilloids including, but not limited to, agar, alginic acid, calcium polycarbophil, carboxymethylcellulose sodium, carrageenan, chondrus, glucomannan ((B-1,4 linked) polymannose acetate), guar gum, karaya gum, kelp, methylcellulose, plantago seed (psyllium), polycarbophil, tragacanth, and xanthan gum. Esophageal obstruction and asphyxiation due to orally-administered drug products containing water-soluble gums, hydrophilic gums, and hydrophylic mucilloids as active ingredients are significant health risks when these products are taken without adequate fluid or when they are used by individuals with esophageal narrowing or dysfunction, or with difficulty in swallowing. Additional labeling is needed for the safe and effective use of any OTC drug product for human use containing a water-soluble gum, hydrophilic gum, or hydrophilic mucilloid as an active ingredient when marketed in a dry or incompletely hydrated form to include, but not limited to, the following dosage forms: capsules, granules, powders, tablets, and wafers.

(b) Any drug products for human use containing a water-soluble gum, hydrophilic gum, or hydrophilic mucilloid as an active ingredient in an oral dosage form when marketed in a dry or incompletely hydrated form as described in paragraph (a) of this section are misbranded within the meaning of section 502 of the Federal Food, Drug, and Cosmetic Act unless their labeling bears the following warnings and directions in bold print and capital letters:

"*WARNINGS*: TAKING THIS PRODUCT WITHOUT ADEQUATE FLUID MAY CAUSE IT TO SWELL AND BLOCK YOUR THROAT OR ESOPHAGUS AND MAY CAUSE CHOKING. DO NOT TAKE THIS PRODUCT IF YOU HAVE DIFFICULTY IN SWALLOWING. IF YOU EXPERIENCE CHEST PAIN, VOMITING, OR DIFFICULTY IN SWALLOWING OR BREATHING AFTER TAKING THIS PRODUCT, SEEK IMMEDIATE MEDICAL ATTENTION."

"*DIRECTIONS*:" (Select one of the following, as appropriate: "TAKE" or "MIX") "THIS PRODUCT (CHILD OR ADULT DOSE) WITH AT LEAST 8 OUNCES (A FULL GLASS) OF WATER OR OTHER FLUID. TAKING THIS PRODUCT WITHOUT ENOUGH LIQUID MAY CAUSE CHOKING. SEE WARNINGS."

(c) After February 28, 1994, any such OTC drug product initially introduced or initially delivered for introduction into interstate commerce, or any such drug product that is repackaged or relabeled after this date regardless of the date the product was manufactured, initially introduced, or initially delivered for introduction into interstate commerce, that is not in compliance with this section is subject to regulatory action.

Dated: August 19, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–20695 Filed 8–25–93; 8:45 am]

BILLING CODE 4160–01–F

federal register

Thursday
August 26, 1993

Part V

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 331
Antacid Drug Products; Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 331

[Docket No. 85N–0049]

RIN 0905–AA06

Antacid Drug Products For Over-the-Counter Human Use; Amendment Of Antacid Final Monograph

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule to amend the final monograph for over-the-counter (OTC) antacid drug products to require that all antacid drug products contain the statement: "Drug Interaction Precaution: Antacids may interact with certain prescription drugs. If you are presently taking a prescription drug, do not take this product without checking with your physician or other health professional." FDA is issuing this final rule after considering public comments on the agency's proposed regulation and all new data and information that have come to the agency's attention. This final rule is part of the ongoing review of OTC drug products conducted by FDA.

EFFECTIVE DATE: August 26, 1994.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD–810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5000.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 4, 1974 (39 FR 19862), FDA issued a final monograph for OTC antacid drug products that established conditions under which these products are generally recognized as safe and effective and not misbranded. Section 331.30(d)(1) (21 CFR 331.30(d)(1)) of the monograph currently requires that the labeling of OTC aluminum-containing antacid drug products include the following drug interaction precaution: "Do not take this product if you are presently taking a prescription antibiotic drug containing any form of tetracycline." In the Federal Register of October 19, 1979 (44 FR 60328), the agency proposed to amend the antacid monograph to require that this drug interaction precaution also be included on the labeling of antacid drug products containing calcium or magnesium. The proposed amendment also would have required the following additional statement as part of the drug interaction precaution: "If you are not sure whether or not you are taking a tetracycline product, contact your physician or pharmacist." Interested persons were invited to file written comments to the proposed amendment on or before December 18, 1979.

On November 15, 1982, FDA received a petition (Docket No. 82P–0360/CP) requesting, among other things, that the labeling of OTC antacid drug products include a precaution concerning the interaction between antacids and the prescription drug digoxin. After evaluating the comments to the proposed amendment (44 FR 60328), the petition, and data in the literature indicating that antacids interact with a number of other drugs, in the Federal Register of July 30, 1986 (51 FR 27342), FDA proposed that a different drug interaction precaution be included in the labeling of all OTC antacid drug products, as follows: "Antacids may interact with certain prescription drugs. If you are presently taking a prescription drug, do not take this product without checking with your physician." Interested persons were invited to file written comments or objections by September 29, 1986.

In response to this notice of proposed rulemaking, seven professional associations, three manufacturers, three academic institutions, two pharmaceutical trade organizations, two pharmaceutical publications, and one individual submitted comments. Copies of the comments are on public display in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Additional information that has come to the agency's attention since publication of the proposed rule is also on public display in the Dockets Management Branch.

I. The Agency's Conclusions on the Comments

1. Many comments requested that the wording of the proposed warning be revised to include the "pharmacist" as another health professional that consumers could check with about possible drug interactions. The comments mentioned several reasons for including pharmacists as a source of information and advice: their professional knowledge, ready availability, and willingness to provide advice without charging expensive professional fees. The comments contended that pharmacists have access to the patients' full medical profile and consumers are likely to purchase antacids from pharmacies. Two comments added that FDA has used similar language in the past.

The agency agrees that pharmacists' professional knowledge, ready availability, and willingness to provide advice make them an excellent source of information, particularly relating to drug interactions, for consumers taking both an OTC antacid and a prescription drug. In some cases, the pharmacist may have access to the consumer's complete medical profile and be able to offer medication counseling when a questionable situation arises.

The agency believes, however, that other health professionals, such as nurses and physician assistants, can also help consumers determine whether the prescription drug they are taking interacts with an antacid. Information about such interactions appears in references, such as the "Physicians' Desk Reference," that are available to these health professionals. In developing warning and drug interaction precaution statements for other OTC drug products, the agency has previously considered the most appropriate wording to designate who could provide consumers with information concerning OTC drugs. The agency determined that "health professional" is the preferred term, because this term does not restrict consumers from other available sources of information. (See, for example, the pregnancy-nursing warning for OTC drugs in 21 CFR 201.63 and the proposed drug interaction precaution for monoamine oxidase inhibitor drugs (57 FR 27658, 27662, and 27666 (June 19, 1992)).

Accordingly, in this final rule, the agency is revising the drug interaction precaution statement in § 331.30(d) to read as follows: "Antacids may interact with certain prescription drugs. If you are presently taking a prescription drug, do not take this product without checking with your physician or other health professional."

2. Two comments contended that physicians and their staffs would be overburdened by patient inquiries regarding possible OTC antacid-prescription drug interactions, many of which may be "trivial, clinically insignificant, or nonexistent." Another comment stated that the warning language is so broad that it fails to distinguish between known interactions and merely conjectural ones. The comment considered the warning to be a public service message to remind patients to keep physicians apprised of all medications being consumed. The comment concluded that while this is a laudable goal, it is not a proper use of limited OTC drug labeling space.

The agency has determined that an antacid drug interaction precaution is necessary due to the large number of interactions that could occur between antacids and prescription drugs. Antacids can alter the rate of absorption, bioavailability, and/or renal elimination of a number of drugs (see discussion in comment 5). While the language in the precaution could be considered overly broad, the agency's goal is to alert consumers without resorting to a confusing and burdensome list of all known interactions.

The agency does not believe that physicians and their staffs will be overburdened as a result of the new precaution. Information regarding interactions of prescription drugs with other drugs (prescription or OTC) should be provided as part of the physician-patient consultation when prescription drugs are prescribed. However, in some instances, patients may not be taking an OTC antacid at the time a prescription drug is prescribed. Later, the patient may have a need for an OTC antacid. In these instances, the drug interaction precaution is intended to alert patients to check with their physician before taking the antacid. The agency believes that this process is an essential part of good health care, and that most physicians and their staffs would not consider such inquiries to be burdensome.

3. Four comments contended that if a drug interaction merits a warning, then the proper vehicle for the warning would be the approved labeling for the prescription drug in question. The comments argued that the information is best provided when the medication is prescribed by the physician as part of the physician-patient consultation. Two of the comments mentioned that information about possible drug interactions is also provided by the pharmacist at the time the prescription is filled.

The agency agrees that when clinically significant drug interactions occur, the labeling of the prescription drug in question is an appropriate place to state that information. However, the prescription labeling is not the only appropriate place where such information can be provided. Also, having this information in the OTC drug product labeling serves to remind patients who may have forgotten their physicians' or pharmacists' instructions and is intended to help prevent unnecessary drug interactions from occurring.

The agency's general policy is that when an interaction between a prescription drug and an OTC drug is significant enough to be included in the approved labeling of the prescription drug product, a similar corresponding warning should be included in the labeling of the OTC drug product. This policy may not apply when the known prescription-OTC drug interaction cited in the prescription drug labeling affects only a limited portion of the total population taking the prescription drug. However, in those cases where known drug interactions are not limited to specific drugs and involve numerous drugs or entire drug categories, the agency states the interaction information in terms of general drug categories. For example, if a significant number of prescription drugs are known to interact with an OTC drug, the drug interaction warning may need to be a general "prescription drug" warning rather than listing all of the possible prescription drugs likely to cause interactions.

In the case of antacid drug products, the interaction between aluminum, calcium, or magnesium antacids and tetracycline is the most frequently reported. However, as discussed in comment 5, data in the literature indicate that drugs in the entire class of antacids, due to pH-related and other mechanisms, interact with a number of other drugs (Refs. 1 through 8). Because it would be impossible to list every prescription drug that could possibly cause an interaction in the antacid product's labeling, the agency finds a general warning statement to be most appropriate for this situation.

References

(1) D'Arcy, P. F., and J. C. McElnay, "Drug-Antacid Interactions: Assessment of Clinical Importance," *Drug Intelligence and Clinical Pharmacy*, 21:607–617, 1987.

(2) "USP DI, Volume I, Drug Information for the Health Care Professional," 13th ed., United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 195–197, 1993.

(3) Hansten, P. D., and J. R. Horn, "Drug Interactions," 6th ed., Lea and Febiger, Philadelphia, pp. 225, 229, 250, and 348, 1987.

(4) "Drug Evaluations," 6th ed., American Medical Association, Chicago, p. 947, 1986.

(5) Garnett, W. R., "Antacid Products" in "Handbook of Nonprescription Drugs," 9th ed., American Pharmaceutical Association, Washington, pp. 270–274, 1990.

(6) Clark, W. G., D. C. Brater, and A. R. Johnson, "Goth's Medical Pharmacology," 12th ed., The C. V. Mosby Co., St. Louis, pp. 748–750, 1988.

(7) Brunton, L. L., "Agents for Control of Gastric Acidity and Treatment of Peptic Ulcers" in "The Pharmacological Basis of Therapeutics," 8th ed., edited by L. S. Goodman, and A. G. Gilman, Pergamon Press Co., Inc., New York, pp. 904–909, 1990.

(8) Shinn, A. F., and R. P. Shrewbury, "Evaluations of Drug Interactions," 3d ed., The C. V. Mosby Co., St. Louis, p. 399, 1985.

4. Two comments contended that the proposed warning is contrary to the statutory definition of OTC drugs in section 503(b)(1)(B) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 353(b)(1)(B) the intent of that definition which, according to one comment, "mandates nonprescription status for drug products which are deemed as safe for use without the supervision of a physician." These comments argued that a general drug interaction statement, as proposed, would "seek to impose a requirement of physician intervention before use if the patient is taking any concurrent prescription therapy."

The agency considers the drug interaction precaution statement to be consistent with section 503(b)(1)(B) of the act. That section states that certain drugs shall be dispensed only by prescription when certain conditions exist and the drug is not safe except when used under the supervision of a practitioner licensed by law to administer such drug. This section of the statute does not prohibit warnings and drug interaction precaution statements for OTC drug products. These warnings and precaution statements do not impose a requirement of physician intervention for all consumers, but serve to alert certain users of the product to consult a physician or other health professional for advice when certain situations exist (e.g., when taking a prescription drug product concurrently). Thus, the requirements are not at odds with the statute.

In other OTC drug rulemakings, the agency has included similar drug interaction precautions in the OTC drug products' labeling to alert consumers to consult a doctor before taking certain drugs concurrently. For example, the precaution, "Do not use this product if you are presently taking a prescription drug for high blood pressure or depression without first consulting your doctor," is currently required for OTC bronchodilator drug products (see 21 CFR 341.76(c)(4)) and OTC anorectal drug products (see 21 CFR 346.50(c)(7)(ii)). On June 19, 1992 (57 FR 27662), the agency proposed to revise the wording for the precaution for OTC bronchodilator drug products. Other examples include the warning, "Do not give this product to children who have a chronic pulmonary disease, shortness of breath, or who are taking other drugs unless directed by a doctor," for OTC antitussive drug products containing codeine labeled for children under 12 years of age (see 21 CFR 341.74(c)(4)(iii)) and the warning, "Avoid alcoholic beverages while taking

this product. Do not take this product if you are taking sedatives or tranquilizer, without first consulting your doctor," for OTC nighttime sleep-aid drug products containing diphenhydramine hydrochloride or diphenhydramine monocitrate (see 21 CFR 338.50(c)(4)).

5. Two comments contended that the proposed drug interaction warning is not supported by the medical/scientific literature. One comment stated that the articles referenced in the agency's proposal provide questionable support for the agency's position because they are largely review articles with citations to papers that are often anecdotal and out of date. The comment added that the articles contain broad generalizations about drug interactions without adequate discussion of clinical significance.The comment argued that unnecessary warnings dilute the significance and impact of such warnings that are needed for the safe use of the product by the consumer. The comment concluded that the warning is unnecessary.

The agency disagrees with the comments. The medical/scientific literature reviewed by the agency shows that the entire class of antacids can cause numerous drug interactions. In 1982, D'Arcy and McElnay identified the hazards of interactions with antacids as being largely confined to a relatively small group of drugs: tetracycline, phenytoin, digoxin, and chloroquine (Ref. 1). In 1987, the same authors reported newer evidence showing that additional interactions occurred between antacids and cimetidine, quinidine, nonsteroidal antiinflammatory drugs, and beta-adrenergic blocking drugs (Ref. 2). Other references published after the agency's proposal in 1986 include more reports of antacid interactions. For example, the "United States Pharmacopeial Dispensing Information" currently contains extensive interaction data, listing 35 specific interactions between antacids containing aluminum, calcium, magaldrate, magnesium, or sodium bicarbonate and frequently prescribed medications selected on the basis of their potential clinical significance (Ref. 3).

These reports in the literature show that antacids can interact with a wide range of primary drugs, and can adversely affect the efficacy of the primary medication. Interactions can occur by a number of mechanisms, some of which act concomitantly: for example, by altering gastric pH (giving rise to altered dissolution rate of drug formulation, changed drug ionization, and modified absorption patterns), by adsorption of drug onto the surface of the interactant, or through the formation of poorly soluble salts or complexes. Interactions with antacids may also involve kinetic changes, including changed gastric emptying rate and/or gastric motility.

Antacids may alter the rate of dissolution, absorption, biovailability, and renal elimination of a number of drugs. Numerous authors report that, through a combination of factors, many antacids decrease the bioavailability of cimetidine, ranitidine, nitrofurantoin, digoxin, ethambutol, some indomethacin, phenytoin, vitamin A, fluoride, and phosphate (Refs. 2 and 4 through 8). It has also been reported that antacids considerably reduce ketoconazole concentrations (Ref. 4). Antacids decrease the bioavailability of atenolol and propranolol and increase the bioavailability of metoprolol. Antacids also increase the dissolution and absorption of the acidic forms of sulfonamides and the rate of absorption of levodopa (Ref. 8). Concurrent antacid therapy with ferrous sulfate, isoniazid, or tetracycline has frequently been reported to decrease the bioavailability of these drugs in actual patients (Refs. 2, 3, and 9).

Concurrent administration of tetracycline with antacid products containing aluminum hydroxide or divalent ions (magnesium or calcium) significantly decreases the gastrointestinal absorption of the antibiotic, thereby lessening its therapeutic effect. Demeclocycline, methacycline, chlortetracycline, and oxytetracycline are other forms of tetracycline that, administered concurrently with an aluminum hydroxide antacid product, also form insoluble chelates (Ref. 9).

Aluminum hydroxide has been shown to interfere with the absorption or excretion of warfarin, while aluminum hydroxide in combination with magnesium hydroxide can increase the absorption of dicumarol (Refs. 5 and 6). Thiazide diuretics cause retention of calcium and may exacerbate hypercalcemia when calcium carbonate antacids are taken concurrently (Ref. 8).

Alkalinization of the urine affects renal clearance of drugs that are weak acids or bases. Concurrent antacid therapy increases the rate of elimination of salicylates and phenobarbital and decreases the elimination of amphetamine, ephedrine, mecamylamine, pseudoephedrine, and quinidine (Refs. 5 and 8).

Antacids containing aluminum delay gastric emptying, tending to slow the entry of drugs to the absorptive surface of the small intestine, thus resulting in a delayed absorption rate. In combination products, compounds that contain magnesium can partially block the effect of aluminum on gastric motility; therefore, the combination product's absorption rate will be less delayed as compared to that of an aluminum compound's. Magnesium trisilicate and aluminum compounds are notable for their ability to absorb drugs and to form insoluble complexes that are not absorbed (Ref. 8).

Based on information in the medical/scientific literature, the agency concludes that the drug interaction precaution statement is necessary not only for antacid drug products containing aluminum, but for all OTC antacid drug products. Section 331.30(d) of the antacid monograph is revised accordingly.

References

(1) D'Arcy, P. F., and J. C. McElnay, "Drug-Metal Ion Interactions in the Gut," in Sigel H., "Metal Ions in Biological Systems, Vol. 14," in "Inorganic Drugs in Deficiency and Disease," Marcel Dekker, New York, 1982:1–35.

(2) D'Arcy, P. F., and J. C. McElnay, "Drug-Antacid Interactions: Assessment of Clinical Importance," Drug Intelligence and Clinical Pharmacy, 21:607–617, 1987.

(3) "USP DI, Volume I, Drug Information for the Health Care Professional," 13th ed., United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 195–197, 1993.

(4) Hansten, P. D., and J. R. Horn, "Drug Interactions," 6th ed., Lea and Febiger, Philadelphia, pp. 225, 229, 250, and 348, 1987.

(5) "Drug Evaluations," 6th ed., American Medical Association, Chicago, p. 947, 1986.

(6) Garnett, W. R., "Antacid Products" in "Handbook of Nonprescription Drugs," 9th ed., American Pharmaceutical Association, Washington, pp. 270–274, 1990.

(7) Clark, W. G., D. C. Brater, and A. R. Johnson, "Goth's Medical Pharmacology," 12th ed., The C. V. Mosby Co., St. Louis, pp. 748–750, 1988.

(8) Brunton, L. L., "Agents for Control of Gastric Acidity and Treatment of Peptic Ulcers" in "The Pharmacological Basis of Therapeutics," 8th ed., edited by L. S. Goodman, and A. G. Gilman, Pergamon Press Co., Inc., New York, pp. 904–909, 1990.

(9) Shinn, A. F., and R. P. Shrewbury, "Evaluations of Drug Interactions," 3d ed., The C. V. Mosby Co., St. Louis, p. 399, 1985.

6. Two comments stated that this proposal for a general warning may be setting a precedent that could affect the labeling of many OTC drug products in other drug classes. One comment contended that such action after a rulemaking process has been completed represents a major deviation from the scope of a final monograph and usurps the dedicated efforts of many people who participated in that process. The other comment argued that, because the proposed change is of such a sweeping

nature, it should be made subject to a formal rulemaking proceeding in order to provide meaningful notice to all interested parties with opportunity for comment. The comment concluded that if the policy is not abandoned, it must be published as a freestanding proposed rule.

The agency does not consider this antacid drug interaction precaution to be a precedent setting matter that could affect the labeling of many other classes of OTC drug products. This particular drug interaction is a problem specific to OTC antacid drug products. While FDA has used general warnings that affect more than one class of OTC drugs, such as the general pregnancy and nursing warning in 21 CFR 201.63, this usage has been rather limited and there currently are no plans to expand the usage of general warnings on a broad basis. The agency will consider the need for such general warnings as circumstances arise.

In the current situation, the drug interaction precaution for OTC antacid drug products was initiated by a citizen petition (Ref. 1) after the rulemaking for OTC antacid drug products had been completed. Agency regulations in 21 CFR 330.10(a)(12) provide for the amendment of monographs in this manner. Further, the proposed change has been the subject of a proposed rule in a notice and comment rulemaking proceeding, and interested parties have had the opportunity to comment.

Reference

(1) CP, Docket No. 82P–0360, Dockets Management Branch.

7. One comment strongly urged the agency to finalize the proposed rule to amend the labeling requirements for OTC antacid drug products. The comment mentioned personal experience relating to an adverse interaction that occurred between an OTC antacid and a prescription drug. The comment stated that "physicians can not be relied upon to inform their patients of possible negative reactions to a combination of a prescription drug and OTC antacid drug," and "the general public has no other way of ascertaining the information easily."

This comment supports the need for having the drug interaction precaution statement in the labeling of OTC antacid drug products. The warning provides the general public guidance on how to seek information when a question arises as to drug use and should specifically benefit consumers who did not receive adequate instructions initially, who may have forgotten the original instructions regarding their prescription products, or who need to take an antacid after a prescription medication has been prescribed by a doctor. In the event that adequate information was not given initially, the warning alerts consumers to check with their physician or other health professional when taking an OTC antacid drug product with their prescription medication(s) and should result in specific guidance being given at the time of the subsequent inquiry.

II. Summary of Changes in the Final Monograph

After considering the comments received and warnings used for other OTC drug products (see comment 1), the agency has added the words or "other health professional" to the second sentence of the drug interaction precaution so that it now reads: "Antacids may interact with certain prescription drugs. If you are presently taking a prescription drug, do not take this product without checking with your physician or other health professional." In addition, the agency is now requiring that this drug interaction precaution appear in the labeling of all OTC antacid drug products, not just antacid drug products containing aluminum. (See comment 5.) Section 331.30(d) of the antacid monograph is revised accordingly.

The agency is also adding new § 331.30(h) to provide that the word doctor may be substituted for the word physician in any of the labeling statements in § 331.30. No comments were received in response to this part of the proposal. This addition makes the antacid monograph consistent with other recently published monographs.

III. The Agency's Final Conclusions on a Revised Drug Interaction Precaution Statement for OTC Antacid Drug Products

The agency has determined that a drug interaction precaution is needed in the labeling of all OTC antacid drug products (not just those containing aluminum) because the medical/scientific literature identifies a number of interactions that can occur between OTC antacids and prescription drugs. The agency believes that this information represents good health care and will serve as a reminder to consumers who are using antacids to contact their physicians or other health professionals for medication counseling if they are taking a prescription drug.

As discussed in the proposal (51 FR 27342 at 27343), the agency advised that any final rule resulting from the proposal would be effective 12 months after its date of publication in the **Federal Register**. Therefore, on or after August 26, 1994, any OTC antacid drug product that is not in compliance with the final rule may not be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved application. Further, any OTC antacid drug product subject to the rule that is repackaged or relabeled after the effective date of the rule must be in compliance with the rule regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the rule at the earliest possible date.

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking (51 FR 27342 at 27343). The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules including amendment of the monograph for OTC antacid drug products is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (Pub. L. 96–354). That assessment included a discretionary regulatory flexibility analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking amending the final monograph for OTC antacid drug products is not expected to pose such an impact on small businesses. This final rule will require minor relabeling of one statement in the labeling for all OTC antacid drug products. Manufacturers will have 1 year to implement this relabeling, and almost all manufacturers normally reorder labeling during that time span. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

The agency has determined under 21 CFR 25.24(c)(6) that this actions is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore,

neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 331

Labeling, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 331 is amended as follows:

PART 331—ANTACID PRODUCTS FOR OVER–THE–COUNTER (OTC) HUMAN USE

1. The authority citation for 21 CFR part 331 continues to read as follows:

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

2. Section 331.30 is amended by revising paragraph (d) introductory text and by adding paragraph (h) to read as follows:

§ 331.30 Labeling of antacid products.

* * * * *

(d) Drug interaction precaution. The labeling of the product contains the following statements under the heading "Drug Interaction Precaution": "Antacids may interact with certain prescription drugs. If you are presently taking a prescription drug, do not take this product without checking with your physician or other health professional."

* * * * *

(h) The word "doctor" may be substituted for the word "physician" in any of the labeling statements in this section.

Dated: August 19, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–20698 Filed 8–25–93; 8:45 am]

BILLING CODE 4160–01–F

federal register

Thursday
August 26, 1993

Part VI

Department of Education

34 CFR Part 776
Library Education and Human Resource Development Program; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 776

RIN 1850–AA48

Library Education and Human Resource Development Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Library Education and Human Resource Development Program (formerly the Library Career Training Program). These amendments are needed to implement the Higher Education Amendments of 1992 (1992 Amendments), to reflect changes in the Education Department General Administrative Regulations (EDGAR), and to clarify and restructure certain provisions in the existing regulations governing the program.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Louise V. Sutherland or Frank A. Stevens. Telephone: (202) 219–1315. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Library Education and Human Resource Development Program, is authorized by section 222 of title II, part B of the Higher Education Act of 1965, as amended (HEA). Section 222 was amended by the Higher Education Amendments of 1992 (1992 Amendments) (Pub. L. 102–325), which were enacted on July 23, 1992. These final regulations revise the existing regulations to implement the 1992 Amendments, to reflect changes in the Education Department General Administrative Regulations (EDGAR), and to clarify and restructure certain provisions in the existing regulations governing the program.

On June 11, 1993, the Secretary published a notice of proposed rulemaking (NPRM) for this program in the **Federal Register** (58 FR 32828). The major issues addressed by the regulations are discussed in the preamble to the NPRM.

The Secretary notes that the preamble of the NPRM incorrectly stated that § 776.7 of the regulations would be revised to replace the word "training" in the definition of "institute" with the term "staff development." The proposed regulations did not incorporate this change, and the Secretary has determined that this change is unnecessary. Institute grants have been and continue to be available for training projects, including staff development projects.

Public Comment

In the NPRM the Secretary invited comments on the proposed regulations. The Secretary did not receive any substantive comments. There are no differences between the NPRM and these final regulations.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for these programs.

Assessment of Educational Impact

In the NPRM, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 776

Education, Government contracts, Grant programs—education, Libraries.

(Catalog of Federal Domestic Assistance Number: 84–036B—Library Education and Human Resource Development Program)

Dated: August 23, 1993.

Richard W. Riley,

Secretary of Education.

The Secretary amends title 34 of the Code of Federal Regulations by revising part 776 to read as follows:

PART 776—LIBRARY EDUCATION AND HUMAN RESOURCE DEVELOPMENT PROGRAM

Subpart A—General

Sec.

776.1 What is the Library Education and Human Resource Development Program?
776.2 Who is eligible for a grant?
776.3 Who is eligible to participate in a project?
776.4 What types of projects may the Secretary fund?
776.5 What priorities may the Secretary establish?
776.6 What regulations apply?
776.7 What definitions apply?
776.8 What is the duration of a project?

Subpart B—What Are the Application Requirements?

776.10 How does one apply for a grant?
776.11 What assurance must an applicant for a fellowship project provide?

Subpart C—How Does the Secretary Make an Award?

776.20 How does the Secretary evaluate an application?
776.21 How does the Secretary evaluate an application for a fellowship project?
776.22 What selection criteria does the Secretary use to evaluate an application for an institute project?
776.23 What selection criteria does the Secretary use to evaluate an application for a traineeship project?

Subpart D—What Conditions Must be Met After an Award?

776.30 How may a grantee use grant funds?
776.31 What are the restrictions on costs for participants?
776.32 What are the allowances for assistance under other Federal programs?
776.33 What requirements govern the removal, withdrawal, and substitution of participants?
776.34 What agencies must be informed of activities funded under this program?

Authority: 20 U.S.C. 1021, 1031, 1032, unless otherwise noted.

Subpart A—General

§ 776.1 What is the Library Education and Human Resource Development Program?

The Secretary awards grants under the Library Education and Human Resource Development Program to—

(a) Educate and train persons in library and information science through fellowships, institutes, or traineeships, particularly in areas of critical needs; and

(b) Establish, develop, and expand programs of library and information

science, including new techniques of information transfer and communication technology.

(Authority: 20 U.S.C. 1021, 1032)

§ 776.2 Who is eligible for a grant?

Eligible applicants are—

(a) Institutions of higher education;

(b) Library organizations; or

(c) Library agencies.

(Authority: 20 U.S.C. 1032)

§ 776.3 Who is eligible to participate in a project?

In order to be selected by a grantee as a participant in a project, an individual must—

(a)(1) Be a United States citizen or national;

(2) Provide evidence from the United States Immigration and Naturalization Service that he or she—

(i) Is a permanent resident of the United States; or

(ii) Is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident; or

(3) Be a permanent resident of the Republic of Palau (until the Compact of Free Association with Palau takes effect);

(b) Be engaged in or preparing to engage in a profession or other occupation involving library or information science; and

(c) Meet the selection criteria of the grantee.

(Authority: 20 U.S.C. 1032)

§ 776.4 What types of projects may the Secretary fund?

A grantee may conduct one or more fellowship projects, institute projects, and traineeship projects with funds under this program.

(Authority: 20 U.S.C. 1032)

§ 776.5 What priorities may the Secretary establish?

(a) The Secretary may give priority to applications that address one or more of the following critical needs:

(1) To educate, train or retrain library personnel in areas of library specialization where there are currently shortages, such as school media, children's services, young adult services, science reference, and cataloging.

(2) To educate, train or retrain library personnel in new techniques of information acquisition, transfer, and communication technology.

(3) To educate, train or retrain library personnel to serve the information needs of the elderly, the illiterate, the disadvantaged, or residents of rural America.

(4) To increase excellence in library leadership through advanced training in library management.

(5) To increase excellence in library education by encouraging study in library and information science and related fields at the doctoral level.

(6) To provide advanced training in the development, structure, and management of new library organizational formats, such as networks, consortia, and information utilities.

(7) To recruit, educate, train, retrain and retain minorities in library and information science.

(b) The Secretary establishes priorities by publishing a notice in the **Federal Register**, in accordance with 34 CFR 75.105.

(Authority: 20 U.S.C. 1032)

§ 776.6 What regulations apply?

The following regulations apply to this program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 82 (New Restrictions on Lobbying).

(6) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(7) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 776.

(Authority: 20 U.S.C. 1021)

§ 776.7 What definitions apply?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Award
Contract (includes definition of Subcontract)
Department
EDGAR
Grant
Grantee
Private
Project
Project period
Public
Secretary

(b) *Other definitions.* The following definitions also apply to this part:

Act means the Higher Education Act of 1965, as amended.

Disadvantaged means those persons whose socio-economic or educational deprivation or whose cultural isolation from the general community may preclude them from benefiting from library services to the same extent as the general community benefits from these services.

Fellowship means an award of financial assistance for tuition to an individual who has been accepted for admission to an institution of higher education and who is or will be enrolled full-time in a graduate program of library and information science, working toward or completing the requirements for a specific degree in some aspect of library and information science.

Financial need means the fellow's financial need as determined under title IV, part F, of the Act for the period of the fellow's enrollment in the graduate program for the specific degree in library and information science for which the fellowship was awarded.

Institute means a specialized long-term or short-term group training project in library and information science that—

(i) Is separate from the regular academic program of the applicant;

(ii) Has an innovative curriculum; and

(iii) Either provides persons with the skills needed to enter the library and information science field or provides library and information science personnel—including library educators—an opportunity to strengthen or increase their knowledge and skills.

Institution of higher education means an institution of higher education as defined in section 1201 of the Act.

Library and information science means the study of recordable information and knowledge and the services and technologies to facilitate their management and use. The term encompasses information and knowledge creation, communication, identification, selection, acquisition, organization, description, storage, retrieval, preservation, analysis, interpretation, evaluation, synthesis, dissemination, and management.

Library organization or agency means a public or private organization or agency that provides library services or programs.

Participant means a person who is enrolled in a project funded under this part.

Participation costs means the costs associated with participation in a

traineeship or institute, including the costs of travel and subsistence, for which the grantee pays directly or reimburses the trainee or institute participant.

State agency means the State agency designated under section 1203 of the Act.

Stipend means an award of money from a grantee to a fellow, the amount of which is determined on the basis of the fellow's demonstrated financial need.

Traineeship means a training project in library and information science that—

(i) Is separate from the regular academic program of the applicant;

(ii) Is designed to meet the individual needs of mid-level library and information science professionals; and

(iii) Provides individualized instruction, usually through an internship.

(Authority: 20 U.S.C. 1021, 1032)

§ 776.8 What is the duration of a project?

(a) A fellowship must provide at least one academic year of training.

(b) A long-term institute project must provide at least one academic year but no more than 12 months of training.

(c) A short-term institute project must provide at least one week but no more than six weeks of training.

(d) A traineeship project may not exceed 12 months.

(Authority: 20 U.S.C. 1021, 1032)

Subpart B—What Are the Application Requirements?

§ 776.10 How does one apply for a grant?

(a) An applicant must submit separate applications for fellowship, institute, and traineeship projects.

(b) An applicant must submit separate applications for fellowship projects at the master's, post-master's, and doctoral levels, limited to one application per level for new fellowships.

(c) An applicant must include all of its requests for new fellowships at a particular level within the single application for that level.

(Authority: 20 U.S.C. 1021, 1032)

§ 776.11 What assurance must an applicant for a fellowship project provide?

An applicant for a fellowship project must provide an assurance that in the event funds made available to a participant under this program are insufficient to provide the assistance due a participant under the commitment entered into between the applicant and the participant, the applicant will endeavor, from any funds available to it, to fulfill the commitment to the participant.

(Authority: 20 U.S.C. 1032)

Subpart C—How Does the Secretary Make an Award?

§ 776.20 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application for a fellowship project on the basis of the provisions in § 776.21 and awards up to 110 possible points for these criteria.

(b) The Secretary evaluates an application for an institute project on the basis of the criteria in § 776.22 and awards up to 100 possible points for these criteria.

(c) The Secretary evaluates an application for a traineeship project on the basis of the criteria in § 776.23 and awards up to 100 possible points for these criteria.

(d) The maximum score for each criterion is indicated in parentheses.

(Approved by the Office of Management and Budget under control number 1850–0022.)

(Authority: 20 U.S.C. 1032)

§ 776.21 How does the Secretary evaluate an application for a fellowship project?

(a) *Continuation awards.* Before considering applications to support new fellowships, the Secretary provides funds to continue support for qualified students who were awarded fellowships under this program in the previous two years and who are maintaining satisfactory progress as determined by the institution.

(b) *Selection criteria for new fellowship projects.* The Secretary evaluates an application for a new fellowship project based on the following selection criteria:

(1) *Project description* (20 points). The Secretary reviews each application to determine the quality of the applicant's project, including the extent to which—

(i) The project addresses one or more of the critical needs announced by the Secretary as a priority or priorities under § 776.5(a);

(ii) The project objectives are clearly stated, realistic, and satisfy a current training need;

(iii) The required courses meet standards that are recognized by the library and information science profession; and

(iv) The student field experience component (if included) is well designed.

(2) *Plan of operation* (20 points). The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) The quality of the design of the project;

(ii) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose of the program; and

(iv) The quality of the applicant's plans to use its resources and personnel to achieve each objective.

(3) *Quality of key personnel.* (10 points)

(i) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use on the project, including—

(A) The qualifications of the project director (if one is to be used);

(B) The qualifications of each of the other key personnel to be used in the project; and

(C) The time that these key personnel will commit to the project.

(ii) To determine the qualifications of these key personnel the Secretary considers—

(A) Experience, training, and professional productivity in fields related to the objectives of the project; and

(B) Any other qualifications that pertain to the quality of the project.

(4) *Selection of fellows* (15 points). The Secretary reviews each application to determine the effectiveness of the applicant's method of selecting fellows including—

(i) Conformance with program priorities in § 776.5(a); and

(ii) Evidence that admissions standards for fellows are comparable to those for other students admitted to the library and information science education program.

(5) *Applicant characteristics* (20 points). The Secretary reviews each application to determine the applicant's commitment to library and information science education, including—

(i) The adequacy of the description in the applicant's catalog of the specific library education program in which participants will be enrolled;

(ii) The extent to which the amount the applicant spends per student for education in library and information science is comparable to that of other education programs;

(iii) The extent to which the ratio of degrees awarded to total enrollment in the applicant's library education program is comparable to that of other library education programs;

(iv) The extent to which the ratio of requested fellowships to other fellowships and scholarships in library and information science supported by the applicant is comparable to that of other library education programs; and

(v) The extent to which the academic level of the project is appropriate to the applicant's capabilities or experience.

(6) *Budget and cost effectiveness* (5 points). The Secretary reviews each application to determine the extent to which—

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives of the project.

(7) *Evaluation plan* (5 points). The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation are—

(i) Appropriate to the project;

(ii) Objective; and

(iii) Designed to produce data that are quantifiable.

Cross-Reference: See 34 CFR 75.590 Evaluation by the grantee.

(8) *Adequacy of resources* (5 points). The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(9) *Project impact* (10 points). The Secretary reviews each application to determine the extent to which the project will expand and strengthen the applicant's library and information science degree programs.

(c) *Other considerations.* The Secretary may give priority among applications for new fellowship projects that are of substantially the same quality to applications that will contribute to an appropriate balance of fellowships among the priorities announced under § 776.5.

(Approved by the Office of Management and Budget under control number 1850–0022)

(Authority: 20 U.S.C. 1021, 1032)

§ 776.22 What selection criteria does the Secretary use to evaluate an application for an institute project?

(a) *Project description* (20 points). The Secretary reviews each application to determine the quality of the applicant's project, including the extent to which—

(1) The project addresses one or more of the critical needs announced by the Secretary as a priority or priorities under § 776.5(a);

(2) The subject matter of the project is significant, timely, well-described, appropriate for an institute, and is not duplicated in the applicant's regular curriculum;

(3) The project duration is appropriate for presenting the subject matter;

(4) The project content satisfies rigorous educational standards;

(5) The blend of theoretical and practical training is suitable to the subject matter and the needs of the participants; and

(6) The training methods are innovative and imaginative.

(b) *Plan of operation* (20 points). The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the design of the project;

(2) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(3) How well the objectives of the project relate to the purpose of the program; and

(4) The quality of the applicant's plan to use its resources and personnel to achieve each objective.

(c) *Quality of key personnel.* (15 points)

(1) The Secretary reviews each application to determine the quality of the key personnel the applicant plans to use on the project, including—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project; and

(iii) The time that these key personnel will commit to the project.

(2) To determine the qualifications of these key personnel, the Secretary considers—

(i) Experience, training, and professional productivity in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the quality of the project.

(d) *Selection of institute participants* (15 points). The Secretary reviews each application to determine the effectiveness of the method of participant selection, including the extent to which—

(1) Participants will be selected according to their ability, experience, current responsibilities, and training needs; and

(2) The number of participants is appropriate to the training methods and project resources.

(e) *Budget and cost effectiveness* (5 points). The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project; and

(2) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan* (8 points). The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation are—

(1) Appropriate to the project;

(2) Objective; and

(3) Designed to produce data that are quantifiable.

Cross-Reference: See 34 CFR 75.590 Evaluation by the grantee.

(g) *Adequacy of resources* (7 points). The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(h) *Project effectiveness* (10 points). The Secretary reviews each application to determine the effectiveness of the project, including the extent to which—

(1) The project will increase the number of librarians with specialized skills; and

(2) The project includes plans for disseminating promising results and high quality materials to other institutions or agencies.

(Approved by the Office of Management and Budget under control number 1850–0022)

(Authority: 20 U.S.C. 1032)

§ 776.23 What selection criteria does the Secretary use to evaluate an application for a traineeship project?

(a) *Project description* (15 points). The Secretary reviews each application to determine the quality of the applicant's project, including the extent to which—

(1) The project addresses one or more of the critical needs announced by the Secretary as a priority or priorities under § 776.5(a);

(2) The training needs to be met by the project are significant, of current interest to the library and information science community, and well-described;

(3) Project activities are designed to meet the individual needs of each participant; and

(4) Other library agencies or institutions will cooperate with the applicant in providing appropriate and high quality internship opportunities.

(b) *Plan of operation* (20 points). The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The quality of the design of the project;

(2) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(3) How well the objectives of the project relate to the purpose of the program; and

(4) The quality of the applicant's plans to use its resources and personnel to achieve each objective.

(c) *Quality of key personnel.* (15 points)

(1) The Secretary reviews each application to determine the quality of

key personnel the applicant plans to use on the project, including—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project; and

(iii) The time that these key personnel plan to commit to the project.

(2) To determine the qualifications of these key personnel, the Secretary considers—

(i) Experience, training, and professional productivity in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the quality of the project.

(d) *Selection of trainees* (15 points). The Secretary reviews each application to determine the effectiveness of the applicant's method of trainee selection, including the extent to which trainees will be selected on the basis of their stated career goals and on their potential for high level advancement and continued professional growth within the field of library and information science.

(e) *Budget and cost effectiveness* (10 points). The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project; and

(2) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan* (10 points). The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation are—

(1) Appropriate for the project;

(2) Objective; and

(3) Are designed to produce data that are quantifiable.

Cross-Reference: See 34 CFR 75.590 Evaluation by the grantee.

(g) *Adequacy of resources* (15 points). The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(Approved by the Office of Management and Budget under control number 1850–0022)

(Authority: 20 U.S.C. 1021, 1032)

Subpart D—What Conditions Must Be Met After an Award?

§ 776.30 How may a grantee use grant funds?

(a)(1) A grantee may use grant funds in the following amounts to cover the cost of providing fellowship training:

(i) For each fellowship awarded at the master's level—$6,400 for an academic year plus $1,600 for a summer session.

(ii) For each fellowship awarded at postmaster's and doctoral levels—$8,000 for an academic year plus $2,000 for a summer session.

(2) A grantee shall use grant funds to pay stipends to fellows, based on the amount of demonstrated financial need up to a maximum of $14,000 a year.

(b)(1) A grantee may use grant funds to cover the costs of providing institute training.

(2) A grantee may use grant funds to assist in covering the participation costs of institute training.

(c)(1) A grantee may use grant funds to cover the costs of providing traineeship training.

(2) A grantee may use grant funds to assist in covering the participation costs of traineeship training.

(Authority: 20 U.S.C. 1032)

§ 776.31 What are the restrictions on costs for participants?

A grantee may not charge tuition or fees to a participant in a project funded under this program.

(Authority: 20. U.S.C. 1032)

§ 776.32 What are the allowances for assistance under other Federal programs?

(a) Any amount paid a participant from any other Federal grant program for educational purposes (except veterans', war orphans', and widows' educational assistance under title 38, United States Code) must be deducted from the amount that participant would receive under this part.

(b) If a participant receives a federally assisted educational loan, the amount of the loan and any interest paid may not be deducted from the amount received by the participant under this part.

(Authority: 20 U.S.C. 1021, 1032 and 38 U.S.C. 1700)

§ 776.33 What requirements govern the removal, withdrawal, and substitution of participants?

(a) A grantee shall remove a participant from a project if the grantee determines that the participant has ceased to maintain academic proficiency.

(b) If a grantee removes the participant or if a participant withdraws, the grantee—

(1) May replace the participant if the new participant can successfully complete the fellowship, traineeship, or institute at no additional cost to the Department; and

(2) Must notify the Secretary in writing—

(i) Within 30 days of the removal or withdrawal; or

(ii) Within 30 days of a substitution if the grantee substitutes another participant.

(c) The date of removal or withdrawal is—

(1) The date the grantee determined that the participant had ceased to maintain academic proficiency; or

(2) The last date the participant attended class.

(d)(1) If a grantee removes a fellowship participant or if a fellowship participant withdraws, the grantee shall prorate the participant's stipend, according to the number of weeks the participant has completed in the project.

(2) For purposes of paragraph (d)(1) of this section, the grantee shall count attendance in any part of a week as a full week.

(e) If a grantee does not substitute a participant for the participant who has been removed or who has withdrawn from a fellowship, traineeship, or institute, the grantee shall return to the Federal Government the unused portion of the stipend and any participation costs.

(Approved by the Office of Management and Budget under control number 1850–0022)

(Authority: 20 U.S.C. 1032)

§ 776.34 What agencies must be informed of activities funded under this program?

Each institution of higher education that receives a grant under this part shall annually inform the agency designated under section 1203 of the Act of its project activities.

(Authority: 20 U.S.C. 1022)

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federal register

Thursday
August 26, 1993

Part VII

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 336 and 338
Antiemetic Drug Products; Nighttime Sleep-Aid Drug Products; Notices of Proposed Rulemaking

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 336

[Docket No. 92N–0346]

RIN 0905–AA06

Antiemetic Drug Products for Over-the-Counter Human Use; Proposed Amendment to the Monograph

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the monograph for over-the-counter (OTC) antiemetic drug products to revise a required warning, and to add a similar warning for products labeled for use only for children under 12 years of age. This proposal will ensure that warnings for ingredients contained in OTC antiemetic drug products are the same as those required for related ingredients used in other OTC drug products (e.g., antihistamines, antitussives, and nighttime sleep-aids). This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments on the proposed regulation by October 25, 1993; written comments on the agency's economic impact determination by October 25, 1993.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD–810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 30, 1987 (52 FR 15886), FDA issued a final monograph for OTC antiemetic drug products (21 CFR part 336) that included the following warning statement in § 336.50(c)(1) (21 CFR 336.50(c)(1)) for all antiemetics: "Do not take this product if you have asthma, glaucoma, emphysema, chronic pulmonary disease, shortness of breath, difficulty in breathing, or difficulty in urination due to enlargement of the prostate gland unless directed by a doctor."

In § 341.72 of the tentative final monograph for OTC antihistamine drug products, published in the **Federal Register** of January 15, 1985 (50 FR 2200 at 2215), the agency proposed this same warning for all OTC antihistamines. Antihistamines should not be used by people who have any obstructive pulmonary disease in which clearance of secretions is a problem. The agency stated that respiratory distress symptoms, such as difficulty in breathing and shortness of breath, are characteristic of chronic obstructive pulmonary disease. The agency concluded that such descriptive terms should be included in the warning in addition to the names of the diseases, in order to provide more information to the consumer.

In the final monograph for OTC antihistamine drug products,published in the **Federal Register** of December 9, 1992 (57 FR 58356 at 58374), the agency revised this warning to include the broader phrase "breathing problem" to describe symptoms such as shortness of breath and difficulty in breathing related to obstructive pulmonary disease. The change in wording will allow consumers to recognize respiratory distress symptoms more readily. The agency also removed the descriptive term "asthma" from the warning and replaced the term "chronic pulmonary disease" with the term "chronic bronchitis." The revised warning, which appears in § 341.72(c)(2) of the final monograph (21 CFR 341.72(c)(2)), reads as follows: "Do not take this product, unless directed by a doctor, if you have a breathing problem such as emphysema or chronic bronchitis, or if you have glaucoma or difficulty in urination due to enlargement of the prostate gland."

In the **Federal Register** of December 9, 1992 (57 FR 58378), the agency proposed to amend the monograph for OTC antitussive drug products to include the same warning for antitussive drug products containing diphenhydramine. Elsewhere in this issue of the **Federal Register**, the agency is proposing that the warning also be used for OTC nighttime sleep-aid drug products containing diphenhydramine. Because diphenhydramine is also used as an OTC antiemetic, the agency is now proposing that the existing warning for diphenhydramine and other monograph antiemetics, which appears in § 336.50(c)(1), be revised to be the same as the warning in § 341.72(c)(2) for OTC antihistamine drug products, in proposed § 341.74(c)(4)(vii)(a) for antitussive drug products, and in § 338.50(c)(3) for OTC nighttime sleep-aid drug products.

The agency is taking this action because diphenhydramine and the other active ingredients in the antiemetic monograph (cyclizine hydrochloride, dimenhydrinate, and meclizine hydrochloride) are classified as antihistamines. Diphenhydramine is classified chemically in the ethanolamine group (43 FR 25544 at 25580, June 13, 1978). Dimenhydrinate is the 8-chlorotheophylline salt of diphenhydramine (40 FR 12902 at 12936, March 21, 1975). Cyclizine and meclizine are members of the benzhydryl piperazine group of antihistamine compounds; these compounds differ chemically from other antihistamines in that the alkyl-amino group exists as a ring structure (40 FR 12902 at 12935).

The antiemetic final monograph does not contain any warnings specifically for drug products labeled for use only by children under 12 years of age. However, it is possible that antiemetic drug products containing chlorcyclizine hydrochloride, dimenhydrinate, and diphenhydramine hydrochloride can be marketed with labeling for use only by children under 12 years of age. Therefore, the agency is including in the monograph a slightly differently worded warning for antiemetic drug products that are labeled for use only by children under 12 years of age, which reads: "Do not give this product to children who have a breathing problem such as chronic bronchitis or who have glaucoma, without first consulting the child's doctor." This warning is consistent with the warning in § 341.72(c)(6)(i) of the final monograph for OTC antihistamine drug products and the warning proposed in § 341.74(c)(4)(vi) of the monograph for OTC antitussive drug products.

The agency has examined the economic consequences of this proposed rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this proposed rule for OTC antiemetic drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (Pub. L. 96–354). That assessment included a discretionary regulatory

flexibility analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC antiemetic drug products is not expected to pose such an impact on small business. There will be a minor, one-time labeling revision, which manufacturers will have 1 year to implement. Therefore, the agency certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC antiemetic drug products. Comments regarding the impact of this rulemaking on OTC antiemetic drug products should be accompanied by appropriate documentation.

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Interested persons may, on or before October 25, 1993, submit written comments or objections on the proposed regulation to the Dockets Management Branch (address above). Written comments on the agency's economic impact determination may be submitted on or before October 25, 1993. Three copies of all comments or objections are to be submitted, except that individuals may submit one copy. Comments and objections are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments and objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 336

Labeling, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 336 be amended as follows:

PART 336—ANTIEMETIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. The authority citation for 21 CFR part 336 continues to read as follows:

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

2. Section 336.50 is amended by revising paragraph (c)(1) to read as follows:

§ 336.50 Labeling of antiemetic drug products.

* * * * *

(c) * * *

(1) *For products containing any ingredient identified in § 336.10*—(i) *When labeled for use in adults and for those products that can be and are labeled for use in children under 12 years of age.* "Do not take this product, unless directed by a doctor, if you have a breathing problem such as emphysema or chronic bronchitis, or if you have glaucoma or difficulty in urination due to enlargement of the prostate gland."

(ii) *For those products that can be and are labeled only for children under 12 years of age.* "Do not give this product to children who have a breathing problem such as chronic bronchitis or who have glaucoma, without first consulting the child's doctor."

* * * * *

Dated: August 19, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–20696 Filed 8–25–93; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Part 338

[Docket No. 92N–0349]

RIN 0905–AA06

Nighttime Sleep-Aid Drug Products for Over-the-Counter Human Use; Proposed Amendment to the Monograph

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the monograph for over-the-counter (OTC) nighttime sleep-aid drug products to revise a warning required for products that contain diphenhydramine citrate or diphenhydramine hydrochloride. This proposal will ensure that warnings are the same for diphenhydramine salts whether the ingredient is used in OTC nighttime sleep-aid, antihistamine, or antitussive drug products. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments on the proposed regulation by October 25, 1993; written comments on the agency's economic impact determination by October 25, 1993.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD–810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 14, 1989 (54 FR 6814), FDA issued a final monograph for OTC nighttime sleep-aid drug products (21 CFR part 338) that included the following warning statement in § 338.50(c)(3) (21 CFR 338.50(c)(3)) for products containing diphenhydramine salts: "Do not take this product if you have asthma, glaucoma, emphysema, chronic pulmonary disease, shortness of breath, difficulty in breathing, or difficulty in urination due to enlargement of the prostate gland unless directed by a doctor."

In § 341.72 of the tentative final monograph for OTC antihistamine drug products, published in the **Federal Register** of January 15, 1985 (50 FR 2200 at 2215), the agency proposed this same warning for all OTC antihistamines. Antihistamines should not be used by people who have any obstructive pulmonary disease in which clearance of secretions is a problem. The agency stated that respiratory distress symptoms, such as difficulty in breathing and shortness of breath, are characteristic of chronic obstructive pulmonary disease. The agency concluded that such descriptive terms should be included in the warning in addition to the names of the diseases, in order to provide more information to the consumer.

In the final monograph for OTC antihistamine drug products, published in the **Federal Register** of December 9, 1992 (57 FR 58356 at 58374), the agency revised this warning to include the broader phrase "breathing problem" to describe symptoms such as shortness of breath and difficulty in breathing related to obstructive pulmonary disease. The change in wording will allow consumers to recognize respiratory distress symptoms more readily. The agency also removed the descriptive term "asthma" from the warning and replaced the term "chronic pulmonary disease" with the term "chronic bronchitis." The revised warning, which appears in § 341.72(c)(2) of the final monograph (21 CFR 341.72(c)(2)), reads as follows: "Do not take this product, unless directed by

a doctor, if you have a breathing problem such as emphysema or chronic bronchitis, or if you have glaucoma or difficulty in urination due to enlargement of the prostate gland."

In the **Federal Register** of December 9, 1992 (57 FR 58378), the agency proposed to amend the monograph for OTC antitussive drug products to include diphenhydramine citrate and diphenhydramine hydrochloride as active ingredients. The agency also proposed that the revised warning in § 341.72(c)(2) of the antihistamine final monograph be used for OTC drug products containing diphenhydramine as an antitussive. The agency is now proposing that the existing warning for diphenhydramine used as an OTC nighttime sleep-aid, which appears in § 338.50(c)(3), be revised to be the same as the warning in § 341.72(c)(2) for OTC antihistamine drug products and in proposed § 341.74(c)(4)(vii)(a) for OTC antitussive drug products.

The agency has examined the economic consequences of this proposed rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this proposed rule for OTC nighttime sleep-aid drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (Pub. L. 96–354). That assessment included a discretionary regulatory flexibility analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC nighttime sleep-aid drug products is not expected to pose such an impact on small business. There will be a minor, one-time labeling revision, which manufacturers will have 1 year to implement. Therefore, the agency certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC nighttime sleep-aid drug products. Comments regarding the impact of this rulemaking on OTC nighttime sleep-aid drug products should be accompanied by appropriate documentation.

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Interested persons may, on or before October 25, 1993, submit written comments or objections on the proposed regulation to the Dockets Management Branch (address above). Written comments on the agency's economic impact determination may be submitted on or before October 25, 1993. Three copies of all comments or objections are to be submitted, except that individuals may submit one copy. Comments and objections are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments and objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 338

Labeling, Over-the-counter drugs.

Therefore, under the Federal, Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 338 be amended as follows:

PART 338—NIGHTTIME SLEEP–AID DRUG PRODUCTS FOR OVER–THE–COUNTER HUMAN USE

1. The authority citation for 21 CFR part 338 continues to read as follows:

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

2. Section 338.50 is amended by revising paragraph (c)(3) to read as follows:

§ 338.50 Labeling of nighttime sleep-aid drug products.

* * * * *

(c) * * *(3) "Do not take this product, unless directed by a doctor, if you have a breathing problem such as emphysema or chronic bronchitis, or if you have glaucoma or difficulty in urination due to enlargement of the prostate gland."

* * * * *

Dated: August 19, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–20697 Filed 8–25–93; 8:45 am]

BILLING CODE 4160–01–F

federal register

Thursday
August 26, 1993

Part VIII

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Prohibition Against Certain Flights Between the United States and Yugoslavia; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 26903; Special Federal Aviation Regulation (SFAR) No. 66–1]

RIN 2120–AE91

Prohibition Against Certain Flights Between the United States and Yugoslavia

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: On June 23, 1992, the FAA published a prohibition against certain flights between the United States and the Federal Republic of Yugoslavia (Serbia and Montenegro; hereinafter "Yugoslavia") (57 FR 28031). That prohibition expired June 19, 1993. This action reinstates that prohibition.

DATES: *Effective date:* August 26, 1993. *Expiration date:* August 26, 1994.

FOR FURTHER INFORMATION CONTACT: Patricia R. Lane, Office of the Chief Counsel, AGC–230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–3491.

SUPPLEMENTARY INFORMATION:

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the number of this SFAR. Persons interested in being placed on a mailing list for future rules should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

Background

The Federal Aviation Administration (FAA) is responsible for the safety of flight in the United States and the safety of U.S.-registered aircraft throughout the world. Under Section 103 of the Federal Aviation Act of 1958 (Act), as amended, the FAA is charged with the regulation of air commerce in a manner that best promotes safety and fulfills the requirements of national security. In addition, Section 1102(a) of the Act requires the FAA Administrator to exercise authority consistently with any treaty obligations of the United States. The United States is a party to the Charter of the United Nations (Charter) (59 Stat. 1031; 3 Bevans 1153 (1945)). Articles 25 and 48 of that Charter require Members of the United Nations to carry out the decisions of the Security Council. Article 25 states, "[t]he Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter." Additionally, Article 48(1) states, in pertinent part, "[t]he action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all members of the United Nations * * *."

On May 30, 1992, acting under Chapter VII of the UN Charter, the Security Counsel adopted Resolution 757, mandating an embargo of certain air traffic with Yugoslavia. Paragraph 7(a) of Resolution 757 requires all states to deny permission to any aircraft to take off from, land in, or overfly their territory if the aircraft is destined to land in or has taken off from Yugoslavian territory. An exception is made for flights that have been approved on the grounds of urgent humanitarian need by a special Security Council committee established by paragraph 13 of the Resolution.

The United States Government fully expects member states of the UN to comply with UN Security Council Resolution 757. Such action would have the effect of denying overflight rights to aircraft travelling to or from Yugoslavian territory. As a result, the FAA believes that a flight from the United States to Yugoslavia during the effective period of Resolution 757 could not be planned with assurances that the aircraft would have safe primary and alternate landing points within the fuel range of the aircraft. There is substantial risk, therefore, that such a flight could not be conducted safely.

The United States Government has taken several earlier actions to restrict air transportation between the United States and Yugoslavia. On June 5, 1992, the President issued Executive Order 12810, which prohibits "[a]ny transaction by a United States person, or involving the use of U.S.-registered vessels and aircraft, relating to transportation to or from the Federal Republic of Yugoslavia (Serbia and Montenegro) * * * or the sale in the United States by any person holding authority under the Federal Aviation Act * * * of any transportation by air which includes any stop in the Federal Republic of Yugoslavia (Serbia and Montenegro)." The Executive Order also prohibits:

the granting of permission to any aircraft to take off from, land in, or overfly the United States, if the aircraft, as part of the same flight or a continuation of that flight, is destined to land in or has taken off from the territory of the Federal Republic of Yugoslavia (Serbia and Montenegro).

Executive Order 12810 cited the President's authority under the International Emergency Economic Powers Act (50 U.S.C. § 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), Section 1114 of the Federal Aviation Act of 1958, as amended (49 U.S.C. app. 1514), Section 301 of the United States Code (3 U.S.C. 301), and Section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287(c)). This last Act provides that:

> Notwithstanding the provisions of any other law, whenever the United States is called upon by the [UN] Security Council to apply measures which said Council has decided * * * to be employed to give effect to its decisions under [the United Nations] Charter, the President may, to the extent necessary to apply such measures, through any agency which he may designate, and under such orders, rules, or regulations as may be prescribed by him, investigate, regulate, or prohibit, in whole or in part, economic relations of rail, sea, [and] air * * * between any foreign country or to any national thereof or any person therein and the United States or any person subject to the jurisdiction thereof * * *.

On June 12, 1992, the Office of the Secretary of Transportation issued Order 92–6–27, which implements Executive Order 12810 by amending all Department of Transportation (DOT) certificates issued under Section 401 of the Act, all permits issued under Section 402 of the Act, and all exemptions from Section 401 and 402 accordingly.

The May 30 UN Security Council Resolution, Executive Order 12810, and DOT Order 92–6–27 remain in effect, and copies have been placed in the docket for this rulemaking.

Temporary Restrictions on Flights Between the United States and Yugoslavia

On the basis of the above, and in support of the Executive Order of the President of the United States, I find that action by the FAA is required to reinstate the prohibition that expired June 19, 1993. Furthermore, after consultation with the Department of State, I find that the current circumstances, including the closure of airspace and landing sites in countries situated between the United States and Yugoslavia to aircraft destined to land in, or having taken off from, Yugoslavia, represent a hazard to any aircraft used

for that purpose as well as to persons onboard that aircraft. Accordingly, these circumstances further warrant action by the FAA to maintain the safety of flight and meet obligations under international law. For these reasons, I also find that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. Further, I find that good cause exists for making this rule effective immediately upon issuance. I also find that this action is fully consistent with my obligations under section 1102(a) of the Act to ensure that I exercise my duties consistently with the obligations of the United States under international agreements.

The rule contains an expiration date of August 26, 1994 but may be terminated sooner or further extended if circumstances so warrant.

Regulatory Evaluation

The potential cost of this regulation is limited to the net revenue of commercial flights between the United States and Yugoslavia and the cost of having to circumnavigate the territory by U.S.-registered private aircraft. Revenue flights to Yugoslavia are currently prohibited by DOT Order 92–6–27, and the FAA is unaware of any U.S.-registered private aircraft currently operating over Yugoslavia. Accordingly, this action will impose no additional burden on commercial or private operators.

Benefits in the form of potential prevention of injury to persons and damage to property are not quantifiable and most likely would occur outside the United States. For these reasons, the costs and benefits of the regulation considered under DOT Regulatory Policies and Procedures are minimal, and a further regulatory evaluation will not be conducted.

Paperwork Reduction Act

There are no requirements for information collection associated with this rule that require approval from the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

International Trade Impact Assessment

DOT Order 92–6–27 prohibits U.S. and foreign air carriers from engaging in the sale of air transportation to or from Yugoslavia. This SFAR does not impose any restrictions on commercial carriers beyond those imposed by the DOT Order. Therefore, the SFAR will not create a competitive advantage or disadvantage for foreign companies in the sale of aviation products or services in the United States, nor for domestic firms in the sale of aviation products or services in foreign countries.

Federalism Determination

The amendment set forth herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

For the reasons set forth above, the FAA has determined that this action is not a "major rule" under Executive Order 12291. This action is considered a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because revenue flights to Yugoslavia are already prohibited by DOT Order 92–6–27, the FAA certifies that this rule 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.

List of Subjects in 14 CFR Part 91

Aircraft, Aviation safety, Yugoslavia.

The Amendment

For the reasons set forth above, the Federal Aviation Administration is amending 14 CFR part 91 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. app. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 *et seq.*; E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970 Comp., p. 902; 49 U.S.C. 106(g).

2. Special Federal Aviation Regulation (SFAR) No. 66 is added to read as follows:

Special Federal Aviation Regulation No. 66

Prohibition Against Certain Flights Between the United States and Yugoslavia

1. *Applicability.* Except as provided in paragraphs 3 and 4 of this Special Federal Aviation Regulation, this rule applies to all aircraft operations originating from, destined to land in, or overflying the territory of the United States.

2. *Special flight restrictions.* Except as provided in paragraph 3 of this SFAR—

(a) No person shall operate an aircraft or initiate a flight from any point in the United States to any point in the Federal Republic of Yugoslavia (Serbia and Montenegro) (hereinafter "Yugoslavia"), or to any intermediate destination on a flight the ultimate destination of which is in Yugoslavia or which includes a landing at any point in Yugoslavia in its intended itinerary;

(b) No person shall operate an aircraft to any point in the United States from any point in Yugoslavia, or from any intermediate point of departure on a flight the origin of which is in Yugoslavia, or which includes a departure from any point in Yugoslavia in its intended itinerary; and

(c) No person shall operate an aircraft over the territory of the United States if that aircraft's flight itinerary includes any landing at or departure from any point in Yugoslavia.

3. *Permitted operations.* This SFAR shall not prohibit the takeoff or landing of an aircraft, the initiation of a flight, or the overflight of United States territory by an aircraft authorized to conduct such operations by the United States Government in consultation with the United Nations Security Council Committee established by UN Security Council Resolution 757 (1992).

4. *Emergency situations.* In an emergency that requires immediate decision and action for the safety of the flight, the pilot in command of an aircraft may deviate from this SFAR to the extent required by that emergency. Any deviation required by an emergency shall be reported to the Air Traffic Control Facility having jurisdiction as soon as possible.

5. *Expiration.* This Special Federal Aviation Regulation expires August 26, 1994.

Issued in Washington, DC, on August 19, 1993.

David R. Hinson,

Administrator.

[FR Doc. 93–20776 Filed 8–25–93; 8:45 am]

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federal register

Thursday
August 26, 1993

Part IX

Department of Transportation

Federal Aviation Administration

14 CFR Parts 25 and 121
Emergency Evacuation Demonstration Procedures, Exit Handle Illumination Requirements, and Public Address Systems; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25 and 121

[Docket No. 26003; Amendment Nos. 25–79 and 121–233]

RIN 2120–AC45

Miscellaneous Changes to Emergency Evacuation Demonstration Procedures, Exit Handle Illumination Requirements, and Public Address Systems

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: These amendments to the airworthiness standards for transport category airplanes and the operating rules for air carrier operators of such airplanes modify the procedures for conducting an emergency evacuation demonstration. These include a requirement that the flightcrew take no active role in the demonstration, and a change to the age/sex distribution requirement for demonstration participants. In addition, the airworthiness standards are amended to standardize the illumination requirements for the handles of the various types of passenger emergency exits, and to add a requirement to prevent the inadvertent disabling of the public address system because of an unstowed microphone. These amendments are intended to enhance the provisions for egress of occupants of transport category airplanes under emergency conditions.

EFFECTIVE DATE: September 27, 1993.

FOR FURTHER INFORMATION CONTACT: Franklin Tiangsing, FAA, Regulations Branch (ANM–114), Transport Airplane Directorate, Aircraft Certificate Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (206) 227–2121.

SUPPLEMENTARY INFORMATION:

Background

This amendment is based on Notice of Proposed Rulemaking (NPRM) No. 89–23, which was published in the **Federal Register** on September 8, 1989 (54 FR 37414). The notice proposed to modify the procedures for conducting an emergency evacuation demonstration by requiring that the flightcrew take no active role in the demonstration, and by changing the age/sex distribution requirement for demonstration participants. The notice also proposed to standardize the illumination requirements for the handles of the various types of passenger emergency exits. Additionally, the notice proposed to add a requirement that would prevent the inadvertent disabling of the public address system because of an unstowed microphone.

As discussed in the notice, the FAA held a public technical conference in Seattle, Washington on September 3–6, 1985, to solicit and review information from the public on a variety of topics related to the emergency evacuation of transport category airplanes. The proposals in Notice 89–23 were in response to recommendations made as a result of the public conference.

Role of the Flightcrew

Section 25.803(c) of the Federal Aviation Regulations (FAR) defines the requirements for conducting an emergency evacuation demonstration for the type certification of transport category airplanes. Similar requirements for U.S. air carrier operators are defined in § 121.291 and appendix D of part 121 of the FAR. Section 121.291 requires, in part, that each holder of an air carrier operating certificate must conduct an emergency evacuation demonstration in accordance with appendix D of part 121 for each type and model of airplane to be used in passenger-carrying operations, unless compliance has been shown with § 25.803 in effect on December 1, 1978 (Amendment 25–46) during type certification, or with § 121.291(a) in effect on October 24, 1967 (Amendment 121–30). Appendix D of part 121, in turn, contains demonstration criteria which are similar to those of § 25.803. Section 25.803(c)(19) of part 25 and appendix D, paragraph (a)(19), of part 121 require the applicant's approved emergency evacuation training program procedures to be fully utilized during the demonstration.

Most operators' procedures call for one or more of the flight crewmembers to enter the cabin and assist in an evacuation. To the extent that they are available for such assistance, it is appropriate that they do so in an evacuation under actual emergency conditions. It cannot be assured, however, that the flight crewmembers will always be available to provide such assistance on a timely basis. They may have to perform other duties which would delay their entry into the cabin. Such duties may include, for example, engine shutdown or communications with persons on the ground. If the evacuation is initiated by a flight attendant, the flightcrew may not be immediately aware of the evacuation. Furthermore, they may not be available to assist in the cabin if they are incapacitated or have already evacuated through one of the cockpit emergency exits. In this regard, some operators' procedures call for one of the flightcrew to leave the airplane immediately and assist on the ground.

Because it cannot be assured that the flightcrew would always be available to assist in an evacuation under actual emergency conditions, it was recommended that the demonstration be conducted without the assistance of the flightcrew in the cabin. In this way, the demonstration would more accurately reflect conditions that are likely to be encountered during an actual evacuation.

As proposed, the flightcrew could participate in the coordination of the demonstration by determining when the airplane is properly prepared for the demonstration, relaying information to ground personnel, or initiating the demonstration. When the demonstration starts, the flightcrew would have to be in their assigned seats. They would then leave the airplane through one of the exits close to the flight deck, after simulating the time required to complete the emergency checklist. After the flightcrew had reached the ground, they would be permitted to assist evacuees.

Section 121.291(a) would be amended to specify that any demonstration conducted on or after the effective date of the amendment would have to be conducted without the active participation of the flightcrew, regardless of whether the demonstration is conducted under the provisions of that part or during type certification under the provisions of § 25.803. After the effective dates of these amendments, where compliance with § 25.803 is to be shown by analysis rather than actual demonstration, this would not preclude an analysis that is based on the results of demonstrations conducted prior to the effective date of the amendment.

Since the role of the flightcrew in the demonstration would be minimal, there would be no need for them to be members of a regularly scheduled line crew. Section 25.803(c)(7) of part 25, and appendix D, paragraph (12) of part 121 would be revised accordingly. Additionally, the word "or" in § 25.803(c)(7)(i) would be changed to "and" in order to clarify that the requirement is for a joint part 25 and part 121 certification effort.

Age/Sex Mix

Section 25.803(c)(8), as well as appendix D to part 121, specifies, in part, that the emergency evacuation demonstration must be conducted using a representative load of persons in

normal health. Currently this load is specified as being at least 30 percent female and at least 5 percent over 60 years of age, with a proportionate number of females (i.e., 30 percent of 5 percent, or 1.5 percent of the total load must be female and over 60). In addition, at least 5 percent, but not more than 10 percent, must be children under 12 years of age.

The use of elderly persons in conducting emergency evacuation demonstrations subjects those persons to a high risk of suffering injuries, such as broken bones, etc. Furthermore, it is an unnecessary risk since compensating factors can be applied to provide the same test results. Although there is less risk of injury to children, the use of minors in conducting emergency evacuation demonstrations actually violates prevailing child labor laws in many states. Because of these unnecessary risks, the FAA has permitted emergency evacuation demonstrations to be conducted with other mixtures of age and sex under the equivalent safety provisions of § 21.21(b)(1).

In view of these unnecessary risks, it was recommended that the FAA re-evaluate the mixture of sex and age used for emergency evacuation demonstrations. In responding to the recommendations, the FAA first reviewed three sources of data to determine the average mixture of passengers being flown in air carrier operations: (1) The "Demographic Characteristics of Airline Passengers (1984)," The Airliner Cabin Environment: Air Quality and Safety, National Academy Press; (2) an age distribution survey of trans-Atlantic passengers conducted in the United Kingdom by the Civil Aviation Authority (CAA); and (3) a cursory age/sex distribution survey of airline passengers conducted by the Air Transport Association (ATA). Copies of these reports have been placed in the rules docket.

In addition to reviewing data concerning the average mixture of passengers being flow in air carrier operations, the FAA also reviewed test data concerning the relative evacuation capability of different mixtures of age and sex.

Data were available from the FAA Civil Aeromedical Institute (CAMI), which had conducted a series of tests to compare the relative evacuation rates of four different seating configurations adjacent to a Type III emergency exit (as defined in § 25.807). From those tests, the relative evacuation rates of different mixtures of age and sex were developed. In addition, the Aerospace Industries Association of America (AIA) presented data to the FAA concerning the relative evacuation capability of different mixtures of age and sex.

The calculations performed in determining the proposed age/sex were presented in detail in Notice 89–23.

The FAA also proposed to allow the use of an alternative mixture of sex and age, provided it would produce equivalent results. Producing equivalent results means that the alternative age/sex mix would have to produce the same evacuation rates as the age/sex distribution specified in the regulation, or the 90-second time limit would have to be adjusted accordingly. Typically, the applicant would have to conduct comparative tests in order to show that the alternative age/sex distribution would produce equivalent results.

Overwing Exit Assist Means

Notice 89–23 contained a proposal to clarify the wording in § 25.803(c)(3) and paragraph (a)(3) of appendix D to part 121 to specify that stands and ramps may be used in emergency evacuation demonstrations at overwing exits only when off-wing descent devices are not installed on the airplane. This has been the practice since the inception of the rule, and the rewording obviates any future uncertainty over the requirement. Corresponding conforming changes to § 25.803(c)(18) and paragraph (a)(18) of appendix D to part 121 were also proposed.

As a further conforming change, the FAA proposed to revise § 121.291(a) to extend the exceptions of those subparagraphs to include emergency evacuation demonstrations conducted in accordance with any later amendments to that section or § 25.803.

Exit Handle Illumination

The notice also contained a proposal to revise § 25.811 to standardize the requirements for illumination of passenger emergency exit operating handles. This section specifies that each operating handle of Type I and Type A passenger emergency exits must be self-illuminated, or be conspicuously located and well-illuminated by the emergency lighting. Section 25.811 does not provide this option for Type III exits. The operating handle of a Type III passenger emergency exit has to be self-illuminated. The FAA has, however, accepted such exits with handles which are conspicuously located and well-illuminated by the cabin emergency lighting, under the equivalent level of safety provisions of § 21.21(b)(1). Further, § 25.811 does not provide criteria for illumination of the operating handles of Type II and Type IV passenger emergency exits. The notice proposed the same alternative methods of illumination for the operating handles of all passenger emergency exits, regardless of the type.

Because no criteria are contained in § 25.811 regarding the illumination of handles of Type II and Type IV exits, there may be transport category airplanes in current air carrier, air taxi, or commercial service which have no illumination or insufficient illumination of those handles. The FAA therefore specifically invited comments concerning the models and numbers of transport category airplanes in such service with Type II or Type IV exits, the adequacy of any existing illumination of operating handles in those airplanes, the cost of providing sufficient illumination of those handles on a retrofit basis, and whether the cost of modifying airplanes in service would be commensurate with any increase in safety that would result.

Covers are sometimes provided for the operating handles of passenger exits. Section 25.811 requires the instructions for the removal of such covers from Type III exits to be self-illuminated; however, the FAA has allowed the option of locating the instructions conspicuously and providing sufficient illumination by the cabin emergency lighting in lieu of self-illumination. Although the need for such illumination of the removal instructions for handle covers at exits other than Type III exits is of equal importance, § 25.811 does not specify any requirement to illuminate the instructions for removal of the operating handle cover from any other type of passenger emergency exit. It was therefore proposed that § 25.811 be amended to specify that the instructions for removing such covers from any type exit must either be self-illuminated or conspicuously located and well-illuminated by the cabin emergency lighting.

Public Address System

It was also proposed to amend part 25 to require that a PA system, if required by the operating rules of this chapter, not be rendered inoperative by an unstowed microphone. Additionally, the equipment requirements of § 121.318 would be incorporated into part 25 so that all the design requirements for the PA system would be in one section of part 25. The FAA also requested comments as to whether the change to the system should be made retroactive to air carrier airplanes and what the cost of those changes might be.

Discussion of Comments

Six commenters, representing the views of airplane manufacturers, airlines, an airplane crew organization, and U.S. and foreign government organizations, responded to Notice 89–23. All commenters generally endorse the intent of the proposals in Notice 89–23, but each proposes some changes or expresses some reservations.

Two commenters disagree with the proposal to prohibit the flightcrew from actively assisting the flight attendants during the emergency evacuation demonstration. One of those commenters believes that either of two demonstration conditions would "more accurately reflect conditions that are likely to be encountered during an actual evacuation." The two conditions are: (1) The specification of a delay time before the flight crewmembers can assist in the cabin, and (2) the exclusion of the flightcrew from the number of occupants who must evacuate the airplane within 90 seconds through the passenger exits. The other commenter stated that the FAA had not presented evidence that the current practice has resulted in unsafe operating conditions.

The FAA concurs with the first commenter that one or more flight crewmembers have been available to assist in many actual emergency evacuations, but that the time at which they were available is not well documented or consistent. It has been documented, however, that during several evacuations flight crewmembers did not or could not assist the flight attendants in the passenger cabin. In fact, a third commenter, the National Transportation Safety Board, which supports this change, states in its comment: "The Safety Board's investigations of several survivable accident and noncrash-related evacuations have found numerous instances when flightcrews were not available to assist during the evacuations." Therefore, with respect to the commenter's first proposed condition of a specified delay time, the FAA has determined that any delay does not compensate for those occasions when no flight crewmember would be available to assist at any time. Regarding the second condition of excluding the flight crewmembers from having to evacuate the airplane through the passenger emergency exits in 90 seconds, the FAA considers that this is unacceptable. It is often extremely difficult to assess the effectiveness of the actions of the flight crewmembers in previous demonstrations in terms of seconds saved or lost. On the other hand, it is likely that flight cremembers would evacuate through a passenger emergency exit in an actual emergency. It is clear, in that case, that the time necessary to evacuate through that exit would be greater. In most cases, when movie or video records have been kept, this additional time can be determined. Therefore, the commenter's proposal is inappropriate.

Concerning the second commenter's contention that the FAA has not presented evidence that the current practice has resulted in unsafe operating conditions, a possible unsafe condition does not have to currently exist for rulemaking to be justified. The FAA has determined, and the NTSB agrees, that flight crewmembers are not always available to assist in emergency evacuations. Therefore, in order to take this very real possibility into account and thereby increase the level of safety, the final rule revises the test conditions as proposed.

One commenter recommends that the FAA delay this final rule until after the establishment of an emergency evacuation advisory committee. The FAA disagrees with the recommendation. There is no indication as to what recommendations for research or rulemaking, if any, may be forthcoming from the recently established aviation rulemaking advisory committee. For reasons discussed in other sections of this preamble, the FAA believes that these rule changes are necessary. To delay them for no specific reason is therefore unwarranted.

One commenter agrees with the proposal to prohibit the flightcrew's active involvement in the demonstration, but is concerned that the FAA might permit the airlines to reduce flightcrew training for emergency evacuation. The FAA intends that flightcrews will assist in actual emergency evacuations, to the maximum extent possible. It is not the FAA's intent to reduce the training of flightcrews in emergency evacuation procedures.

One commenter recommends withdrawal of the proposal contained in § 25.803(c)(8)(vi) to allow alternative passenger loads in lieu of that proposed in §§ 25.803(c)(8) (i), (ii), and (iii), including the possibility of adjusting the 90 second time criterion. The commenter observes that it would encourage the use of alternative age/sex mixes, and that an adjustment in the allowed time would be difficult to assess.

The FAA concurs with the commenter's recommendation. While the FAA does not necessarily agree with the commenter's observation, it is noted that the age/sex mix proposed in §§ 25.803(c)(8) (i), (ii) and (iii) would allow applicants to much more easily obtain participants for the evacuation demonstrations, thus greatly lessening the need for alternative mixes. Additionally, alternative age/sex mixes would still be allowed under the existing provisions of § 21.21(b)(1). Therefore, the proposal to allow alternative passenger loads is withdrawn.

One commenter proposes that § 121.291(a) be revised to require evacuation demonstrations for airplanes with seating capacities of 30 to 44 passengers. The commenter did not provide any justification for the proposal.

The FAA does not concur and is unaware of any justification for change of this nature. Furthermore, the commenter's proposal could not be adopted at this time because the public has not been given an opportunity to comment on it.

Another commenter states that although no change was proposed to § 25.803(c)(8)(iv), the articulation and weights of the required dolls should represent the anthropomorphic populations they are intended to represent.

Advisory Circular 25.803–1, paragraph 6g, Emergency Evacuation Demonstrations, dated November 13, 1989, provides guidance relative to the dolls. The FAA is not aware of any need for rulemaking in that regard.

Subsequent to the release of Notice 89–23 for public comment, the FAA issued Amendment 25–72 (55 FR 29756, July 20, 1990), which updated part 25 for clarity and accuracy. One of the revisions promulgated by that amendment was the relocation of the evacuation demonstration test criteria from § 25.803(c) to a new appendix J to part 25. Because of this relocation, non-substantive conforming revisions have been made in the final rule.

One commenter agrees with the proposed revision to the illumination standards for exit handles and for removal instructions for covers over exit handles, but expresses concern that potential rulemaking for parts 121 and 135, discussed in the preamble section of Notice 89–23, addressed only Type II and Type IV exits. The commenter sought assurance that potential rulemaking affecting parts 121 and 135 would be compatible with the proposed amendment to § 25.811 for all exit handles and not just for Type II and Type IV exits.

In the preamble discussion referred to by the commenter, the FAA solicited information regarding the illumination

of handles for Type II and Type IV exits in airplanes in service or coming into service shortly. Information was not requested regarding the other exit types because sufficient illumination for those exit handles is already required by § 25.811(e). However, since the type certification bases for all the transport category airplanes in part 121 and part 135 operations are not the same, the type certification requirements for the illumination of handles may differ even for Type A, Type I, and Type III exits. Therefore, if the FAA were to proceed with rulemaking to amend part 121 and part 135, the agency would consider requiring the illumination to be upgraded for all exit types.

One commenter questions whether the 10-second period in proposed § 25.1423 refers to the time to activate the PA system or the time to get to and activate the system, and recommends substituting the words "starting the message" for "operation."

The words in the proposal were transferred verbatim from § 121.319 and refer to the time needed to activate the system with the flight attendant already at the PA station. The FAA does not consider that the commenter's suggested rewording would improve the understandability of the regulation. However, § 25.1423 has been revised to clarify that the reference to accessibility relates to the system rather than to its use.

The same commenter recommends substituting the word "intelligible" for "audible" in proposed § 25.1423.

The FAA concurs. The word "intelligible" is a more precise term that describes the quality of message that the PA system is required to be capable of transmitting. If the person using the PA system speaks intelligibly, the message transmitted by the system must also be intelligible. As proposed in the notice, the FAA's intent is to incorporate the equipment requirements of § 121.318 of the operating rules into § 25.1423 in order that all the design requirements for the public address system will be in one location in part 25. The word "audible" was simply part of the existing text of § 121.318(f) that was transferred to § 25.1423. Although the FAA concurs with the commenter and has revised § 25.1423 accordingly, it should be noted that this change is not intended to imply that the FAA uses one standard for the design requirements and a separate or different standard for the operating requirements.

One commenter recommends that the change to the PA system be made retroactive to in-service transport category airplanes operating under parts 121 and 135, and to newly manufactured airplanes type certificated under part 25.

This comment was apparently in response to a request for comments on the costs of modifying existing airplanes to meet the new PA system requirement. Unfortunately, this commenter did not provide any retrofit cost estimates. Although the commenter's recommendation could not be adopted at this time, the FAA will consider it for further rulemaking.

One commenter agrees with the proposal to require that an unstowed microphone not disable the PA system, but seeks assurance that the flight deck microphone would continue to possess override capability.

Although most, if not all, current PA systems have a system override capability associated with the microphone in the flight deck, this feature is not a requirement. The FAA considers this to be a desirable feature, however, and may pursue further rulemaking on this subject.

During the comment period for Notice 89–23, the FAA adopted Amendments 25–70, 121–209 and 135–34 (54 FR 43925, October 27, 1989). As amended by Amendments 121–209 and 135–34, both parts 121 and 135 require the installation of independent power sources for the PA systems installed in transport category airplanes manufactured after November 27, 1990, having a seating capacity of more than 19 seats, and used in air carrier, air taxi or commercial service. Amendment 25–70 created a new § 25.1423 that provides standards for PA systems. Section 25.1423 does not, in itself, require the installation of a PA system, but merely contains the standards that a PA system must meet if the system is required for operation under part 121 or part 135. A number of non-substantive editing changes have been made for compatibility with the text of those amendments.

Section 25.1423 is also amended to require the installation of a PA system microphone in the flight deck if the PA system is required for operation under part 121 or part 135. It has come to the attention of the FAA that neither the proposed change to § 25.1423 nor the existing requirement of § 25.1411(a)(2) concerning accessibility of the PA system explicitly requires the installation of a microphone in the flight deck. Both existing §§ 121.318(c) and 135.150(a)(3) do, however, require that a PA system microphone must be accessible to at least two flight crewmembers, an implicit requirement for the installation of a microphone in the flight deck. Because those parts require a microphone in the flight deck implicitly, this amendment is a non-substantive change that places no additional burden on any person. In addition, the accessibility requirement of § 25.1411(a)(2) is transferred to § 25.1423 for clarity. This too is non-substantive change that places no additional burden on any person.

With the exception of the revisions discussed above, the remaining proposals identified in Notice 89–23 are adopted as proposed.

Aviation Rulemaking Advisory Committee

The FAA recognizes that many factors must be evaluated in designing transport category airplanes for safe evacuation under emergency conditions. Cabin-safety rulemaking must consider the interaction among cabin sizes, passenger capacity, the type and number of emergency exits, exit location, distance between exits, aisle design, exit row and escape path markings and lighting, flame resistance of cabin interior materials, and other important variables. In order to develop future proposed safety standards by using a systems-analysis, the FAA chartered a committee of safety experts known as the Aviation Rulemaking Advisory Committee (ARAC), on February 5, 1991. Under the auspices of ARAC are several working groups that deal with different areas of FAA rulemaking activity. One, the Performance Standards Working Group, is reviewing emergency evacuation issues.

Members of the Performance Standards Working Group represent the interests of airplane manufacturers; airlines; an airplane equipment manufacturer; pilot, flight attendant, and machinists unions; an airline passenger association; the National Transportation Safety Board; and the airworthiness authorities of Europe, Canada, and the United States. The charter of this working group is to recommend whether new or revised standards for emergency evacuation could and should be adopted as performance-based standards. Performance-based standards state regulatory requirements in terms of objective safety performance rather than specific design requirements. To date the working group has not made any recommendations to ARAC for any new performance-based standards or for any performance-based standards to replace existing non-performance based design standards.

Performance-based standards are desirable in that they would offer the manufacturer maximum flexibility in designing equipment or systems to

comply with the regulations. They can, however, be difficult to develop, particularly when involved with human performance and behavior under stressful conditions, such as emergencies that necessitate cabin evacuation. In view of the potential increase in safety than can be realized by early adoption of this rule and the fact that the currently-specified test actually violates prevailing child-safety laws in many states, the FAA does not consider that deferring this action pending further study by ARAC is warranted. Nevertheless, it may be anticipated that other new cabin safety standards will be developed by ARAC and proposed by the FAA in future rulemaking.

Regulatory Evaluation

Three principal requirements pertain to the economic impacts of changes to Federal regulations. First, Executive Order 12291 directs Federal agencies to promulgate new regulations or modify existing regulations only if the potential benefits to society outweigh the potential costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Finally, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule: (1) Will generate benefits exceeding its costs and is neither major as defined in the Executive Order nor significant as defined in the Department of Transportation's Policies and Procedures; (2) will not have a significant impact on a substantial number of small entities; and (3) will not have an effect on international trade. These analyses, available in the docket, are summarized below.

For purposes of this analysis, benefits are compared with costs on a per certification basis, assuming that 20 airplanes will be produced each year between 1998 and 2007 under a representative part 25 certification. This approach results in a relevant presentation of the relationship between benefits and costs, while avoiding prediction of the types and numbers of new airplanes that will be certified in the future.

Costs

The FAA estimates that the incremental cost of compliance with the rule will be approximately $46,000 per type certification (1992 dollars at present value). The FAA has determined that only one of the five amendments to part 25 (the push-to-talk switch amendment) will result in additional costs to manufacturers of transport category airplanes. In addition, none of the three amendments to part 121 is expected to adversely affect air carrier operators. Each of the amendments is evaluated below for expected costs to manufacturers:

1. Role of the Flightcrew

The requirement that the evacuation demonstration be conducted without the assistance of flight crewmembers in the cabin is not expected to impose any additional costs on manufacturers because it represents only a minor procedural change.

2. Age/Sex Distribution of Passengers Used in an Emergency Evacuation Demonstration

These changes are not expected to impose additional costs on manufacturers.

3. Overwing Exit Assist Means

This requirement permits the use of stands and ramps at overwing exits in emergency evacuation demonstrations only when off-wing descent devices are not installed on the airplane. No incremental costs will be imposed on manufacturers.

4. Exit Handle Illumination

This amendment will not impose much, if any, additional cost on manufacturers because three of five types of passenger emergency exit operating handles are currently subject to illumination requirements. Type I and Type A handles are already required to be self-illuminated or conspicuously located and well-illuminated, and Type III handles must be self-illuminated (without the alternative of being conspicuously located and well-illuminated). The FAA has made findings of equivalent safety for Type III exit handles when the handle is conspicuously located and well-illuminated.

Prior to this rule, the regulations did not provide criteria for the illumination of Type II and Type IV passenger emergency exit operating handles. This rule will standardize the illumination of all passenger emergency exit operating handles (and cover removal instructions, if the operating handle is covered) to only two methods: (1) Self-illuminated, or (2) conspicuously located and well-illuminated. Neither Type II nor Type IV exit handles meet the new requirements. Nevertheless, the requirements will not impose additional costs on manufacturers, primarily because transport category airplanes seldom have such exits. For the few airplanes that will have Type II or IV exits, the emergency lighting currently required by § 25.812 will provide sufficient lighting for the exit handles (and cover removal instructions, if the operating handle is covered) or will provide the electrical circuitry with which additional lighting could easily be provided.

5. Push-To-Talk Switch

This item is expected to cost less than $425 per airplane. The costs for 200 airplanes produced under a representative type certification uniformly from 1998 through 2007 total approximately $85,000 and $46,000 in non-discounted and discounted terms, respectively.

Benefits

The rule is expected to generate safety benefits in the form of the reduced likelihood of fatal and nonfatal injuries in survivable post-crash ground fire emergency evacuations from part 25 airplanes.

Estimation of these benefits, in monetary terms, is difficult since there has not been a documented accident in which injuries have been directly attributed to the deficiencies noted. There was an incident, however, in which an emergency evacuation followed a large fuel spill from a United Airlines Boeing 747 airplane in Honolulu, Hawaii, in 1984. During that incident, the escape slides were deployed into the fuel, presenting a potential hazard. The flight attendants at the rear of the cabin could not be notified of the fuel leak due to an inoperative public address system. The system was inoperative because one cockpit microphone had not been returned to the stowed position.

As a result of that incident and in consideration of various recommendations made by the National Transportation Safety Board (NTSB), the FAA believes that injuries and/or fatalities in survivable post-crash ground fire accidents could be prevented by the provisions of this rule. The FAA postulates that without this rule at least one associated serious injury per type certification could occur from a post-crash ground fire accident on affected airplanes operating between 1999 and 2008, at costs of $640,000 and $288,000 in terms of non-discounted and discounted dollars, respectively.

Comparison of Costs and Benefits

In terms of 1992 dollars at present value, the minimum benefits and expected costs of the rule per representative part 25 certification are estimated to be $288,000 and $46,000

respectively, yielding a benefit-to-cost ratio of 6.3 to 1. The FAA therefore finds the amendments to be cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review rules that may have "a significant economic impact on a substantial number of entities." No transport category airplane manufacturer is considered to be a small entity in accordance with FAA criteria which classifies a small manufacturer as one with 75 or fewer employees (FAA Order 2100.14A). Therefore, the rule will not have "a significant economic impact on a substantial number of small entities."

International Trade Impact Assessment

The rule changes will have no affect on trade on both American firms doing business in foreign countries, and foreign firms doing business in the United States. In the U.S., foreign manufacturers must meet U.S. requirements, and thus will gain no competitive advantage. Similarly, U.S. manufacturers must meet the airworthiness requirements of foreign aviation authorities to market airplanes in those countries and, as such, will experience no change in competitive stance.

Federalism Implications

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

Conclusion

The FAA has determined that this document involves regulations that are not considered to be major under the procedures and criteria prescribed in Executive Order 12291. The FAA has also determined that this action is not significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). In addition, the FAA certifies under the criteria of the Regulatory Flexibility Act that this regulation, at promulgation, will not have a significant economic impact, positive or negative, on a substantial number of small entities, since none are affected. A copy of the evaluation prepared for this action has been placed in the docket. A copy may be obtained by contacting the person identified under "FOR FURTHER INFORMATION CONTACT."

List of Subjects

14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety, Charter flights, Drug testing, Reporting and recordkeeping requirements, Safety, Transportation.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR parts 25 and 121 of the Federal Aviation Regulations (FAR) as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. app. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g); and 49 CFR 1.47(a).

2. Section 25.811 is amended by removing paragraph (e)(3) and marking it [Reserved] and by revising the introductory text of paragraph (e)(2) to read as follows:

§ 25.811 Emergency exit marking.

* * * * *

(e) * * *

(2) Each passenger emergency exit operating handle and the cover removal instructions, if the operating handle is covered, must—

* * * * *

(3) [Reserved]

* * * * *

3. Section 25.1411 is amended by removing paragraph (a)(2) and by redesignating paragraph (a)(1) as (a) and revising newly redesignated (a) as follows:

§ 25.1411 General.

(a) *Accessibility.* Required safety equipment to be used by the crew in an emergency must be readily accessible.

* * * * *

4. Section 25.1423 is revised to read as follows:

§ 25.1423 Public address system.

A public address system required by this chapter must—

(a) Be powerable when the aircraft is in flight or stopped on the ground, after the shutdown or failure of all engines and auxiliary power units, or the disconnection or failure of all power sources dependent on their continued operation, for—

(1) A time duration of at least 10 minutes, including an aggregate time duration of at least 5 minutes of announcements made by flight and cabin crewmembers, considering all other loads which may remain powered by the same source when all other power sources are inoperative; and

(2) An additional time duration in its standby state appropriate or required for any other loads that are powered by the same source and that are essential to safety of flight or required during emergency conditions.

(b) Be capable of operation within 10 seconds by a flight attendant at those stations in the passenger compartment from which the system is accessible.

(c) Be intelligible at all passenger seats, lavatories, and flight attendant seats and work stations.

(d) Be designed so that no unused, unstowed microphone will render the system inoperative.

(e) Be capable of functioning independently of any required crewmember interphone system.

(f) Be accessible for immediate use from each of two flight crewmember stations in the pilot compartment.

(g) For each required floor-level passenger emergency exit which has an adjacent flight attendant seat, have a microphone which is readily accessible to the seated flight attendant, except that one microphone may serve more than one exit, provided the proximity of the exits allows unassisted verbal communication between seated flight attendants.

5. Appendix J is amended by revising paragraphs (c), (g), (h)(1), (h)(2), (h)(3), (q), and (r) to read as follows:

Appendix J—Emergency Evacuation

* * * * *

(c) Unless the airplane is equipped with an off-wing descent means, stands or ramps may be used for descent from the wing to the ground. Safety equipment such as mats or inverted life rafts may be placed on the floor or ground to protect participants. No other equipment that is not part of the emergency evacuation equipment of the airplane may be used to aid the participants in reaching the ground.

* * * * *

(g) Each crewmember must be seated in the normally assigned seat for takeoff and must remain in the seat until receiving the signal for commencement of the demonstration. Each crewmember must be a person having knowledge of the operation of exits and

emergency equipment and, if compliance with § 121.291 is also being demonstrated, each flight attendant must be a member of a regularly scheduled line crew.

(h) * * *

(1) At least 40 percent of the passenger load must be female.

(2) At least 35 percent of the passenger load must be over 50 years of age.

(3) At least 15 percent of the passenger load must be female and over 50 years of age.

* * * * *

(q) Except as provided in paragraph (c) of this section, all evacuees must leave the airplane by a means provided as part of the airplane's equipment.

(r) The applicant's approved procedures must be fully utilized, except the flightcrew must take no active role in assisting others inside the cabin during the demonstration.

* * * * *

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

6. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. app. 1354(a), 1355, 1356, 1357, 1401, 1421 through 1430, 1472, 1485, and 1502; 49 U.S.C. 106(g); and 49 CFR 1.47(a).

7. Section 121.291 is amended by revising paragraph (a) to read as follows:

§ 121.291 Demonstration of emergency evacuation procedures.

(a) Except as provided in paragraph (a)(1) of this section, each certificate holder must conduct an actual demonstration of emergency evacuation procedures in accordance with paragraph (a) of appendix D to this part to show that each type and model of airplane with a seating capacity of more than 44 passengers to be used in its passenger-carrying operations allows the evacuation of the full capacity, including crewmembers, in 90 seconds or less.

(1) An actual demonstration need not be conducted if that airplane type and model has been shown to be in compliance with this paragraph in effect on or after October 24, 1967, or, if during type certification, with § 25.803 of this chapter in effect on or after December 1, 1978.

(2) Any actual demonstration conducted after September 27, 1993, must be in accordance with paragraph (a) of Appendix D to this part in effect on or after that date or with § 25.803 in effect on or after that date.

* * * * *

8. Appendix D to part 121 is amended by revising paragraphs (a)(3), (a)(7), (a)(12), (a)(18), and (a)(19) to read as follows:

Appendix D to Part 121—Criteria for Demonstration of Emergency Evacuation Procedures Under § 121.291

(a) * * *

(3) Unless the airplane is equipped with an off-wing descent means, stands or ramps may be used for descent from the wing to the ground. Safety equipment such as mats or inverted life rafts may be placed on the floor or ground to protect participants. No other equipment that is not part of the emergency evacuation equipment of the airplane may be used to aid the participants in reaching the ground.

* * * * *

(7) A representative passenger load of persons in normal health must be used. At least 40 percent of the passenger load must be females. At least 35 percent of the passenger load must be over 50 years of age. At least 15 percent of the passenger load must be female and over 50 year of age. Three life-size dolls, not included as part of the total passenger load, must be carried by passengers to simulate live infants 2 years old or younger. Crewmembers, mechanics, and training personnel, who maintain or operate the airplane in the normal course of their duties, may not be used as passengers.

* * * * *

(12) Each crewmember must be a member of a regularly scheduled line crew, except that flight crewmembers need not be members of a regularly scheduled line crew, provided they have knowledge of the airplane. Each crewmember must be seated in the seat the crewmember is normally assigned for takeoff, and must remain in that seat until the signal for commencement of the demonstration is received.

* * * * *

(18) Except as provided in paragraph (a)(3) of this appendix, all evacuees must leave the airplane by a means provided as part of the airplane's equipment.

(19) The certificate holder's approved procedures and all of the emergency equipment that is normally available, including slides, ropes, lights, and megaphones, must be fully utilized during the demonstration, except that the flightcrew must take no active role in assisting others inside the cabin during the demonstration.

* * * * *

Issued in Washington, DC, on August 19, 1993.

David R. Hinson,

Administrator.

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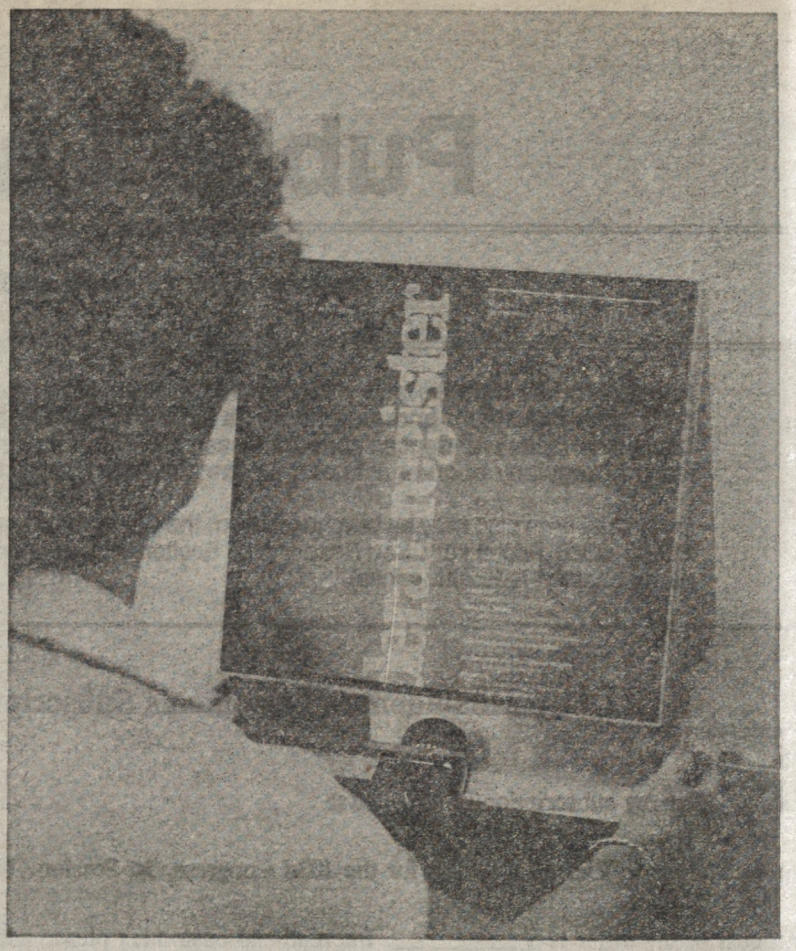
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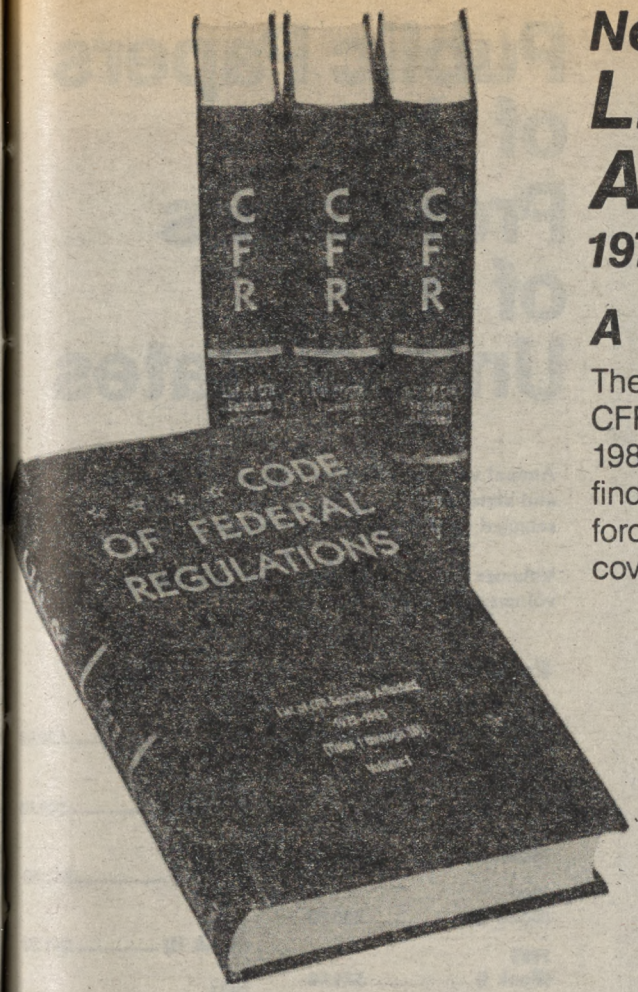
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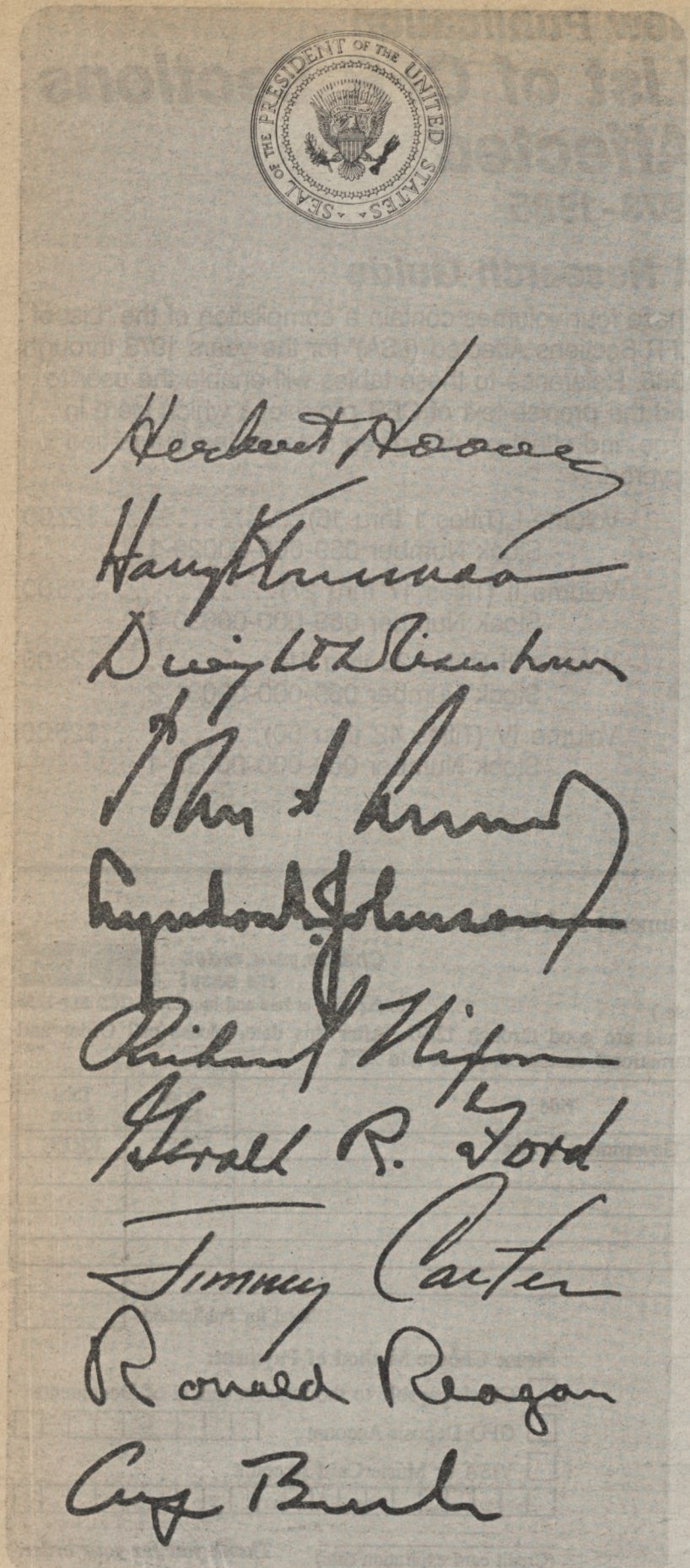
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